

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTY-SECOND LEGISLATURE

FIRST REGULAR SESSION
December 1, 2004 to March 30, 2005

FIRST SPECIAL SESSION
April 4, 2005 to June 18, 2005

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
JUNE 29, 2005

THE GENERAL EFFECTIVE DATE FOR
FIRST SPECIAL SESSION
NON-EMERGENCY LAWS IS
SEPTEMBER 17, 2005

PUBLISHED BY THE REVISOR OF STATUTES
IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,
TITLE 3, SECTION 163-A, SUBSECTION 4.

Penmor Lithographers
Lewiston, Maine
2005

3. Confidentiality. Addresses, telephone numbers and electronic mail addresses of forest landowners owning less than 1,000 acres statewide contained in reports filed under this section are confidential when in possession of the Department of Conservation, Bureau of Forestry and may be disclosed only in accordance with Title 12, section 8005.

See title page for effective date.

CHAPTER 359

H.P. 1106 - L.D. 1568

An Act To Allow Nurse Practitioners To Sign Death Certificates

Emergency preamble. Whereas, acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, nurse practitioners' signatures on death certificates will provide convenience to families and save money by utilizing appropriate and close-by medical personnel; and

Whereas, amending the law to allow for death certificate signatures by nurse practitioners at the earliest possible date will begin the realization of savings immediately; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

Sec. 1. 22 MRSA §2842, sub-§2, as amended by PL 2003, c. 74, §1 and c. 689, Pt. B, §6, is further amended to read:

2. Medical certificate by physician or nurse practitioner. The medical certification of the cause of death must be completed in typewritten or legibly hand-printed style and signed in a timely fashion by a physician or nurse practitioner authorized to practice in the State who has knowledge of the patient's recent medical condition, in accordance with department regulations and other laws detailing who can certify and in what time frame, except when the death falls under the jurisdiction of the medical examiner as provided in section 3025. If the patient was a resident of a nursing home licensed under section 1817 at the time of death and if the physician health care provider in charge of the patient's care or another physician health care provider designated by the physician health

care provider in charge had not examined the patient within 48 hours prior to death, or within 2 weeks prior to death in the case of a terminally ill patient, the physician health care provider in charge or another physician health care provider designated by the physician health care provider in charge shall examine the body prior to completing the certification of death process. Any physician health care provider who fails to complete the medical certification of the cause of death fully, in typewritten or legibly hand-printed style and in a timely manner, or who fails to examine the body of a nursing home resident prior to certifying cause of death as required by this section must be reported to the Board of Licensure in Medicine or, the Board of Osteopathic Licensure or the State Board of Nursing, whichever is appropriate, by the State Registrar of Vital Statistics of the Department of Health and Human Services.

For the purposes of this subsection, the following terms have the following meanings.

A. "Life-sustaining procedure" means any medical procedure or intervention that, when administered to a qualified patient, will serve only to prolong the dying process and does not include nutrition and hydration.

B. "Terminally ill patient" means a patient who has been diagnosed as having an incurable or irreversible condition that, without the administration of life-sustaining procedures, will, in the opinion of the attending physician health care provider, result in death within a short time.

C. "Health care provider" means a physician authorized to practice in this State or nurse practitioner.

D. "Nurse practitioner" means an advanced practice registered nurse who is a certified nurse practitioner authorized to practice without the supervision of a physician pursuant to Title 32, chapter 31.

Sec. 2. 22 MRSA §2842, sub-§2-A, as enacted by PL 2003, c. 433, §2, is amended to read:

2-A. Medical certification. Notwithstanding subsection 2, with respect to a person who dies within the State naturally and for whom the physician or nurse practitioner was the attending physician health care provider, the medical certification of the cause of death may be completed and signed by a physician or nurse practitioner authorized to practice at the Veterans Administration Hospital at Togus or at another federal medical facility within the State or by a physician or an advanced practice registered nurse licensed to practice in New Hampshire, Vermont or Massachusetts, who, at the request of the Chief Medical Examiner, is willing to do so.

Sec. 3. 22 MRSA §2843, first ¶, as amended by PL 1985, c. 231, §1, is further amended to read:

Except as authorized by the department, no dead human body ~~shall~~ may be buried, cremated or otherwise disposed of or removed from the State until a funeral director or other authorized person in charge of the disposition of the dead human body or its removal from the State has obtained a permit from the clerk of the municipality where death occurred or where the establishment of a funeral director having custody of the dead human body is located. The permit ~~shall be~~ is sufficient authority for final disposition in any place where dead human bodies are disposed of in this State, provided that the requirements of Title 32, section 1405, are met in appropriate cases. No such permit may be issued to anyone other than a funeral director until the clerk of the municipality receives a medical certificate ~~which that~~ has been signed by a physician or a medical examiner which that indicates that the physician or medical examiner has personally examined the body after death. A permit must also be issued if a nurse practitioner has signed the medical certificate indicating that the nurse practitioner has knowledge of the deceased's recent medical condition or was in charge of the deceased's care and that the nurse practitioner has personally examined the body after death. The authorized person may transport a dead human body only upon receipt of this permit.

Sec. 4. 22 MRSA §2843, 3rd ¶, as amended by PL 2001, c. 574, §28, is further amended to read:

A municipal clerk may issue a disposition of human remains permit to a funeral director who presents a report of death and states that the funeral director has been unable to obtain a medical certification of the cause of death. The funeral director shall name the attending physician, attending nurse practitioner or medical examiner who will certify to the cause of death and present assurances that he or she has agreed to do so. The funeral director shall exercise due diligence to secure the medical certification and file the death certificate as soon as possible.

Sec. 5. 22 MRSA §2846, as amended by PL 2003, c. 672, §21, is further amended by adding at the end 2 new paragraphs to read:

For the purposes of this chapter, "nurse practitioner" means an advanced practice registered nurse who is a certified nurse practitioner authorized to practice without the supervision of a physician pursuant to Title 32, chapter 31.

For the purposes of this chapter, "health care provider" means a physician or a nurse practitioner.

Sec. 6. 22 MRSA §2901, sub-§4-A is enacted to read:

4-A. Nurse practitioner. "Nurse practitioner" means an advanced practice registered nurse who is a certified nurse practitioner authorized to practice without the supervision of a physician pursuant to Title 32, chapter 31.

Sec. 7. 22 MRSA §2907, sub-§2, as enacted by PL 1969, c. 193, is amended to read:

2. Time of death. The time of death ~~shall~~ must be determined by a physician or nurse practitioner who attends the donor at ~~his~~ the donor's death, or, if none, the physician or nurse practitioner who certifies the death. This physician ~~shall~~ or nurse practitioner may not participate in the procedures for removing or transplanting a part.

Emergency clause. In view of the emergency cited in the preamble, this Act takes effect when approved.

Effective June 9, 2005.

CHAPTER 360

S.P. 380 - L.D. 1063

An Act To Improve the Guardian ad Litem System

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

Sec. 1. 18-A MRSA §1-112 is enacted to read:

§1-112. Guardian ad litem

(a) In any proceeding under this Title for which the court may appoint a guardian ad litem for a child involved in the proceeding, at the time of the appointment, the court shall specify the guardian ad litem's length of appointment, duties and fee arrangements.

(b) A guardian ad litem appointed on or after October 1, 2005 must meet the qualifications established by the Supreme Judicial Court.

(c) If, in order to perform the guardian ad litem's duties, the guardian ad litem needs information concerning the child or parents, the court may order the parents to sign an authorization form allowing the release of the necessary information. The guardian ad litem must be allowed access to the child by caretakers of the child, whether the caretakers are individuals, authorized agencies or child care providers.

(d) The guardian ad litem shall use the standard of the best interest of the child as set forth in Title 19-A, section 1653, subsection 3. The guardian ad litem shall make the wishes of the child known to the