

MAINE STATE LEGISLATURE

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ACTS, RESOLVES AND CONSTITUTIONAL RESOLUTIONS

AS PASSED BY THE

One Hundred and Sixth Legislature

OF THE

STATE OF MAINE

Published by the Director of Legislative Research in accordance with the Revised Statutes of 1964, Title 3, Section 164, Subsection 6.

THE KNOWLTON AND McLEARY COMPANY
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PUBLIC LAWS
OF THE
STATE OF MAINE
AS PASSED BY THE
One Hundred and Sixth Legislature

1973

CHAPTER 535**AN ACT Relating to Medical Treatment of Persons at State Operated Facilities.**

Emergency preamble. Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as an emergency; and

Whereas, there exists a 24-hour per day need for the administration of medications to patients at state institutions and health facilities throughout the State; and

Whereas, an opinion of the office of the Attorney General dated May 15, 1973, advised the Department of Mental Health and Corrections that personnel not licensed as registered nurses or licensed practical nurses could not legally administer medications; and

Whereas, the term "administer" medications has evidently been construed by the office of the Attorney General to include the acts of furnishing, delivering, supplying, or giving medication; and

Whereas, many selected activities concerning the "administration" of medications are being carried out by competent and qualified individuals not licensed pursuant to Title 32, chapter 31; and

Whereas, the office of the Attorney General has advised the Department of Mental Health and Corrections that unlicensed persons performing such activities are subjecting themselves to possible civil and criminal liability; and

Whereas, this opinion has caused great mental anguish on the part of unlicensed individuals performing such activities as part of their assigned duties and has resulted in their refusal to perform such activities for fear of criminal prosecution; and

Whereas, such refusal on the part of unlicensed persons to perform such activities has detrimentally affected the quality of health care facilities throughout this State; and

Whereas, the medical and nursing professions are undertaking a comprehensive study of this situation to determine whether remedial legislation is necessary; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

R. S., T. 32, § 2258-A, additional. Title 32 of the Revised Statutes is amended by adding a new section 2258-A to read as follows:

§ 2258-A. Administration of medication

Any employee of any institution under the control of the Department of Mental Health and Corrections or of an institution licensed by the State as a hospital, nursing home, extended care facility or boarding home who, in the exercise of due care, is authorized by the head of such institution or his designee to perform selected activities in the administration of medications and any person who, in the exercise of due care, is delegated such functions by a licensed allopathic or osteopathic physician shall be immune from criminal prosecution and civil liability for any such administration of medication prior to the effective date of this Act and until July 1, 1974, but not thereafter.

Emergency clause. In view of the emergency cited in the preamble, this Act shall take effect when approved.

Effective June 20, 1973

CHAPTER 536

AN ACT Clarifying Certain Municipal Laws.

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

Sec. 1. R. S., T. 20, § 225, sub-§ 2, ¶ G, amended. The first sentence of paragraph G of subsection 2 of section 225 of Title 20 of the Revised Statutes, as amended by section 2 of chapter 611 of the public laws of 1971, is further amended to read as follows:

The voting at meetings held in towns shall be held and conducted in accordance with Title 30, sections 2061 to ~~2064~~ 2065, even though the town has not accepted the provisions of ~~said~~ sections 2061 and 2062.

Sec. 2. R. S., T. 30, § 2062, amended. The first sentence of section 2062 of Title 30 of the Revised Statutes, as amended by section 7 of chapter 114 of the public laws of 1969, is further amended to read as follows:

When any town which has accepted section 2061 accepts this section at a meeting held at least 60 days before the annual meeting, absentee ballots may be cast at all regular and special elections of town officials, including town meeting members where the representative town meeting form of government is used.

Sec. 3. R. S., T. 30, § 1905, additional. Title 30 of the Revised Statutes is amended by adding a new section 1905 to read as follows:

§ 1905. Unconditional gifts

A gift without conditions, of any type of property, offered to a municipality shall be accepted or rejected by its legislative body.

Sec. 4. R. S., T. 30, § 1912, sub-§ 3, ¶ A, amended. Paragraph A of subsection 3 of section 1912 of Title 30 of the Revised Statutes, as enacted by chapter 563 of the public laws of 1969, is amended by inserting after the first paragraph a new paragraph to read as follows: