

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND TWELFTH LEGISLATURE

SECOND REGULAR SESSION
January 8, 1986 to April 16, 1986

SECOND SPECIAL SESSION
May 28, 1986 to May 30, 1986

AND AT THE

THIRD SPECIAL SESSION
October 17, 1986

PUBLISHED BY THE DIRECTOR OF REVISOR OF STATUTES IN
ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,
TITLE 3, SECTION 163-A, SUBSECTION 4.

J.S. McCarthy Co., Inc.
Augusta, Maine

PUBLIC LAWS
OF THE
STATE OF MAINE

AS PASSED AT THE
SECOND REGULAR SESSION
of the
ONE HUNDRED AND TWELFTH LEGISLATURE
1985

Existing boarding homes or other existing buildings licensed pursuant to Title 22, subtitle 6, having more than 6 boarders, with the exception of boarding care facilities, shall comply with any rules and regulations for residential-custodial care facilities required by the State Fire Marshal's Office, except that such existing facilities of not more than 2 stories in height shall not be required to be fire resistive, protected or unprotected noncombustible, protected wood frame or heavy timber construction. Such existing facilities must be protected by a complete approved automatic sprinkler system and meet all other requirements of residential-custodial care facilities as required by the State Fire Marshal's Office.

Existing boarding care facilities licensed pursuant to Title 22, subtitle 6, shall comply with the applicable fire safety requirements of the Life Safety Code adopted by the State Fire Marshal pursuant to Title 22, section 7904-A.

Effective July 16, 1986.

CHAPTER 771

H.P. 1651 - L.D. 2329

AN ACT Relating to the Administration of Preventable Disease Programs and the Bureau of Health.

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

Sec. 1. 4 MRSA §1151, sub-§2, as amended by PL 1983, c. 171, §1, is further amended to read:

2. Licensing jurisdiction. Except as provided in Title 5, section 10004; Title 29, chapter 17; Title 32, chapter 59; and Title 35, section 13-A, the Administrative Court shall have exclusive jurisdiction upon complaint of an agency or, if the licensing agency fails or refuses to act within a reasonable time, upon complaint of the Attorney General, to revoke or suspend licenses issued by the agency, and shall have original jurisdiction upon complaint of a licensing agency to determine whether renewal or reissuance of a license of that agency may be refused. The Administrative Court shall have original concurrent jurisdiction to grant equitable relief in pro-

ceedings initiated by an agency or the Department of the Attorney General alleging any violation of a license of licensing laws or rules.

Notwithstanding any other provisions of law, no licensing agency shall have the authority to ~~re~~ may reinstate or otherwise affect a license suspended, revoked or modified by the Administrative Court pursuant to a complaint filed by the Attorney General, without the approval of the Attorney General.

Sec. 2. 20-A MRSA §6359 is enacted to read:

§6359. Immunization of students

1. Definitions. As used in this section, unless the context indicates otherwise, the following terms have the following meanings.

A. "Certificate of immunization" means a written statement from a physician, nurse or health official who has administered an immunizing agent to a student, specifying the dosage administered and the date it was administered.

B. "Chief administrative officer" means the person designated by the legal governing authority as president, administrator or director of a public or private post-secondary school.

C. "Disease" means diphtheria, measles, rubella and tetanus.

D. "Immunizing agent" means a vaccine, antitoxin or other substances used to increase an individual's immunity to a disease.

E. "Parent" means a student's parent, legal guardian or custodian. A person shall be regarded as a student's custodian if that person is an adult and has assumed legal charge and care of the student.

F. "Public health official" means a local health officer, the Director of the Bureau of Health or any designated employee or agent of the Department of Human Services.

G. "School" means any public or private, post-secondary school in the State including, but not limited to colleges, universities, vocational-technical institutes and schools for the health professions.

H. "Student" means any person entering school who was born after 1956.

2. Immunization. Except as otherwise provided under this section, every student shall have administered an adequate dosage of an immunizing agent against each disease.

Any such immunizing agent shall meet standards for the biological products, approved by the United States Public Health Service and the dosage requirement specified by the Department of Human Services.

3. Enrollment of school. No chief administrative officer may permit any student to be enrolled in or to attend school without a certificate of immunization for each disease or other acceptable evidence of required immunization or immunity against the disease, except as follows.

A. The parent or the student provides a physician's written statement that immunization against one or more of the diseases may be medically inadvisable.

B. The student or the parent, if the student is a minor, states in writing a sincere religious belief, which is contrary to the immunization requirement of this subchapter or an opposition to the immunization for moral, philosophical or other personal reasons.

4. Exclusion from school. When a public health official has reason to believe that the continued presence in a school of a student who has not been immunized against one or more diseases presents a clear danger to the health of others, the public health official shall notify the chief administrative officer of the school. The chief administrative officer shall cause the student to be excluded from school during the period of danger or until the student receives the necessary immunizing agent.

5. Records; report. Each chief administrative officer shall keep uniform records of the immunizations and immunization status of each student, based on the certificate of immunization, other acceptable evidence and other available documents. The records shall be part of the student's permanent records.

By December 15th of each year, each chief administrative officer shall submit to the Director of the Bu-

reau of Health a summary report of immunization status of the students entering school, as prescribed by rule. A blank summary report form will be provided to each chief administrative officer by the Bureau of Health.

6. Rules; requirements; reports. The Director of the Bureau of Health shall issue rules necessary for the effective implementation of this subchapter, including, but not limited to, rules establishing immunization requirements for each disease, school record keeping and reporting requirements or guidelines and procedures for the exclusion of nonimmunized students from school.

Immunization requirements more stringent than the provisions of this subchapter may be adopted by a school board or by policy of a private school's governing board.

Sec. 3. 22 MRSA §1012, sub-§4 is enacted to read:

4. Immunization required. Except as otherwise provided under this subchapter, each hospital in the State and any other health facility in the State as the department, by rule, designates shall require, for all employees born after 1956, either proof of immunization or serologic evidence of immunity against measles (Rubeola) and German measles (Rubella). Employees currently working in the hospital or designated health facility must meet these standards within 180 days of the effective date of this action. The personnel records of each employee born after 1956 shall include a copy of the documentation of the vaccine history, showing month, day and year or the serologic history of immunity.

For purposes of this subsection, "employee" means a person who performs a service for wages or other remuneration for a hospital or designated health facility under a contract of hire, written or oral, expressed or implied.

Immunization required by this subsection does not apply to any employee who:

A. Provides a physician's written statement that immunization against one or more of the diseases may be medically inadvisable; or

B. States in writing a sincere religious belief which is contrary to the immunization requirement of this subsection.

Sec. 4. 22 MRSA §1032, as amended by PL 1983, c. 661, §9, is further amended to read:

§1032. Confidentiality

The names and related information which may identify individuals having or suspected of having a notifiable communicable disease shall be confidential and may be released only to other public health officials, agents or agencies, or to school officials where a child is enrolled, for a public health purpose. In a public health emergency, as declared by the state health officer, the information may also be released to private health care providers and agencies for the purpose of preventing further disease transmission. All other information submitted pursuant to this article may be made available to the public.

Sec. 5. 22 MRSA §2497, as amended by PL 1979, c. 672, Pt. A, §61, is further amended to read:

§2497. Right of entry and inspection

The department and any duly designated officer or employee thereof shall have the right, without an administrative inspection warrant, to enter upon and into the premises of any establishment licensed pursuant to this chapter at any reasonable time in order to determine the state of compliance with this chapter and any rules and regulations in force pursuant thereto. Such right of entry and inspection shall extend to any premises which the department has reason to believe is being operated or maintained without a license, ~~but no such entry or inspection of any premises shall be made without the permission of the owner or person in charge thereof, unless a complaint is first obtained from the District Court~~ but no such entry and inspection of any premises may be made without the permission of the owner or person in charge unless a search warrant is obtained authorizing entry and inspection. The department and any duly designated officer or employee thereof does not have the right to enter, for inspection under this chapter, upon and into the premises of any establishment that is licensed under chapter 551, subchapter I.

Sec. 6. P&SL 1975, c. 90, §H is amended by striking out everything after the first paragraph, and inserting in its place the following:

The Department of Human Services will be responsible for determining patients' eligibility according

to financial guidelines that are compatible with the Crippled Children's Program.

No family or person may be eligible for these funds if their medical expenses are covered by insurance or aid through any local, state, federal or national program, either governmental or private, except where those costs exceed the amount covered by the insurance or aid.

The distribution of these funds shall be under the control of the Commissioner of Human Services.

Definitions.

1. "Amount left over" shall be determined by records available or provable and at the discretion of the Commissioner of Human Services based on standards set by the Department of Human Services.

2. "Costs" means all prescribed medicines and drugs, hospitalization and physicians and related costs and any travel related to medical attention.

3. "Income" means the family's gross annual income received during the 12-month period prior to application and annually thereafter.

4. "Members of family" means all persons living in the home and dependent on the head of the household for support.

Sec. 7. Effective date. Section 2 of this Act shall take effect on September 1, 1987.

Effective July 16, 1986 unless otherwise indicated.

CHAPTER 772

H.P. 1495 - L.D. 2107

AN ACT to Clarify the Application of Water Quality Standards to Hydroelectric Projects.

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

Sec. 1. 38 MRSA §363-C is enacted to read: