

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE
AS PASSED BY THE

ONE HUNDRED AND EIGHTH LEGISLATURE

FIRST REGULAR SESSION

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PUBLIC LAWS
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the applicant and directed to the building inspector. The failure of the building inspector to issue a written notice of his decision, directed to the applicant, within 30 days from the date of filing of the application constitutes a refusal of the permit. The building inspector shall not issue any permit for a building or use for which the applicant is required to obtain a license pursuant to Title 38, section 413, until the applicant has obtained such license; nor shall the building inspector issue any permit for a building or use within a land subdivision, as defined in section 4956, unless that subdivision has been approved in accordance with that section.

(1) An appeal may be taken from any order issued by the building inspector, or from the licensing authority's refusal to grant a permit to the plantation officers.

(a) On an appeal in writing to the plantation officers, they shall at their next meeting affirm, modify or set aside the decision of the building inspector according to the terms of the pertinent ordinance. They may permit a variation from the terms of an ordinance where necessary to avoid undue hardship, provided there is no substantial departure from the intent of the ordinance. They may permit an exception to an ordinance only when the terms of the exception have been specifically set forth by the plantation. The failure of the plantation officers to issue a written notice of their decision, directed to the applicant, within 30 days from the date of filing of the appeal constitutes a denial of the appeal. If a plantation has by ordinance required that all such appeals be taken to a board of appeals, the procedure shall be the same as in appeals directed to the plantation officers unless the plantation has provided otherwise.

(b) A further appeal may, within 30 days, be taken by any party to Superior Court from any order, relief or denial in accordance with the Maine Rules of Civil Procedure, Rule 80B. The hearing before the Superior Court shall be a trial de novo without a jury.

Effective October 24, 1977

CHAPTER 391

AN ACT Authorizing the Board of Osteopathic Examination and Registration to Establish Rules and Regulations for Physicians' Assistants, Supervising Physicians and other Delegated Physicians.

Be it enacted by the People of the State of Maine, as follows:

32 MRSA §§ 2594-B, 2594-C and 2594-D are enacted to read:

§ 2594-B. Certificates of qualification and registration; physician's statement

1. Certificates required. No physician assistant shall be permitted to practice under the supervision of an osteopathic physician until he has applied for and obtained:

- A. A certificate of qualification issued by the Board of Osteopathic Examination and Registration; and
- B. A certificate of registration, which must be renewed annually.

2. Statement by supervisory physician. All applications for certificate of qualification shall be accompanied by an application by the proposed supervisory physician, which application shall contain a statement that that physician shall be responsible for all medical activities of the physician assistant.

§ 2594-C. Rules and regulations

1. Rules and regulations authorized. The board may adopt such rules and regulations dealing with osteopathic physician assistants as are necessary to carry out sections 2594-A through 2594-D.

2. Content. The rules and regulations authorized under this section may include, but need not be limited to rules and regulations in the following areas:

- A. Training programs for and certification of physician assistants;
- B. Information to be included in applications submitted by physician assistants for certification;
- C. Information to be included in applications submitted by proposed supervisory physicians;
- D. Knowledge and skills to be required of the physician assistants;
- E. The agency relationship to be required between supervising physicians and physician assistants;
- F. Requirements with respect the supervisory physician's supervision of medical services provided by physician assistants;
- G. The methods of performance to be required of physician assistants;
- H. Requirements for initial registration, including fees which shall in no event exceed \$25;
- I. Requirements for annual registration, including fees which shall in no event exceed \$25;
- J. Provisions relating to physician assistant trainees; and
- K. Continuing education requirements, as a precondition to annual registration.

§ 2594-D. Termination of certificate

1. Termination of certificate provisions. The certificate may be terminated by the board when, after due notice and hearing, the board shall find that the physician assistant:

- A. Has held himself out or permitted himself to be represented as a licensed physician;
 - B. Has performed otherwise than at the direction and under the supervision of a physician licensed by the board;
 - C. Has been delegated and performed a task or tasks beyond his competence;
 - D. Is an habitual user of intoxicants or drugs to such an extent that he is unable to perform competently and with safety for the patients in his capacity as an assistant to the physician;
 - E. Has been convicted in any court, state or federal, of any criminal offense;
 - F. Has a mental illness interfering with his competent practice as a physician assistant;
 - G. Has failed to comply with any rule or regulation of the board pertaining to the practice of physician assistant;
 - H. Is guilty of administering, dispensing or prescribing any controlled substance otherwise than as authorized by law; or
 - I. Has made a false or fraudulent statement or submitted a forged or false document in applying for a certificate;
2. Consent to physical or mental examination; objections to admissibility of physicians' testimony waived. For the purposes of this section, every physician assistant registered under these rules and regulations who shall accept the responsibility of rendering medical services in this State by the filing of an application and of annual registration:
 - A. Shall be deemed to have given his consent to a mental or physical examination when directed in writing by the board; and
 - B. Shall be deemed to have waived all objections to the admissibility of the examining physicians' testimony or reports on the ground that the same constitute a privileged communication.
3. Jurisdiction. The jurisdiction conferred under this section shall be original and concurrent under the Administrative Code, Title 5, Part 6. There shall be no right of removal by an accused physician assistant after notice of hearing before the board has been filed. The accused, however, shall, at least 10 days before the hearing, have the right of removal. Any case removed shall be heard under the Administrative Code.
4. Enforcement. In addition to the termination procedure set forth in this section, if the board is of the opinion that the continued practice of any physician assistant is in violation of this section or any other provision of statute or rule and regulation, and constitutes a threat to the public health and welfare in such a manner that irreparable injury or danger to the public

may occur prior to the commencement and commission of termination proceedings set forth in this section, the board may apply for injunctive relief.

Effective October 24, 1977

CHAPTER 392

AN ACT to Expedite Court Handling of Fish and Wildlife Violations of a Misdemeanor Nature by a System of Convenient Payment.

Be it enacted by the People of the State of Maine, as follows:

4 MRSA § 164, sub-§ 15 is enacted to read:

15. Fisheries and Wildlife Bureau. The Chief Judge shall establish in each division a Fisheries and Wildlife Bureau. The Chief Judge shall appoint the clerks of the District Court in each division as violations clerk for the Fisheries and Wildlife Bureau in their respective divisions.

The violations clerk shall accept written appearances, waiver of trial, plea of guilty and payment of fine and costs in fisheries and wildlife offense cases, subject to the limitations hereinafter prescribed. The violations clerk shall serve under the direction and control of the judge of the court for which he is appointed.

A. A fisheries and wildlife offense shall mean any violation of any provision of Title 12, Part 3, any provision of law enumerated in Title 12, section 2001, or any regulation promulgated by the Commissioner of Inland Fisheries and Wildlife pursuant thereto.

B. The Chief Judge shall by order, which may from time to time be amended, suspended or repealed, designate the fisheries and wildlife offenses within the authority of the violations clerk, except that such offenses shall not include any offense for which a mandatory minimum term of imprisonment is provided by law. The court shall establish schedules, within the limits prescribed by law, of the amount of fines to be imposed for such offenses. The order of the court establishing the schedules shall be prominently posted in the place where the fines are paid. Fines and costs shall be paid to, receipted by and accounted for by the violations clerk in accordance with these provisions.

C. Any person charged with any fisheries and wildlife offense within the authority of the violations clerk may file an appearance in person or by mail before the violations clerk and enter a plea admitting the infraction charged and waiver of trial and pay the fine established for the infraction charged, and costs. Any person so entering a plea admitting the infraction charged shall be informed of his rights, including his right to stand trial, that his signature to a plea admitting the infraction charged will have the same effect as a judgment of the court and that the record of adjudication will be sent to the Commissioner of Inland Fisheries and Wildlife.