

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

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J.S. McCarthy Company
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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

Sec. 2. 38 MRSA §1483 is enacted to read:

§1483. Regulation of disposal or storage of low-level radioactive waste classified by the Nuclear Regulatory Commission as below regulatory concern

To the extent permitted under federal law, no low-level radioactive waste generated through the production of nuclear power that the United States Nuclear Regulatory Commission classified as low-level radioactive waste as of January 1, 1989, but which may be classified as below regulatory concern after that date, may be stored or disposed of in this State at other than a low-level radioactive waste storage or disposal facility licensed by the Nuclear Regulatory Commission, except as permitted under federal law as of January 1, 1989. Unless required under federal law, the State does not assume responsibility or ownership over these wastes by retaining jurisdiction over their storage and disposal.

Sec. 3. 38 MRSA §1503, sub-§5, as enacted by PL 1987, c. 530, §4, is amended to read:

5. Low-level radioactive waste. "Low-level radioactive waste" means radioactive material that is not high-level radioactive waste, spent nuclear fuel, transuranic waste or by-product material, as defined in the United States Code, Title 42, Section 2014(e)(2), the United States Atomic Energy Act of 1954, Section 11 (e)(2), and that the United States Nuclear Regulatory Commission, consistent with existing law, classifies as low-level radioactive waste. Low-level radioactive waste also includes any radioactive material generated through the production of nuclear power that the United States Nuclear Regulatory Commission classified as low-level radioactive waste as of January 1, 1989, but which may be classified as below regulatory concern after that date.

See title page for effective date.

CHAPTER 462

H.P. 1009 - L.D. 1407

An Act Concerning Complaints Against Health Care Practitioners

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

Sec. 1. 24 MRSA §2506, as amended by PL 1985, c. 804, §§6 and 22, is further amended to read:

§2506. Provider reports

A health care provider shall, within 60 days, report in writing to the appropriate disciplined practitioner's board or authority the name of any licensed, certified or registered employee or person privileged by the provider whose employment or privileges have been revoked, suspended, limited or terminated, together with pertinent information relating to that action. The report shall include situations in which employment or privileges have been revoked, suspended, limited or otherwise adversely affected by action of

the health care practitioner while the health care practitioner was the subject of disciplinary proceedings, and it also shall include situations where employment or privileges have been revoked, suspended, limited or otherwise adversely affected by act of the health care practitioner in return for the health care provider terminating such proceeding. Any reversal, modification or change of action reported pursuant to this section shall be reported immediately to the practitioner's board or authority, together with a brief statement of the reasons for that reversal, modification or change. The failure of any such health care provider to report as required is a civil violation for which a fine of not more than \$1,000 may be adjudged.

Sec. 2. 24 MRSA §2507, as enacted by PL 1977, c. 492, §3, is amended to read:

§2507. Society reports

Any professional society within this State which takes formal disciplinary action against a member relating to professional ethics, professional incompetence, moral turpitude, or drug or alcohol abuse shall, within 60 days of the action, report in writing to the appropriate board the name of the member, together with pertinent information relating to the action. The report shall include situations in which membership or privileges have been revoked, suspended, limited or otherwise adversely affected by action of the health care practitioner while the health care practitioner was under investigation or the subject of proceedings and it shall also include situations where membership or privileges have been revoked, suspended, limited or otherwise adversely affected by an act of the health care practitioner in return for the professional society's not conducting or for its ceasing such investigation proceeding. The report shall include situations under which an individual under societal investigation resigns during that pending investigation. The failure of any such society to report as required is a civil violation for which a fine of not more than \$1,000 may be adjudged.

Sec. 3. 24 MRSA §2608 is enacted to read:

§2608. Cancellation or nonrenewal

Any insurer required to report claims information under this subchapter shall also notify the Superintendent of Insurance of the cancellation or nonrenewal of any insured occasioned by either the number of claims against that insured or by the insured's failure to conform to appropriate standards of the medical profession. The information shall be entitled to the confidentiality protection of section 2604. A copy of the report shall be filed by the superintendent, within 30 days of its receipt, with the applicable licensing board.

Sec. 4. 32 MRSA §2561, as amended by PL 1983, c. 812, §222, is further amended to read:

§2561. Membership; qualifications; tenure; vacancies

The Board of Osteopathic Examination and Registration, as established by Title 5, section ~~42004~~ 12004-A,

subsection 4 ~~29~~, and in this chapter called the "board," shall consist of ~~6~~ 7 persons appointed by the Governor. ~~Said~~ These persons shall be residents of this State. Five of ~~said~~ these persons shall be graduates of a legally chartered college of osteopathic medicine or university having the power to confer degrees in osteopathic medicine and shall have been at the time of their appointment actively engaged in the practice of their profession in Maine for a period of at least 5 years, and ~~one~~ 2 of ~~said~~ these persons shall be a representative of the public. Each appointment shall be for a period of 5 years as the terms of the present members expire. Any vacancy in ~~said~~ the board caused by death, resignation or for any other cause, except completion of a full term of service, shall be filled by the appointment of a person qualified as was the member whose place ~~he~~ the person fills to hold office during the unexpired term of ~~such~~ that member. Any member of ~~said~~ the board may be removed from office, for cause, by the Governor with the advice and consent of the ~~Council~~ council. Members of the board on October 4, 1973 shall continue in office to the date of expiration of their current terms.

Sec. 5. 32 MRSA §2571, as amended by PL 1983, c. 378, §35, is further amended to read:

§2571. Registration; qualifications; fees

Any person, before engaging in the practice of osteopathic medicine in this State, shall make application for a certificate to the board, on a form prescribed by it. The application shall be filed with the secretary of the board at least 60 days before the date of examination together with a fee of ~~\$125~~ not more than \$200. The applicant shall present a diploma granted by an osteopathic college or university accredited by the American Osteopathic Association having the power to grant a D.O. degree. Applicants graduating from an osteopathic college or university having the power to grant a D.O. degree shall present evidence of having completed an internship of at least 12 months in a hospital conforming to the minimal standards for accreditation by the American Osteopathic Association, or the equivalency, as determined by the board. All applicants shall provide such reasonable and proper facts as the board in its application may require. The board at its discretion may permit an applicant who is otherwise qualified to be examined during ~~his~~ his internship, a certificate of licensure to be withheld until successful completion of ~~his~~ his internship.

Sec. 6. 32 MRSA §2581, 2nd ¶, as amended by PL 1985, c. 804, §§18 and 22, is further amended to read:

Every osteopathic physician legally licensed to practice in this State, shall, on or before the first day of January of each year, pay to the secretary of the board a fee as stipulated by the board not to exceed ~~\$125~~ \$200 for the renewal of ~~his or her~~ the osteopathic physician's certificate to practice. In addition to the payment of such renewal fee, each licensee so applying for the renewal of ~~his or her~~ the osteopathic physician's certificate shall, commencing for the year 1975 and thereafter, furnish to ~~said~~ the board satisfactory evidence that ~~he or she~~ the osteopathic physician has attended in the year preceding at least 50 hours of educational programs devoted to continuing medical education

approved by the board. ~~Said~~ The required education must be obtained from formalized programs of continuing medical education sponsored by recognized associations, colleges or universities, hospitals, institutes or groups approved by the board. A copy of the current approved list shall be available in the office of the secretary of the board. At least 40% of these credit hours must be osteopathic medical education approved in the rules and regulations established by the board. The board shall have the authority to adjudicate continuing medical education performance in situations of illness, hardship or military service upon written petition by the applicant. The secretary of ~~said~~ the board shall send a written notice of the foregoing requirements to each such osteopathic physician, at least 60 days prior to each ~~said~~ said January 1st, directed to the last known address of the licensee enclosing therewith proper blank forms for application for ~~said~~ said renewal. If any licensee shall fail to furnish the board evidence of attendance at continuing medical educational programs, as approved by the board, and fails to pay the said renewal fee, ~~he or she~~ the osteopathic physician shall automatically forfeit ~~his or her~~ the right to practice osteopathic medicine in this State and ~~his or her~~ the license, therefore, shall be cancelled. The secretary of the board may reinstate ~~him or her~~ the osteopathic physician upon the presentation of satisfactory evidence of continuing medical education as outlined and approved by the board and upon payment of the renewal fee.

Sec. 7. 32 MRSA §2591-A, sub-§3 is enacted to read:

3. Report. By March 1st of each year, the board shall submit to the Legislature a report consisting of statistics on the following for the preceding year:

A. The number of complaints against licensees received from the public or filed on the board's own motion;

B. The number of complaints dismissed for lack of merit or insufficient evidence of grounds for discipline;

C. The number of cases in process of investigation or hearing carried over at year end; and

D. The number of disciplinary actions finalized during the report year as tabulated and categorized by the annual statistical summary of the Physician Data Base of the Federation of State Medical Boards of the United States, Inc.

Sec. 8. 32 MRSA §2599-A is enacted to read:

§2599-A. Promulgation of complaint procedures

By June 1, 1990, the Board of Osteopathic Examination and Registration shall prepare materials that will indicate to patients their rights in dealing with doctors of osteopathy and how a complaint may be filed with the board if these rights are violated. By April 1, 1990, the board shall submit these materials and the plan for their dissemination for review to the joint standing committee of the Legislature

having jurisdiction over business legislation prior to their initial printing.

Sec. 9. 32 MRSA §3263, first ¶, as amended by PL 1983, c. 812, §228, is further amended to read:

The Board of Registration in Medicine, as established by Title 5, section ~~42004~~ 12004-A, subsection ~~4~~ 24, and in this chapter called the "board," shall consist of ~~9~~ 10 persons who are residents of this State, appointed by the Governor. ~~Two~~ Three persons shall be representatives of the public. Seven persons shall be graduates of a legally chartered medical college or university having authority to confer degrees in medicine and shall have been actively engaged in the practice of their profession in this State for a continuous period of 5 years preceding their appointments to the board. Three persons, qualified as aforesaid, ~~including at most one public representative,~~ shall be appointed members of the board on or before July 1st of every uneven-numbered year, each to hold office for 6 years from July 1st following ~~his~~ that member's appointment, ~~except that at every 3rd uneven-numbered year beginning in 1991, a 4th person shall be appointed.~~ Any vacancy in the board shall be filled by the appointment of a person, qualified as was the member whose place ~~he~~ the person fills, to hold office during the unexpired term of that member. Any member of the board may be removed from office for cause by the Governor.

Sec. 10. 32 MRSA §3269, sub-§8, as enacted by PL 1971, c. 591, §1, is amended to read:

8. Complaints. The duty to investigate complaints in a timely fashion on its own motion and those lodged with the board or its representatives regarding the violation of any section of this chapter and the violation of any rules or regulations adopted by the board pursuant to its authority;

Sec. 11. 32 MRSA §3269, sub-§8-A is enacted to read:

8-A. Report. By March 1st of each year, the board shall submit to the Legislature a report consisting of statistics on the following for the preceding year:

A. The number of complaints against licensees received from the public or filed on the board's own motion;

B. The number of complaints dismissed for lack of merit or insufficient evidence of grounds for discipline;

C. The number of cases in process of investigation or hearing carried over at year end; and

D. The number of disciplinary actions finalized during the report year as tabulated and categorized by the annual statistical summary of the Physician Data Base of the Federation of State Medical Boards of the United States, Inc.

Sec. 12. 32 MRSA §3269, sub-§15, as enacted by PL 1985, c. 804, §§19 and 22, is repealed and the following enacted in its place:

15. Adequacy of budget, fees and staffing. The budget submitted by the board to the Commissioner of Professional and Financial Regulation shall be sufficient, if approved, to provide for adequate legal and investigative personnel on the board's staff and that of the Attorney General to assure that professional liability complaints described in Title 24, section 2607, and complaints regarding any section of this chapter can be resolved in a timely fashion. Within the limit set by section 3279, the board shall charge sufficient registration fees to finance this budget provision. The board shall submit legislation to request an increase in these fees should they prove inadequate to the provisions of this subsection.

Within the limit of funds provided to it by the board, the Department of the Attorney General shall make available to the board sufficient legal and investigative staff to enable all consumer complaints mentioned in this subsection to be resolved in a timely fashion.

Sec. 13. 32 MRSA §3299 is enacted to read:

§3299. Promulgation of complaint procedures

By June 1, 1990, the Board of Registration in Medicine shall prepare materials that will indicate to patients their rights in dealing with medical doctors and how a complaint may be filed with the board if these rights are violated. By April 1, 1990, the board shall submit these materials and the plan for their dissemination for review to the joint standing committee of the Legislature having jurisdiction over business legislation prior to their initial printing.

Sec. 14. Allocation. The following funds are allocated from Other Special Revenue funds to carry out the purposes of this Act.

	1989-90	1990-91
ATTORNEY GENERAL, DEPARTMENT OF		
Administration - Attorney General		
Positions	(3.0)	(3.0)
Personal Services	\$73,119	\$106,058
All Other	7,500	10,000
Capital Expenditures	16,152	
Provides funds for one Staff Attorney and 2 Special Investigators to investigate complaints brought to the Board of Registration in Medicine.		
DEPARTMENT OF ATTORNEY GENERAL		
TOTAL	\$96,771	\$116,058

PROFESSIONAL AND FINANCIAL
REGULATION, DEPARTMENT OF

CHAPTER 464

S.P. 540 - L.D. 1475

Board of Registration in Medicine

Personal Services	\$1,250	\$1,250
All Other	100,000	125,000
TOTAL	<u>\$101,250</u>	<u>\$126,250</u>

Provides funding for an additional board member and the costs of the Department of Attorney General incurred during the investigation of complaints brought to the board.

Board of Osteopathic Examination
and Registration

Personal Services	\$220	\$330
All Other	200	300
TOTAL	<u>\$420</u>	<u>\$630</u>

Provides funds for the per diem and expenses of the additional board member.

DEPARTMENT OF PROFESSIONAL
AND FINANCIAL REGULATION

TOTAL	<u>\$101,670</u>	<u>\$126,880</u>
TOTAL ALLOCATIONS	<u>\$198,441</u>	<u>\$242,938</u>

See title page for effective date.

CHAPTER 463

H.P. 993 - L.D. 1382

An Act Concerning Atlantic Salmon

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

12 MRSA §6255, sub-§5-A is enacted to read:

5-A. Replacement salmon; additional tags. Notwithstanding any other provision of this chapter, the first person in a season who, in cooperation with the commission or the Department of Marine Resources or the Department of Inland Fisheries and Wildlife, presents a salmon for shipment to the President of the United States shall be entitled to take one additional salmon, and shall be issued, at no cost, one additional tag bearing that person's license number.

See title page for effective date.

An Act to Implement, Administer and Enforce
the United States Emergency Planning and
Community Right-to-Know Act of 1986

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

Whereas, hazardous and toxic substances are used in the State which may pose acute and chronic health hazards to individuals who live and work in the State and who are exposed to these substances as a result of fires, spills, industrial accidents or other types of releases or emissions; and

Whereas, protection of the general public from these potential health hazards must be accomplished through the cooperative efforts of employers, workers, emergency responders and the general public; and

Whereas, the Legislature recognizes that protection of the individuals who live and work in the State can and should be accomplished without placing unnecessary burdens on employers; and

Whereas, the United States Congress failed to appropriate sufficient funds for implementing, administering and enforcing the Emergency Planning and Community Right-to-Know Act of 1986 at the state level; 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. 5 MRSA §12004-G, sub-§13-A is enacted to read:

<u>13-A. Environ-</u>	<u>State</u>	<u>Not</u>	<u>37-B MRSA §792</u>
<u>ment/Natural</u>	<u>Emergency</u>	<u>Authorized</u>	
<u>Resources</u>	<u>Response</u>		
	<u>Commission</u>		

Sec. 2. 22 MRSA c. 271, sub-c. III, as enacted by PL 1987, c. 763, §2, is repealed.

Sec. 3. 37-B MRSA c. 13, sub-c. III-A is enacted to read:

SUBCHAPTER III-A

COORDINATION AND ADMINISTRATION

OF THE SUPERFUND AMENDMENTS AND

REAUTHORIZATION ACT OF 1986