

# MAINE STATE LEGISLATURE

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*Education Out of State Professional Education  
20 MRSA § 2273*

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To: Wayne Ross, Director  
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From: Waldemar G. Buschmann  
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Subject: Tufts Dental Students

FACTS:

20 MRSA § 2273 as enacted by P.L. 1975, c. 769, section 1, requires that a state contract student commencing his professional education on or after the 1976-77 academic year shall enter into an agreement with the State of Maine. The Legislature in 1977 enacted P.L. 1977, c. 335, section 3, which creates a new section 2273 but does not repeal section 2273 as enacted by the 107th Legislature. Also, the 108th Legislature enacted P.L. 1977, c. 579, SECTION L, section 1, which repealed section 2273 as enacted by P.L. 1977, c. 335, section 3, and replaced it with a new section 2273.

Although P.L. 1977, c. 579, SECTION L, section 1, repealed all of section 2273 as enacted by P.L. 1977, c. 335, section 2273 as enacted by chapter 579 only deals with sub-section 1 of section 2273 and sub-sections 2 and 3 were omitted. (Sub-section 2 dealt with the definition of a state capitation payment and sub-section 3 dealt with tuition grants to contract students who demonstrated financial need--P.L. 1977, c. 335, section 3.)

Pursuant to 20 MRSA § 2273 as enacted by P.L. 1977, c. 579, students who commence their professional education on or after September, 1977, shall enter into an agreement with the state to pay the state "an amount of money equal to the state capitation payment expended by the state in purchasing the student position

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which he occupied as a state contract student." However, pursuant to 20 MRSA § 2273 as enacted by P.L. 1975, c. 769, section 1, a state contract student would only pay the state if he fails to practice his profession within the state for a period of four years.

While most new medical, dental and veterinary students who are subject to the terms of section 2273, did not commence their professional education until September 1, 1977, those students who attend Tufts dental school commenced their professional education in July, 1977.

QUESTION:

Are this year's entering Tufts dental students obligated to sign the agreement in accordance with 20 MRSA § 2273 as enacted by P.L. 1977, c. 579, or would they be obligated to sign an agreement in accordance with 20 MRSA § 2273 as enacted by P.L. 1975, c. 769?

ANSWER:

Since 20 MRSA § 2273 as enacted by P.L. 1977, c. 579, SECTION L, section 1, specifically states that "notwithstanding any other provision of law, any state contract student commencing his profession (sic) education on or after September, 1977 . . ." shall enter into an agreement to pay the state "an amount of money equal to the state capitation payment expended by the state in purchasing the student position which he occupied as a state contract student," it is my opinion that the students entering Tufts Dental School in July of 1977 do not have to sign the agreement referred to in chapter 579. Instead, these students should sign an agreement with the state in the manner provided in 20 MRSA § 2273 as enacted by P.L. 1975, c. 769, section 1.

Although P.L. 1977, c. 579, SECTION L, section 1 was enacted as emergency legislation, it only applied to students commencing their professional education on or after September 1977. Also, since 20 MRSA § 2273 as enacted by P.L. 1975, c. 769, section 1, has not been repealed it is my opinion that to the extent it does not conflict with the legislation passed by the 108th Legislature, the agreement called for by the 107th Legislature should be entered into between the state and the students at Tufts Dental School.


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NOTE:

As indicated above, there is need for corrective legislation with regard to the status of 20 MRSA § 2273. There presently are two sections 2273, one of which was created by the 107th Legislature and the second one having been created by the 108th Legislature. Since the subject matter in both sections 2273 is the same, it is my opinion that the version enacted in 1975 is repealed by implication. Corrective steps should be taken at the next regular session of the legislature explicitly to repeal section 2273 as enacted by the 107th Legislature.

Also, the 108th Legislature initially enacted three sub-sections to section 2273 when it passed P.L. 1977, c. 335, section 3. It appears that the Legislature inadvertently repealed sub-sections 2 and 3 of section 2273 when it passed P.L. 1977, c. 579, SECTION L, section 1.

Corrective legislation should also be introduced to pick up sub-sections 2 and 3 as set forth in P.L. 1977, c. 335. However, the language in sub-section 2 defining the term "state capitation payment" will have to be corrected to conform with the use of that term in P.L. 1977, c. 579, SECTION L, section 1.

  
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