

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
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1989

5. Signed form. A form, signed by the patient, indicating that the patient has been given the oral information required by this section and a copy of the brochure or the standardized written summary shall be included in the patient's medical record.

6. Extent of duty. A physician's duty to inform a patient under this section does not require disclosure of information beyond what a reasonably well-qualified physician licensed under Title 32 would know.

7. Actions barred. A patient who signs a form described in subsection 5 is barred from bringing a civil action against the physician, based on failure to obtain informed consent, but only in regard to information pertaining to alternative forms of treatment of breast cancer and the advantages, disadvantages, and risks of each method.

8. Application of this section to common law rights. Nothing in this section restricts or limits the rights of a patient under common law.

Sec. 2. 32 MRSA §2591-A, sub-§2, ¶¶K and L, as enacted by PL 1983, c. 378, §38, are amended to read:

K. The revocation, suspension or denial of the individual's license in any other state or territory of the United States or any foreign country; ~~or~~

L. Division of professional fees not based on actual services rendered; ~~or~~

Sec. 3. 32 MRSA §2591-A, sub-§2, ¶M is enacted to read:

M. Failure to comply with the requirements of Title 24, section 2905-A.

Sec. 4. 32 MRSA §3282-A, sub-§2, ¶¶J and K, as enacted by PL 1983, c. 378, §53, are amended to read:

J. Prescribing narcotic or hypnotic or other drugs listed as controlled substances by the Drug Enforcement Administration for other than accepted therapeutic purposes; ~~or~~

K. Failure to report to the secretary of the board a physician licensed under this chapter for addiction to alcohol or drugs or for mental illness in accordance with Title 24, section 2505, except when the impaired physician is or has been a patient of the licensee; ~~or~~

Sec. 5. 32 MRSA §3282-A, sub-§2, ¶L is enacted to read:

L. Failure to comply with the requirements of Title 24, section 2905-A.

See title page for effective date.

CHAPTER 292

H.P. 202 - L.D. 282

An Act to Modify the Statute of Limitations in Sexual Abuse of Minors Cases

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

14 MRSA §752-C, as enacted by PL 1985, c. 343, §1, is amended to read:

§752-C. Sexual acts towards minors

Actions based upon sexual intercourse or a sexual act, as defined in Title 17-A, chapter 11, with a person under the age of majority shall be commenced within 6 years after the cause of action accrues, or within 3 years of the time the person discovers or reasonably should have discovered the harm, whichever occurs later.

See title page for effective date.

CHAPTER 293

H.P. 95 - L.D. 130

An Act to Strengthen Penalties for Furnishing Liquor to Minors

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

Sec. 1. 28-A MRSA §2081, sub-§1, ¶A, as amended by PL 1987, c. 342, §124, is further amended to read:

A. Procure, or in any way aid or assist in procuring, furnish, give or deliver liquor for or to a minor ~~or visibly intoxicated person; or~~

Sec. 2. 28-A MRSA §2081, sub-§1, ¶B, as amended by PL 1987, c. 576, is further amended to read:

B. Allow any minor under ~~his~~ that person's control, or in any place under ~~his~~ that person's control, to consume liquor; ~~or~~

Sec. 3. 28-A MRSA §2081, sub-§1, ¶C is enacted to read:

C. Procure, or in any way aid or assist in procuring, furnish, give or deliver liquor to a visibly intoxicated person.

Sec. 4. 28-A MRSA §2081, sub-§3, as enacted by PL 1987, c. 45, Pt. A, §4, is repealed and the following enacted in its place:

3. Penalties. Any person who violates subsection 1, paragraph A or B, commits a Class D crime. Any person who

violates subsection 1, paragraph C, commits a Class E crime. In the case of a person who has one previous conviction of a violation of subsection 1, paragraph A or B, within a 6-year period, the fine shall be not less than \$500, which penalty shall not be suspended. In the case of a person who has 2 or more previous convictions of a violation of subsection 1, paragraph A or B, within a 6-year period, the fine shall be not less than \$1,000 and the sentence shall include a period of incarceration of not less than 6 months, which penalty shall not be suspended. In the case of a person who has no previous conviction of subsection 1, paragraph A or B, within a 6-year period, the fine shall not be less than \$500, which penalty shall not be suspended if that person is convicted of a violation of subsection 1, paragraph A or B, involving a minor less than 14 years old.

See title page for effective date.

CHAPTER 294

H.P. 74 - L.D. 105

An Act to Permit the Reopening of Certain Workers' Compensation Cases

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

Sec. 1. 39 MRSA §102, as amended by PL 1977, c. 709, §5, is repealed and the following enacted in its place:

§102. Reopening for mistake of fact or fraud

1. Agreements. Upon the petition of either party at any time, the commission may annul any agreement which has been approved by the commission if it finds that the agreement has been entered into through mistake of fact by the petitioner or through fraud. Except in the case of fraud on the part of the employee, an employee is not barred by any time limit from filing a petition to have the matters covered by the agreement determined in accordance with this Act as though the agreement had not been approved.

2. Compensation payment scheme. Notwithstanding section 51-B, subsection 7, a party may petition the commission within one year of initiation of the payment scheme, award or decree to reopen any case in which fraud on the part of the opposing party is alleged. If the commission finds that the petitioning party had exercised due diligence in investigating the initial claim and further finds that fraud occurred, the commission may reopen the case as to any issue which may have been affected by the fraudulent act and may terminate or modify an employer's obligation to make payment upon a finding that fraud on the part of a party affected the employer's obligation to make payment.

Except in the case of fraud on the part of the employee, an employee is not barred by any time limit from filing a petition to have any issues determined in accordance with this Act as though the payment scheme had not been initiated.

Sec. 2. Application. This Act applies only to injuries occurring on or after the effective date of this Act.

See title page for effective date.

CHAPTER 295

H.P. 1132 - L.D. 1575

An Act to Change the Listing Procedure on Town Warrants

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

30-A MRSA §5682, as enacted by PL 1989, c. 104, Pt. A, §49, is amended to read:

§5682. State funds

Effective July 1, 1990, each municipality shall accept funds provided by the Legislature only upon an affirmative vote of its legislative body. Those municipalities holding a town meeting shall include a separate article on the warrant for each category of state funding which shall read as follows: "Shall the town vote to accept (category of funding) as provided by the Maine State Legislature?" or shall include a single article containing a list of each category of state funding which shall read as follows: "Shall the town vote to accept the categories of funds listed below as provided by the Maine State Legislature?" The town shall indicate an estimate of the amount to be received for each category of state funding on the warrant, but it does not have to be part of the article. Those funds not accepted by any municipality shall remain with the State. This section applies to any town meeting held after January 1, 1990.

See title page for effective date.

CHAPTER 296

S.P. 465 - L.D. 1250

An Act Relating to Licensing of State Social Workers

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

Whereas, certain persons using the title "social worker" were required to make application for licensure by February 1, 1988; and

Whereas, through a misunderstanding those people did not realize that they were bound by this requirement; and