

MAINE STATE LEGISLATURE

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Department of Health and Welfare

STATE HOUSE, AUGUSTA, MAINE

Date November 15, 1973

Dean Fisher, Commissioner, Department of Health and Welfare

From Andrews B. Campbell, Assistant Attorney General

Subject OPINION ON SOME ADMINISTRATIVE PROVISIONS OF PL 566 and PL 582

(T.22)
c.566
582

SYLLABUS:

The Division of Alcoholism under Chapter 582 will be reconstituted and unified with the Maine Commission on Drug Abuse and the Advisory Council under Chapter 566 will be reconstituted and unified with the Maine Council on Alcohol and Drug Abuse Prevention and Treatment on January 1, 1974. The Alcoholism Interdepartmental Coordinating Committee will be abolished and supplanted by the State Government Coordinating Committee created by section 7111 of Chapter 566.

FACTS:

Public Laws of 1973, Chapter 566, "The 1973 Alcoholism and Drug Abuse Act" establishes an Office of Alcoholism and Drug Abuse Prevention within the Bureau of Rehabilitation of the Department of Health and Welfare. Public Laws of 1973, Chapter 582, the so-called "Uniform Alcoholism and Intoxication Treatment Act", creates a Division of Alcoholism within the Department of Health and Welfare. Both statutes deal with similar subject matter. In addition, subsection 8, section 6 of Chapter 566 insures that Chapter 566 will become effective only after Chapter 582 has become effective and subsection 6 of the same section provides that "all Acts or parts of Acts and rules inconsistent with this Act are repealed or amended to conform hereto".

QUESTIONS:

1. What is the status of the Division of Alcoholism after P.L. 1973, C. 566 becomes effective on January 1, 1974?
2. What effect does the Advisory Council, created under Chapter 566, have on the Advisory Council created pursuant to Chapter 582?
3. What is the status of the Alcoholism Interdepartmental Coordinating Committee created pursuant to section 1366 of Chapter 582 after the State Government Coordinating Committee (section 7111 of Chapter 566) becomes effective on January 1, 1974?

ANSWERS:

1. On January 1, 1974, the Division of Alcoholism will be "reconstituted".

2. On January 1, 1974, the thirty-five member Citizens Advisory Council on Alcoholism created pursuant to Chapter 582, will in accordance with Chapter 566, go out of existence.

3. On January 1, 1974, the Alcoholism Interdepartmental Coordinating Committee will be abolished and supplanted by the State Government Coordinating Committee created by section 7111 of Chapter 566.

REASONS:

1. Chapter 566 provides for reconstitution and unification of the Division of Alcoholism into the Office of Alcoholism and Drug Abuse Prevention. See section 7104. Section 7104 and the other sections of Chapter 566, moreover, emphasize the objective of Chapter 566 to streamline and consolidate under one administrative agency all drug and alcohol abuse functions. See, e.g., sections 7102, 2., 3., 7104, 7106, and section 6, of the Act, subsections 1, 6, and 8. The intent of the bill clearly is that the new Office assume any responsibilities formerly held by the Division of Alcoholism as of January 1, 1974.

The powers and duties granted the Division of Alcoholism under Chapter 582 are, moreover, substantially identical with those given the Office of Alcoholism and Drug Abuse Prevention under Chapter 566. It is the accepted rule that the statute providing for the subject matter taking effect later in time will control. See, e.g. State v. Taplin, 247 A. 2d 919 (Me. 1968); Inman v. Willinski, 144 Me. 116 (1949); State v. London, 156 Me. 123 (1960). Applying this rule, it must be concluded that the former Division of Alcoholism ceases to exist as a single and distinct governmental unit as of January 1, 1974. This result clearly also serves the Legislature's intent as expressed in section 6, subsections 6 and 8 of Chapter 566.

2. Section 7107 of Chapter 566 clearly indicates that the Maine Council on Alcohol and Drug Abuse Prevention and Treatment was intended to supplant and assume the advisory functions performed by the Maine Commission on Drug Abuse "and the advisory councils on alcoholism heretofore established in the department (of Health and Welfare)". See section 7107, et. seq.

The Council provided under Chapter 566, moreover, covers the whole subject matter provided for under Chapter 582, so must be deemed to supplant the Council provided under Chapter 582.

3. In light of the legislative intent to streamline and consolidate, as specifically and clearly expressed by Chapter 566, it would be inconceivable to conclude that the legislature intended to create two separate coordinating committees composed of nearly the same members and performing essentially identical functions. Therefore, by the same reasoning as above, in answer to questions one and two, section 1366 of Chapter 582 must give way to the controlling provisions of section 7111 of Chapter 566.