

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

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

December 7, 1988 to July 1, 1989

Chapters 1 - 502

THE GENERAL EFFECTIVE DATE FOR
NON-EMERGENCY LAWS IS
SEPTEMBER 30, 1989

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

J.S. McCarthy Company
Augusta, Maine
1989

PUBLIC LAWS
OF THE
STATE OF MAINE

AS PASSED AT THE
FIRST REGULAR SESSION

of the
ONE HUNDRED AND FOURTEENTH LEGISLATURE

1989

CHAPTER 74**S.P. 190 - L.D. 417****An Act to Amend the Medical Health Security Act to Include Podiatrists and Dentists**

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

Sec. 1. 24 MRSA §2904, as enacted by PL 1977, c. 492, §3, is amended to read:

§2904. Immunity from civil liability for volunteer activities

Notwithstanding any inconsistent provision of any public or private and special law, no licensed physician, podiatrist as defined in Title 32, section 3551 or dentist as defined in Title 32, section 1081, who voluntarily, without the expectation or receipt of monetary or other compensation, provides professional services within the scope of ~~his~~ that physician's or podiatrist's licensure to a nonprofit organization or to an agency of the State or to members or recipients of services of that organization or state agency ~~shall~~ may be liable for damages or injuries alleged to have been sustained by the person nor for damages for the death of the person when the injuries or death are alleged to have occurred by reason of an act or omission in the rendering of professional services, unless it is established that the injuries or the death were caused willfully, wantonly, recklessly or by gross negligence of the licensed physician or podiatrist.

Sec. 2. 24 MRSA §2905, sub-§1, as enacted by PL 1977, c. 492, §3, is amended to read:

1. Disallowance of recovery on grounds of lack of informed consent. No recovery ~~shall~~ may be allowed against any physician, podiatrist, dentist or any health care provider upon the grounds that the health care treatment was rendered without the informed consent of the patient or the patient's spouse, parent, guardian, nearest relative or other person authorized to give consent for the patient ~~where~~ when:

A. The action of the physician, podiatrist or dentist in obtaining the consent of the patient or other person authorized to give consent for the patient was in accordance with the standards of practice among members of the same health care profession with similar training and experience situated in the same or similar communities; and

B. A reasonable person, from the information provided by the physician, podiatrist or dentist under the circumstances, would have a general understanding of the procedures or treatments and of the usual and most frequent risks and hazards inherent in the proposed procedures or treatments which are recognized and followed by other physicians, podiatrists or dentists engaged in the same field of practice in the same or similar communities; or

C. A reasonable person, under all surrounding circumstances, would have undergone such treatment or procedure had ~~he~~ that person been advised by the physician, podiatrist or dentist in accordance with paragraphs A and B or this paragraph.

See title page for effective date.

CHAPTER 75**H.P. 396 - L.D. 527****An Act to Amend and Unify the Residential Energy Efficiency Building Standards**

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

Whereas, there are now 3 separate standards for energy efficiency in residential housing; and

Whereas, the Office of Energy Resources is required to publish a manual of accepted energy efficiency standards; and

Whereas, the immediate clarification of energy efficiency standards will allow contractors to understand and comply with energy efficiency standards during the upcoming building season; 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:

Sec. 1. 10 MRSA §1413, sub-§1, as enacted by PL 1979, c. 503, §2, is amended to read:

1. ASHRAE 90. "ASHRAE 90" means the current standard for energy conservation in new building design developed and approved by the American Society of Heating, Refrigeration and Air Conditioning Engineers.

Sec. 2. 10 MRSA §1413, sub-§11, as enacted by PL 1979, c. 503, §2, is amended to read:

11. Manual of Accepted Practices. "Manual of Accepted Practices" means the Manual of Accepted Practices prepared by the Office of Energy Resources in conformance with the ~~State of Maine Energy Conservation Building Standards~~ mandatory standards for residential construction as defined in section 1415-C.

Sec. 3. 10 MRSA §1415-A, as amended by PL 1985, c. 481, Pt. A, §19, is repealed.

Sec. 4. 10 MRSA §1415-B, as enacted by PL 1985, c. 370, §4, is repealed.

Sec. 5. 10 MRSA §1415-C, sub-§1, ¶D, as enacted by PL 1987, c. 818, §4, is amended to read:

D. Slab-on-grade floors must have perimeter insulation of either:

(1) R-10 when the insulation extends downward from the top of the slab to the design frost line; or

(2) ~~R-20~~ R-10 when the insulation extends around the perimeter itself and horizontally beneath the slab for a distance equivalent to the depth of the frost line.

Sec. 6. 10 MRSA §1415-C, sub-§§3 to 6 are enacted to read:

3. Multifamily structures. Effective January 1, 1990, in addition to conforming to the requirements of this section, any new construction or renovation of a conditioned space in a residential building of more than 2 dwelling units shall conform to the ASHRAE 90 standards under any of the compliance methods specified in the standards. For the purposes of this section, conformance to the ASHRAE 90 standards shall consist of those standards, which are not in conflict with this section, established for the building envelope, heating, ventilating and air-conditioning systems and equipment, service water heating and lighting power limits and controls.

4. Waiver. A waiver from subsection 3 may be granted by the director on a case-by-case basis for instances of renovation as defined by section 1413, subsection 15. In regards to the renovation of historic buildings, a waiver shall be granted when the Executive Director of the State Historic Preservation Commission determines that adherence to the energy building standards would result in irreparable damage to the historic character of a building on the National Register of Historic Places, eligible for nomination to the national register or designated as a historic building by a certified municipal historic preservation ordinance. In other instances, such as the rebuilding of a structure damaged by fire or a historic preservation project when maintaining historic character is not an issue, the director may grant a waiver when it can be shown that the additional cost of meeting the energy building standards would make the building renovation economically infeasible.

5. Waiver decision. The director shall render a decision on an application for a waiver from the standards within 30 days of the receipt by the director of a complete application for a waiver. In rendering a decision, the director may place conditions upon the granting of a waiver. Failure on the part of the director to render a decision within the 30-day period shall constitute approval of the request for the waiver.

6. Waiver application. A request for a waiver under subsection 4 shall be submitted to the Office of Energy

Resources in writing and shall contain the location of the renovation, the intended use of the building and the names of the owner, designer and contractor or builder. If applying for a waiver under the historic preservation provisions of subsection 4, information on the historic character of the building shall be provided to the director. If applying for a waiver under the economic hardship provisions of subsection 4, information on the economic infeasibility shall be provided to the director.

Sec. 7. 10 MRSA §1415-F is enacted to read:

§1415-F. Manual of Accepted Practices

The director shall prepare a Manual of Accepted Practices, which shall consist of building procedures and building materials to enable builders of one-family and 2-family structures to conform to the residential standards in section 1415-C.

Sec. 8. 10 MRSA §1416, as amended by PL 1979, c. 636, §3 to 5, is repealed.

Sec. 9. 10 MRSA §1418, as amended by PL 1979, c. 676, §7, is repealed.

Sec. 10. 10 MRSA §1420, sub-§§1 and 2, as enacted by PL 1987, c. 818, §5, are repealed.

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

Effective April 28, 1989.

CHAPTER 76

H.P. 263 - L.D. 375

An Act to Provide that Medical Information in the Files of the Maine State Retirement System is not Public Information

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

5 MRSA §17057 is enacted to read:

§17057. Medical information not public record

Medical information of any kind in the possession of the retirement system, including information pertaining to diagnosis or treatment of mental or emotional disorders, shall be confidential and not open to public inspection and shall not be "public records" as defined in Title 1, section 402, subsection 3. Records containing medical information may be examined by the employee to whom they relate or by the State or participating local district employer of the employee for any purposes related to any claim for workers' compensation or any other benefit. The employee shall be advised in writing by the retirement system of any request by the employer to examine the employee's medical records.