

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

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.

Tusting 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

at Farmington or a dentist in Portland may have the supervision, provided the supervision is actual.

Yours very truly,

SANFORD L. FOGG,
Deputy Attorney General.

November 22, 1928.

Clarence F. Kendall, M. D., Health Commissioner, Augusta, Maine.

DEAR SIR: In answer to your oral inquiry regarding the establishing of town hospitals for the housing and care of persons who are ill with contagious diseases, I am pleased to advise you that Section 95 of Chapter 19 of the Revised Statutes, provides that:

"A town may establish therein one or more hospitals for the reception of persons having the smallpox or other diseases dangerous to the public health; or its local board of health may license any building therein as a hospital, which shall be under the control of said board."

Section 97 of the same chapter provides:

"When smallpox or other disease dangerous to the public health breaks out in a town, the local board of health shall immediately provide such hospital or place of reception for the sick and infected, as they judge best for the accommodation and safety of the inhabitants; such hospitals and places are subject to their regulations the same as established hospitals; and they shall cause such sick and infected to be removed thereto, unless their condition will not permit it without imminent danger; in which case, the house or place where the sick are, shall be deemed a hospital for every purpose aforesaid; and all persons residing in, or in any way concerned with it, are subject to hospital regulations."

Construing Section 29 of Chapter 14 of the Revised Statutes of 1871, in case of Haverty v. Bass, reported in 66 Maine, page 71, the court said: "when the smallpox breaks out in a town, they (the municipal officers) are to provide hospitals for the sick and infected; they shall cause the sick and infected 'to be removed' thereto, unless their condition will not admit of it without imminent danger; they may make a hospital of any man's house, where a sick or infected person is found (if deemed best), subject to hospital regulations; and the municipal officers must act 'immediately', and with 'all possible care' for the public safety."