

# MAINE STATE LEGISLATURE

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# ONE HUNDRED AND SEVENTH LEGISLATURE

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**Legislative Document**

**No. 406**

H. P. 334

House of Representatives, January 28, 1975

Referred to the Committee on Health and Institutional Services. Sent up for concurrence and ordered printed.

EDWIN H. PERT, Clerk

Presented by Mr. Silverman of Calais.

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## STATE OF MAINE

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IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
SEVENTY-FIVE

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### AN ACT to Revise the Maine Medical Laboratory Act.

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

**Sec. 1. 22 MRSA, § 2013**, as enacted by PL 1967, c. 380, is repealed and the following enacted in place thereof:

**§ 2013. Exemptions**

This Act applies to medical laboratories and directors of medical laboratories, except that this Act does not apply to:

1. **Governmental.** Medical laboratories operated by the United States Government, the State of Maine or municipalities of the State of Maine;
2. **Research and teaching.** Laboratories operated and maintained for research and teaching purposes which are recognized by the department or involve no patient or public health service;
3. **Radiology.** The practice of radiology by a radiologist.

**Sec. 2. 22 MRSA, § 2015, first ¶**, as enacted by PL 1967, c. 380, is amended to read:

The department with the ~~approval~~ **advice** of the advisory commission shall issue a medical laboratory license to any medical laboratory which has applied for said license on forms provided by the department and which is found to be in compliance with this Act.

**Sec. 3. 22 MRSA, § 2018**, as enacted by PL 1967, c. 380, is amended by adding at the end a new paragraph to read:

This section is not to be construed to limit the ownership of laboratories to only people qualified as a director, but rather is intended to stipulate that a director as defined in section 2014, subsection 3 is necessary to obtain licensure.

**Sec. 4. 22 MRSA, § 2023, first sentence**, as enacted by PL 1967, c. 380, is amended to read:

The department with the ~~approval~~ **advice** of the advisory commission shall prescribe and publish rules and regulations for medical laboratories.

**Sec. 5. 22 MRSA, § 2025**, as enacted by PL 1967, c. 380, is amended to read:

**§ 2025. Evaluation**

The department may require the demonstration of proficiency in the performance of the tests offered by the laboratory through some type of evaluation program ~~specified by the department with the advice of the advisory commission~~. The ~~individual or~~ individuals directing such evaluation programs shall have at least the minimum qualifications of a director ~~or be under the supervision of the Director of Health, Department of Health and Welfare~~.

**Sec. 6. 22 MRSA, § 2029, first sentence**, as enacted by PL 1967, c. 380, is amended to read:

Every medical laboratory shall have a director who is a legal resident of the State of Maine except under certain conditions which may be designated by the ~~advisory commission and~~ department.

**Sec. 7. 22 MRSA, § 2029, sub-§ 2**, as enacted by PL 1967, c. 380, is amended to read:

2. **Special qualifications.** He is a physician licensed to practice medicine with special qualifications acceptable to the ~~board~~ **department**; or

**Sec. 8. 22 MRSA, § 2029, sub-§ 3, 2nd sentence**, as enacted by PL 1967, c. 380, is amended to read:

He may continue to direct that laboratory only except that the department, ~~upon recommendation of the advisory commission~~ may, as a condition precedent to the issuance of a license, require such individual to pass an examination in the event that it deems such an examination necessary to determine the competence of the individual as a director.

**Sec. 9. 22 MRSA, § 2029, next to the last ¶**, as enacted by PL 1967, c. 380, is amended to read:

No medical laboratory shall perform examinations in the field of pathologic anatomy, including exfoliative cytology, unless the director is a diplomate of the American Board of Pathology certified in pathologic anatomy or the American Osteopathic Board of Pathology certified in pathologic anatomy, or unless he is a physician licensed to practice medicine in the State of Maine who possesses special qualifications acceptable to the ~~board~~ **department**, or unless he is a dentist licensed in Maine and is certified by the American Board of Oral Pathology.

**Sec. 10.** 22 **MRSA**, § 2029, last ¶, as enacted by PL 1967, c. 380, is repealed.

**Sec. 11.** 22 **MRSA**, § 2036, as enacted by PL 1967, c. 380, is amended to read:

§ 2036. **Hearing**

Before suspension or revocation of its license, if requested, a hearing shall be held before a meeting of the **Commissioner of Health and Welfare and the advisory commission** to show cause why a license should not be suspended or revoked.

**Sec. 12.** 22 **MRSA**, § 2040, as last amended by PL 1973, c. 303, § 3, is further amended to read:

§ 2040. **Appeal**

Any person aggrieved by a decision of the department ~~or the commission~~ may appeal to the Administrative Court Judge under Title 5, chapters 301 to 307.

#### STATEMENT OF FACT

1. Medical laboratories under provisions of the current Act are controlled solely by the individuals or group who stand to gain monetary reward. The Department of Health and Welfare, if it is to discharge its duties of protecting the public health, suggests making the "advisory commission" advisory, not regulatory.

2. The Maine Medical Laboratory Act as currently constructed would limit the ownership of medical laboratories to those people possessing the qualifications of a director. This represents a restraint of trade and an example of proprietary interests not in the best interest of the public health and welfare.

3. Evaluation of medical laboratories should be a function of the Director of Health, Department of Health and Welfare. The current Act would not permit the department to conduct this activity. All medical laboratories must come under this scrutiny.