

MAINE STATE LEGISLATURE

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PUBLIC DOCUMENTS

OF THE

STATE OF MAINE

BEING THE

REPORTS

OF THE VARIOUS

**PUBLIC OFFICERS
DEPARTMENTS AND
INSTITUTIONS**

FOR THE TWO YEARS

JULY 1, 1926 - JUNE 30, 1928

PUBLIC DOCUMENTS, 1926-28

(Explanatory Note)

Three reports in this volume cover periods in variance with the given biennium. They are as follows:

1. The report of the Attorney General covers the period from 1924 to 1928.

2. The report of the Bangor State Hospital covers the period from 1919 to 1928.

3. The report of the department of Inland Fisheries and Game covers the fiscal year ending June 30, 1928. No printed report was made for the fiscal year ending in 1927.

STATE OF MAINE

REPORT

OF THE

ATTORNEY-GENERAL

FOR THE TWO YEARS ENDING

JUNE 30, 1928

January 4, 1928.

*Miss Edith L. Soule, R. N., State Department of Health,
Augusta, Maine.*

DEAR MADAM: In your letter of December 14th, you ask if there is any reason why pupil nurses in training schools cannot be sent out for public health work under the supervision of a registered, trained public health nurse, and also if there is any reason why school or industrial nurses should not come under the requirements of the State Credential Committee.

Answering said inquiry, I am pleased to inform you that under the provisions of Chapter 102, Public Laws of 1923, being Section 3 of said chapter, and appearing as additional section in your pamphlet of information and regulations, the qualifications of the nurse doing public health work is to be determined, approved and certified by a committee composed of three registered nurses, etc., which committee is constituted a board to determine who shall be employed in such work.

The last sentence of said section appears to include graduate nurses, but does not apparently exclude any other nurses who may be found competent and qualified by your committee. I do not see any reason why school or industrial nursing should not come under the requirements of the aforesaid committee as such nursing evidently has reference to the public health.

Trusting that the foregoing will give you the information you desire, I am,

Yours very truly,

SANFORD L. FOGG,
Deputy Attorney General.

February 7, 1928.

*Dr. Elmer W. Campbell, State Department of Health, Augusta,
Maine.*

DEAR SIR: This Department has received your question "Can a plumber collect at law for work not done in accordance with the department's rules and regulations?"

The general rule of law is that a right of action is not destroyed even when the plaintiff has violated the statute.

I call your attention to the foregoing cases decided by the Supreme Court of Maine where analogous questions have arisen:

Hamilton v. Goding, 55 Me. 419.

Cumberland v. Central Wharf Co. 90 Me. 95.

Cohen v. Manuel, 91 Me. 274.

Bliss v. Winslow, 80 Me. 274.

It is the opinion of this Department, therefore, that while a plumber might be prosecuted for failing to live up to certain regulations made by the Department of Health, this would not effect his contractual relations with the person by whom he was employed; and especially is this so where there is no statute that states that he shall lose his right of action under such circumstances.

Of course, it is possible to conceive of cases where the amount recovered might be lessened because regulations have not been complied with and therefore, the work might be considered of an inferior grade or not up to contract requirements, but this does not effect our answer to the general question which you ask.

Trusting this answers your inquiry, I am

Yours very truly,

RAYMOND FELLOWS,
Attorney General.

September 13, 1928.

*Miss Dorothy Bryant, Director, Division of Dental Hygiene,
State Department of Health.*

DEAR MADAM: Answering your letter of September 11th, I beg to inform you that Chapter 268, Public Laws of 1917, provides that a dental hygienist "may operate in the office of any registered or licensed dentist or in any public or private institution under the general supervision of a registered or licensed dentist."

This law does not appear to require the supervising dentist to be a resident of any particular place or locality.

The law appears to make supervision the requisite to enable the hygienist to legally operate in a public institution. Actual supervision appears to be the test and it is not limited to locality. As far as the law is concerned in the case you mention, a dentist