

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND THIRTEENTH LEGISLATURE
FIRST REGULAR SESSION

December 3, 1986 to June 30, 1987

Chapters 1-542

PUBLISHED BY THE REVISOR OF STATUTES
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PUBLIC LAWS

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or modify the order. At the hearing, all witnesses shall be sworn and the department shall establish the basis for the order and for naming the person to whom the order was directed. The decision of the board may be appealed to the Superior Court in accordance with the Maine Administrative Procedure Act, Title 5, chapter 375, subchapter VII.

Sec. 27. 38 MRSA §1310, last ¶, as repealed and replaced by PL 1979, c. 699, §16, is amended to read:

The person to whom the order is directed shall comply immediately. An order may not be appealed to the Superior Court, but a person to whom it is directed may apply to the board for a hearing on the order if the application is made within 48 hours after receipt of the order by the person to whom the order was directed. The hearing shall be held by the board within 48 hours after receipt of application. Within 7 days after the hearing, the board shall make findings of fact and continue, revoke or modify the order. Within 5 working days after receipt of the application, the board shall hold a hearing, make findings of fact and continue, revoke or modify the order. The decision of the board may be appealed to the Superior Court in accordance with Title 5, chapter 375, subchapter VII.

Sec. 28. 38 MRSA 1319-E, sub-§2, as enacted by PL 1981, c. 478, §7, is repealed.

Sec. 29. 38 MRSA §1364, sub-§6, as enacted by PL 1983, c. 569, §1, is amended to read:

6. Accept funds. The department may accept any public or private funds which may be available for carrying out the purposes of this chapter. The Uncontrolled Sites Fund is established to be used by the department as a nonlapsing revolving fund for carrying out the purposes of this chapter, including the long-term oversight of uncontrolled hazardous substance sites. Money in the fund, not needed currently to meet the obligations of the department in the exercise of its responsibilities under this chapter, shall be deposited with the Treasurer of State to the credit of the fund and may be invested in such a manner as is provided for by law. Interest received on that investment shall be credited to the fund.

Sec. 30. 38 MRSA §1366, last ¶, as enacted by PL 1983, c. 569, §1, is repealed.

Sec. 31. 38 MRSA §1367, last ¶, as enacted by PL 1983, c. 569, §1, is amended to read:

Funds recovered under this section shall be deposited into the account from which the funds were expended Uncontrolled Sites Fund and shall be used by the department to carry out the purposes of this chapter.

Effective September 29, 1987.

CHAPTER 193

H.P. 750 — L.D. 1013

AN ACT to Clarify and Amend the Maine State Retirement Law.

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

Sec. 1. 5 MRSA §17153, sub-§ 1, as enacted by PL 1985, c. 801, §§5 and 7, is repealed.

Sec. 2. 5 MRSA §17153, sub-§1-A is enacted to read:

1-A. Actuarially sound basis. The board shall calculate the funds necessary to maintain the retirement system on an actuarially sound basis, including the unfunded liability arising from payment of benefits for which contributions were not received and shall transmit those calculations to the State Budget Officer as required by chapter 149.

A. For benefits applicable to state employees, teachers or participating local district employees that are established through collective bargaining, the board shall apply the funding methods and assumptions adopted by the board pursuant to this subsection.

B. The Legislature shall appropriate and transfer annually those funds the board determines to be necessary under this subsection to maintain the retirement system on an actuarially sound basis.

C. This subsection may not be construed to require the State to appropriate and transfer funds to meet the obligations of participating local districts to the retirement system.

Effective September 29, 1987.

CHAPTER 194

S.P. 534 — L.D. 1605

AN ACT Concerning the Use of Safety Devices in Public Swimming Pools.

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

22 MRSA §1635 is enacted to read:

§1635. Use of safety equipment in public pools

1. Use of safety equipment by persons who suffer from physical disability or condition. No person may prohibit the use of a life jacket or similar device in a public swimming pool by any person who suffers, as evidenced by a signed statement of a licensed physician,

from any physical disability or condition which necessitates the use of a life jacket or similar device.

2. Public swimming pool defined. For the purposes of this section, a public swimming pool is any swimming pool which caters to, offers its facilities or services to or solicits or accepts patronage from the general public.

Effective September 29, 1987.

CHAPTER 195

S.P. 533 — L.D. 1604

AN ACT to Provide Qualified Nursing Assistant Services.

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

Sec. 1. 22 MRSA §1812-C, sub-§4, as enacted by PL 1985, c. 738, §1, is repealed.

Sec. 2. 22 MRSA §1812-C, sub-§§5 and 6 are enacted to read:

5. Rules; supervision of and delegation to nursing assistants. The Department of Human Services shall revise its rules or adopt rules concerning supervision of and delegation of tasks to certified nursing assistants and nursing assistants in training. The rules shall be developed and adopted jointly by the department and the State Board of Nursing and shall be consistent with other relevant rules.

6. Rules; maintenance of approved staffing pattern. The department shall revise its rules or adopt rules to require documentation when any nursing home receives reimbursement for an approved staffing pattern which exceeds the minimum staffing level and fails to meet that approved staffing level for one year. Failure to meet the minimum staffing requirements as set forth in the Regulations Governing the Licensure of Long-Term Care Facilities shall be cause for licensure sanctions permitted under law and rules.

Sec. 3. 32 MRSA §2102, sub-§8 is enacted to read:

8. Certified nursing assistant. "Certified nursing assistant" means a person who has successfully completed a training program or course with a curriculum prescribed by the State Board of Nursing or a person who was certified prior to the effective date of this subsection.

Sec. 4. 32 MRSA §2104, sub-§4 is enacted to read:

4. Approval of nursing assistant training curriculum and faculty. An educational institution or health care facility desiring to conduct an educational program for assistants to nurses to prepare individuals for certification

shall apply to the Department of Educational and Cultural Services and submit evidence that it is prepared to:

A. Carry out the curriculum for the assistants to nurses as prescribed by the State Board of Nursing;

B. Meet those standards for on-site supervision and delegation of tasks as established by the State Board of Nursing; and

C. Meet those standards for educational programming and faculty as established by the Department of Educational and Cultural Services. The Department of Educational and Cultural Services shall issue a notice of approval of the program submitted and the proposed faculty.

The Department of Educational and Cultural Services shall approve a facility-offered program if the existing educational delivery system cannot respond in 10 working days.

Sec. 5. 32 MRSA §2202-A is enacted to read:

§2202-A. Certificates; nursing assistants

The Department of Educational and Cultural Services shall issue certificates attesting to the competency of individuals to act as assistants to nurses. The certificate shall indicate the satisfactory completion of a course with a curriculum prescribed by the State Board of Nursing.

The Department of Educational and Cultural Services shall maintain a register of names of all individuals certified to act as assistants to nurses.

Sec. 6. 32 MRSA §2151, as amended by PL 1985, c. 819, Pt. A, §§29 and 30, is further amended to read:

§2151. Appointment; term; removal

A State Board of Nursing, as established by Title 5, section 12004, subsection 1, shall consist of 9 members who shall be appointed by the Governor. Five members of the board shall be professional nurses. Two members shall be licensed practical nurses. One of the nurse members of the board must be a nurse who is currently practicing long-term care nursing. Two members shall be representatives of the public. Except to fill vacancies in unexpired terms, all appointments shall be for a term of 5 years after such appointment or until their successors have been duly appointed and qualified. No person may be eligible for more than one reappointment. Any vacancy on the board shall be filled for the unexpired term by the appointment of another member by the Governor. Any members of the board may be removed from office for cause by the Governor.

Sec. 7. Adoption of rules. The Department of Human Services shall revise or adopt the rules required by this Act by December 31, 1987.

Effective September 29, 1987.