

NOTICE OF AGENCY RULEMAKING
ADOPTION

BOARD RULE CHAPTER 41
SALE OF NONPRESCRIPTION DRUGS THROUGH VENDING
MACHINE OUTLETS

As amended w/underline and strikeouts

Summary

Board Rule Chapter 41 repeals the 12-nonprescription limit of items that may be in any one vending machine in accordance with Public Law 2023 Chapter 160

EFFECTIVE DATE:

January 1, 2025

Please allow time for the Maine Secretary of State's (SOS) to update the Board's rules. You're welcome to periodically check the SOS website for updates from the Board of Pharmacy website –

<https://www.maine.gov/pfr/professionallicensing/professions/board-pharmacy/home/laws-rules>

In the interim, the following is provided for your convenience. The underscore denotes that is being added and strikeouts what is being eliminated/changed.

Chapter 41: SALE OF NONPRESCRIPTION DRUGS THROUGH VENDING MACHINE OUTLETS

Summary: This chapter sets forth requirements for licensing, management and safe operation of vending machine outlets.

1. **DEFINITIONS.** As used in this chapter, the following terms are defined as follows:
 1. **Nonprescription drugs.** “Nonprescription drugs” has the same meaning as set forth in 32 M.R.S. §13702-A(20).
 2. **Targeted methamphetamine precursor.** “Targeted methamphetamine precursor” has the same meaning as set forth in 32 M.R.S. §13702-A(33).
 3. **Vending machine.** “Vending machine” means any automated mechanical device operated by a vending machine outlet licensee from which nonprescription drugs are dispensed to a consumer after payment.
 4. **Vending machine outlet.** “Vending machine outlet” means any location licensed by the Board pursuant to 32 M.R.S. §13751(2)(F) to operate one or more vending machine(s) to sell non-prescription drugs.

2. **LICENSURE**
 1. **License Required.** Only vending machine outlets may operate one or more vending machine(s) in accordance with the terms and conditions set forth in this chapter. A vending machine outlet is solely responsible for all vending machines the licensee operates.
 2. **Limited Authorization.** A vending machine outlet license only authorizes operation of vending machines for one (1) physical location where one or more vending machines are located. Any person desiring to operate a vending machine outlet shall obtain from the board a vending machine outlet license for each physical location where one or more vending machines outlets are located.
 3. **Non-transferrable.** A vending machine outlet license issued under this section is not transferable.
 4. **Application**
 - A. A person seeking a vending machine outlet license shall submit an application on a form provided by the Board and pay any fees as set forth in Chapter 10 of the rules of the Office of Professional and Occupational Regulation.

- B. Any application shall include a detailed description, photograph(s) and drawing(s) of the intended location of each vending machine within the physical setting, as well as photograph(s) and drawings of the vending machine(s). Each vending machine shall be assigned a specific physical placement and orientation within a physical location that is:
1. weather-tight;
 2. well-ventilated;
 3. in a moisture-controlled environment;
 4. well-lighted; and
 5. protected from direct sunlight-

3. VENDING MACHINE REQUIREMENTS

1. **Nonprescription Drugs Only; Limits.** Only nonprescription drugs may be sold or dispensed from a vending machine. ~~Any single vending machine may sell or dispense no more than twelve (12) different nonprescription drugs.~~
2. **No Targeted Methamphetamine Precursors.** Under no circumstance may targeted methamphetamine precursors be sold from any vending machine.
3. **Compliance with Manufacturer Recommendations.** Nonprescription drugs dispensed by a vending machine shall be:
 - A. Stored in accordance with manufacturer recommendations, including those that require a stable temperature;
 - B. Sold only in the manufacturer's clearly labeled, original, unbroken, tamper-proof and expiration-dated packaging; and
 - C. No older than the manufacturer's expiration date.
4. **Machine Labeling**
 1. Each vending machine outlet must have an obvious and legible statement or label on each machine that:
 - A. Identifies the owner of the machine, and, if different, the vending machine outlet licensee;
 - B. Identifies the vending machine's serial number;
 - C. Lists the Vending Machine License number issued by the Maine Board of Pharmacy and the license expiration date;
 - D. Provides a toll-free telephone number at which the consumer may contact the owner of the machine, and, if different, the vending machine outlet licensee;
 - E. Provides contact information for the Northern New England Poison Center; and

- F. Advises the consumer to check the expiration date of the product before using the product.

5. Expired Nonprescription Drugs

Under no circumstance may expired nonprescription drugs be sold or dispensed from a vending machine. It is the sole responsibility of each vending machine outlet licensee to ensure products are in date and that expired drugs are promptly removed upon expiration.

4. PROCEDURE FOR RELOCATING OR RETIRING A VENDING MACHINE

Before relocating or retiring any vending machine outlet previously covered by a vending machine outlet license, the vending machine outlet licensee shall notify the Board in writing of that relocation or retirement. The notice shall include the following: license number; vending machine's serial number; action planned (relocation or retirement); if relocating, provide all information required above in subsection (2)(4)(B) for the new location; and if retiring a vending machine, the manner of disposition of the nonprescription drug contents of the vending machine.

5. INSPECTION

Each vending machine outlet is subject to inspection by a Board designee. The vending machine outlet licensee or its agent shall provide access to the contents of the vending machine immediately upon request from the Board's designee.

STATUTORY AUTHORITY:

32 M.R.S.A. §§ 13751, 13792(2)

EFFECTIVE DATE:

May 15, 2023 – filing 2023-069