MAINE MEDICAL ASSOCIATION

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March 29, 2016

Re: L.D. 1646, An Act to Prevent Opiate Abuse by Strengthening the Controlled Substances Prescription Monitoring Program

For the past two weeks, the Maine Medical Association has been working with legislators and the LePage Administration to develop legislation responding to the current opioid/heroin crisis. But, we have tried to do this in a way that recognizes the legitimate interests of pain patients and the professional interests of physicians and other prescribers. We solicited the input of as many members as we could reach, through a membership survey and via our *Maine Medicine Weekly Update* and weekly Legislative Committee calls. The MMA Legislative Committee, chaired by Amy Madden, M.D., worked diligently to consider the many diverse opinions and reached out to other organizations for input as well. On March 17th, MMA representatives reached agreement with LePage Administration officials regarding amendments to L.D. 1646 which MMA leaders believed represented a reasonable compromise. In two subsequent work sessions, our amendments were accepted and more were developed which continued to improve the bill. On March 23rd, the Joint Standing Committee on Health & Human Services voted 11 to 1 "Ought to Pass as amended" on L.D. 1646 and the bill will go to the floor of the House and Senate in early April. Senate Chair Eric Brakey (R-Androscoggin), the sole dissenting vote, recommends that the bill "ought not to pass."

As the amended bill does impose limits on prescriptions for opioid medication and mandates use of the Prescription Monitoring Program (PMP) for new scripts for opioids and benzodiazepines and every 90 days thereafter, we recognize that some members may be disappointed that we would support legislation that both interferes with professional judgment and imposes administrative barriers to some aspects of practice for those physicians prescribing opioid medication. Other members have expressed the opinion that the legislation is long overdue and that more needs to be done to respond to the current crisis – a crisis that in 2015 resulted in 272 overdose deaths, 1013 babies born with indications of neo-natal abstinence syndrome, and 18,000 criminal drug cases being filed in Maine Courts - all significant increases from the previous year. Following careful deliberation and consideration of the many responses we have received to the member survey, we believed that MMA should support the legislation so long as some essential amendments could be achieved. We are proud of the work of our advocacy team in securing these amendments which resulted in the following changes to the Governor's original proposal.

1. The limit on opioid scripts to 3 days for acute pain and 15 days for chronic pain were expanded to 7 days and 30 days respectively. There is no prohibition on renewing these scripts for as long as the physician believes the medication is medically necessary.
2. The effective date of the durational limit on scripts was extended to January 1, 2017.
3. The effective date of the mandated PMP check for initial opioid and benzodiazepine scripts was also extended to January 1, 2017
4. The 100 milligram limit (morphine milligram equivalent) average daily dose was amended to allow patients in excess of the limit currently to have a 300 MME limit until July 1, 2017. By that time, additional exceptions will have been developed by DHHS.
5. Although the 100 MME limit for new scripts will apply 90 days after the session adjourns, this limit can be overridden by documentation of medical necessity (this provision will sunset once the DHHS rule-making is complete). We extend our appreciation to our colleagues in the hospital world for achieving this important medical necessity exception.
6. The requirement of prescriber education was folded into the existing CME system. Three hours of the current forty hours of CME every two years must address the general topic of pain management and prevention of diversion and addiction. The three hours may be reduced in the future.

7. **Very importantly, we were able to achieve exceptions from the application of all the provisions of this law (mandatory PMP checks, dosage limits, and durational limits) for patients with cancer, patients receiving hospice care, end-of-life care or palliative care, patients receiving medication assisted therapy (MAT), and patients having medication administered by health professionals in hospitals and nursing homes.** Additional exceptions will be developed by rules promulgated by DHHS by January 1, 2017.

Additional amendments achieved through the efforts of the Maine Hospital Association, MaineHealth, Eastern Maine Healthcare System, and other interested parties included the ability to provide information to DHHS to gain more time to comply with the requirement of electronic prescribing which is effective July 1, 2017. This deadline also could be extended through action of the 128th Legislature.

Anticipating that legislation of this nature would be presented, MMA worked with Senator Roger Katz (R-Kennebec) to develop an alternative proposal, L.D. 1648, which covered some of the same ground but directed the medical licensing boards to set the standards through amendments to existing Joint Rule Chapter 21, *Use of Controlled Substances for Treatment of Pain*. While we were unsuccessful in convincing the LePage Administration of the merits of this approach, some of the provisions in the Katz bill have been added to the Governor's bill, such as a requirement for more sharing of data between states and Canada and a requirement that pharmacists also register and use the PMP as prescribers are required to do.

Other positive provisions in the final draft include:

1. Prescriber immunity from liability for disclosure of information to the PMP.
2. The ability of a patient to request a partial fill of a prescription.
3. Improvements to the PMP included in unallocated language.

Following passage of the bill and well before the effective date of any of the provisions, MMA attorneys will prepare additional information including "Frequently Asked Questions" and place these documents on the MMA website. They will also be available for educational presentations.

Finally, we have enclosed a data form and ask you complete it and fax it or mail it back to MMA (it can also be completed on line at www.mainemed.com). As legislation such as L.D. 1646 is considered, and including the applicable rules to be developed, it is critically important that we are able to communicate with you. For instance, if you did not receive the survey allowing you to provide your opinion on these issues, it is either because you have not provided an e-mail address to MMA or we could not penetrate the filters on your work e-mail. The new data form is designed to give you a variety of ways to communicate with us, including through social media. We can't impress upon you how important it is for us to maintain an up-to-date database if we are to represent your interests effectively at the State House and in the Executive branch regulatory agencies.

Thank you for the opportunity to share this important information. We are always happy to hear from you and our contact information is included below.

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