

# 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.

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J.S. McCarthy Company  
Augusta, Maine  
1989

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**PUBLIC LAWS**  
**OF THE**  
**STATE OF MAINE**

**AS PASSED AT THE**  
**FIRST REGULAR SESSION**

**of the**  
**ONE HUNDRED AND FOURTEENTH LEGISLATURE**

**1989**

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shall be punished by a fine of not more than \$100 for each offense, for the use of the town in which the offense occurred, and the State Registrar of Vital Statistics shall enforce this section as far as it comes within ~~his~~ the state registrar's power and shall notify the district attorney of the county in which the penalty should be enforced of the facts that have come to ~~his~~ the state registrar's knowledge, and, upon receipt of the notice, the district attorney shall prosecute the defaulting person or persons.

**Sec. 5. 22 MRSA §2702, sub-§2**, as amended by PL 1975, c. 443, is further amended to read:

**2. Transmittal of certificates to state registrar.**

Between the 10th and 15th days of each month, the clerk of each municipality in this State shall transmit to the state registrar each original certificate of live birth, death and fetal death, ~~and a certified received by the clerk under this Title during the previous calendar month.~~ Each clerk shall transmit the state copy of each original certificate of marriage issued by the clerk as directed by the State Registrar of Vital Statistics and returned to him the clerk under this Title during the previous calendar month next previous. However, the clerk in any municipality with a population over 25,000 shall transmit this information to the state registrar no later than the 25th day of each month. If a municipal clerk has received no original certificates during ~~said~~ the month for which certificates or records are to be transmitted, ~~he~~ the clerk shall notify the state registrar that ~~he has~~ there are no ~~certificates~~ licenses or records to transmit.

**Sec. 6. 22 MRSA §2802**, as amended by PL 1983, c. 480, Pt. A, sub-pt. 3, §31, is further amended to read:

**§2802. Copy of record of marriages**

Every person authorized to unite persons in marriage shall make and keep a record of every marriage solemnized by ~~him~~ that person in conformity with the forms and instructions prescribed by the State Registrar of Vital Statistics. That person shall return each original certificate or certificates to the clerk who issued the same within 7 working days following the date on which a marriage is solemnized by ~~him~~ that person. If the marriage was solemnized in a town other than the place or places where the parties to the marriage reside, that person shall return a copy of the certificate, or of either certificate if 2 were issued, to the clerk of the town where the marriage was solemnized. Each certificate and copy so returned shall contain a statement giving the names of the parties united in marriage, place and date of the marriage, the signature of the person by whom the same was solemnized and the names of the 2 witnesses. The person who solemnized the marriage shall add the title of the office by virtue of which marriage was solemnized and the date ordained or authorized by a religious faith to perform marriages, the date a notary public's commission expires or the date a lawyer was admitted to the Maine Bar and ~~his~~ the residence of the person who solemnized the marriage. All certificates or copies so returned shall be recorded by the clerk receiving them.

See title page for effective date.

## CHAPTER 226

H.P. 745 - L.D. 1028

### An Act to Facilitate Treatment of Abused and Neglected Children

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

**22 MRSA §4007, sub-§3-A** is enacted to read:

**3-A. Report of licensed mental health professional.**

In any hearing held in connection with a child protection proceeding under this chapter, the written report of a licensed mental health professional who has treated or evaluated the child shall be admitted as evidence, provided that the party seeking admission of the written report has furnished a copy of the report to all parties at least 21 days prior to the hearing. The report shall not be admitted as evidence without the testimony of the mental health professional if a party objects at least 7 days prior to the hearing. This subsection does not apply to the caseworker assigned to the child.

See title page for effective date.

## CHAPTER 227

H.P. 746 - L.D. 1029

### An Act to Transfer the Licensing Function from the Bureau of Mental Health to the Department of Mental Health and Mental Retardation

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

**Sec. 1. 34-B MRSA §1203-A** is enacted to read:

**§1203-A. Licenses**

Licenses to operate, conduct or maintain an agency or facility for the provision of mental health services as defined in section 3601, or for the provision of treatment as defined in chapter 6, subchapter II are governed as follows.

**1. Full license.** Full licenses are governed as follows.

**A. The commissioner shall issue a full license to an applicant agency or facility that has complied with:**

**(1) All applicable laws and rules; and**

**(2) All conditions imposed by the commissioner at the time of issuance of a conditional license, refusal to issue or renew a full license or revocation of a full license.**

B. A full license shall be issued for a specified period of time appropriate to the type of agency or facility, but not to exceed 2 years.

C. When a full licensee fails to comply with applicable laws and rules, the commissioner may:

(1) File a complaint with the Administrative Court to have the license revoked, in accordance with the Maine Administrative Procedure Act, Title 5, chapter 375; or

(2) Modify the full license to a conditional license in accordance with subsection 2.

2. Conditional license. Conditional licenses are governed as follows.

A. The commissioner may issue a conditional license to an agency or facility reapplying for a full license, if:

(1) The applicant fails to comply with applicable laws and rules; and

(2) In the judgment of the commissioner, the best interests of the public would be served by issuance of a conditional license.

B. The commissioner may modify an existing full license to a conditional license, after affording the full licensee an opportunity for hearing in conformity with the Maine Administrative Procedure Act, Title 5, chapter 375, if:

(1) The applicant fails to comply with applicable laws and rules; and

(2) In the judgment of the commissioner, the best interests of the public would be served.

C. A conditional license shall be issued for a specified period of time, not to exceed one year, or the remaining period of the previous full license, whichever the commissioner determines appropriate based on the nature of the violation of laws or rules.

D. A conditional license shall specify the conditions imposed by the commissioner and shall specify when those conditions shall be complied with during the term of the conditional license.

E. During the period of the conditional license, the licensee shall comply with all conditions imposed by the commissioner.

F. If the conditional licensee fails to comply with conditions imposed by the commissioner, the commissioner may initiate proceedings to revoke, suspend or refuse to renew the conditional license in accordance with the Maine Administrative Procedure Act, Title 5, chapter 375.

3. Provisional license. Provisional licenses are governed as follows.

A. The commissioner may issue a provisional license to an agency or facility that:

(1) Has not been previously licensed for the type of service for which application is made;

(2) Is temporarily unable to comply with all applicable laws and rules; and

(3) Is in compliance with specific laws and rules determined by the commissioner as essential for the protection of the residents or clients of the agency or facility.

B. To obtain a provisional license, an applicant must demonstrate the ability to comply with all applicable laws and rules by the end of the term of the provisional license.

C. A provisional license shall be issued for a specified period of time, which is at least 3 months but no longer than 12 months, as determined appropriate by the commissioner.

4. Fees. The fee for all types of licenses is \$25, except for those facilities defined in Title 22, section 8101, subsection 4 and licensed in accordance with Title 22, section 8104.

5. Monitoring for compliance. Regardless of the term of the license, the commissioner shall monitor the licensee, at least once a year, for continued compliance with applicable laws and rules.

6. Appeals. Any person aggrieved by a final action of the commissioner under this section may obtain judicial review in accordance with the Maine Administrative Procedure Act, Title 5, chapter 375.

7. Prohibited acts. Prohibited acts under this section are governed as follows.

A. An agency is guilty of unlicensed operation of a mental health service facility if it operates, conducts or maintains such a facility, not otherwise licensed as a hospital or medical care facility, without a license from the commissioner.

B. Notwithstanding Title 17-A, sections 4-A and 1301, unlicensed operation of a mental health service facility is punishable by a fine of not more than \$500 or by imprisonment for not more than 60 days.

**Sec. 2. 34-B MRSA §3606**, as repealed and replaced by PL 1983, c. 580, §9, is repealed.

See title page for effective date.