

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND FIFTEENTH LEGISLATURE

FIRST REGULAR SESSION

December 5, 1990 to July 10, 1991

Chapters 1 - 590

THE GENERAL EFFECTIVE DATE FOR
NON-EMERGENCY LAWS IS
OCTOBER 9, 1991

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
1991

PUBLIC LAWS

OF THE

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1991

Sec. 3. 22 MRSA §4038, sub-§7, as amended by PL 1989, c. 270, §14, is further amended to read:

7. Review of child in custody of the department. When a child has been placed in the custody of the department, the following ~~shall~~ must be accomplished.

A. The court shall review the final protection order and make a determination within 18 months of its initial order either to:

- (1) Return the child to the parent;
- (2) Continue reunification efforts for a specific limited time not to exceed 6 months and to judicially review the matter within the time specified; or
- (3) Enter an order under section 4036, subsection 1, paragraph G-1.

The court may not order reunification efforts to continue under subparagraph (2) more than once unless all parties agree to the order to continue reunification.

B. Before the court may enter an order returning the custody of the child to a parent, the parent shall show that the parent has carried out the responsibilities set forth in section 4041, subsection 1, paragraph B, that, to the court's satisfaction, the parent has rectified and resolved the problems ~~which that~~ caused the removal of the child and any subsequent problems ~~which that~~ would interfere with the parent's ability to care for and protect the child from jeopardy and that the parent can protect the child from jeopardy.

C. When 2 placements with the same parent have failed and the child is returned to the custody of the department, the court shall enter an order under section 4036, subsection 1, paragraph G-1 unless the parent demonstrates that reunification should be continued.

See title page for effective date.

CHAPTER 177

S.P. 572 - L.D. 1526

An Act to Amend the Reduction in Toxics in Packaging Laws

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

Sec. 1. 32 MRSA §1734, as enacted by PL 1989, c. 849, §1, is amended to read:

§1734. Exemptions

All packages and packaging components are subject to the provisions of section 1733 unless:

1. Manufactured prior to effective date. The package or packaging component has a code indicating a date of manufacture prior to the effective date of this section; ~~or~~

2. Health and safety requirements; feasibility; post-consumer materials. The manufacturer, supplier or distributor petitions the agency for an exemption for a particular package or packaging component and the agency grants an exemption for one or more of the following reasons.

A. The package or packaging component contains lead, cadmium, mercury or hexavalent chromium added in the manufacturing, forming, printing or distribution process in order to comply with health or safety requirements of state or federal law.

B. There is no feasible alternative to the use of lead, cadmium, mercury or hexavalent chromium in the package or packaging component. For the purposes of this section, "no feasible alternative" means a use in which the regulated substance is essential to the protection, safe handling or function of the package's contents.

C. The addition of post-consumer materials causes the package or packaging component to exceed the maximum concentration levels set forth in section 1733, subsection 3.

For packages or packaging components exempted under paragraph A or B, a 2-year exemption may be granted and that exemption may be renewed for an additional 2 years. An exemption granted under paragraph C expires 4 years after the effective date of this chapter : or

3. Alcoholic beverages bottled prior to effective date. The package or packaging component contains an alcoholic beverage bottled prior to April 1, 1992.

Sec. 2. Effective date. This Act takes effect April 1, 1992.

Effective April 1, 1992.

CHAPTER 178

S.P. 184 - L.D. 493

An Act to Improve Consumer Access to Physical Therapy Services

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

Sec. 1. 32 MRSA §453 is amended to read:

§453. Legally licensed practitioners of other schools or professions not affected

Nothing in this chapter shall may be construed to restrain or restrict any legally licensed ~~physician~~ physicians, ~~surgeon~~ surgeons, ~~dentist~~ dentists, ~~osteopath~~ osteopaths, physical therapists or ~~nurse~~ nurses in the practice of ~~his or her profession~~ their professions; nor shall does this chapter apply to masseurs in their particular sphere of labor who publicly represent themselves as such; nor to any commissioned medical officer in the United States Army or Public Health Service in the performance of ~~his~~ their duties as such; nor to prohibit gratuitous service or the rendering of assistance to emergency cases.

Sec. 2. 32 MRSA §3113, as amended by PL 1983, c. 468, §10, is repealed.

Sec. 3. 32 MRSA §§3113-A and 3113-B are enacted to read:

§3113-A. License required; limitations and exceptions

A person may not practice or profess to be authorized to practice as a physical therapist in this State or use the words "physical therapist" or the letters "P.T." or other words or letters to indicate that the person using those words or letters is a licensed physical therapist unless that person is licensed in accordance with the provisions of this chapter.

After one year from the effective date of this chapter, a person may not act or profess to be able to act as a physical therapist assistant in this State or use the words "physical therapist assistant" or the letters "P.T.A." or other words or letters to indicate that the person using those words or letters is a licensed physical therapist assistant unless that person is licensed in accordance with the provisions of this chapter.

Nothing in this chapter may be construed as authorizing a physical therapist or physical therapist assistant, licensed or not licensed, to practice medicine, osteopathy, dentistry, chiropractic or any other form of healing, except that physical therapists may utilize manipulative techniques if practiced within the scope of their profession. Physical therapists may not apply manipulative thrust to the vertebrae of the spine except upon consultation with, and referral by, a duly licensed doctor of medicine, surgery, chiropractic or osteopathy. A licensed physical therapist or physical therapist assistant may not administer drugs except upon the referral of a duly licensed doctor of medicine, surgery, osteopathy, podiatry or dentistry, and may not use roentgen rays or radium or use electricity for surgical purposes. A licensed physical therapist assistant may act only under the direction of a physical therapist licensed to practice in this State.

When treating a patient without referral from a doctor of medicine, osteopathy, podiatry, dentistry or chiropractic, the physical therapist or physical therapist assistant is subject to the following requirements.

1. No medical diagnosis. A physical therapist or physical therapist assistant may not make a medical diagnosis. The physical therapist or physical therapist assistant shall refer to a licensed doctor of medicine, osteopathy, podiatry, dentistry or chiropractic a patient whose physical condition, either at the initial evaluation or during subsequent treatment, the physical therapist or physical therapist assistant determines to be beyond the scope of the practice of the physical therapist or physical therapist assistant.

2. No improvement. If no improvement in the patient is documented by the physical therapist or physical therapist assistant within 30 days of initiation of treatment, the physical therapist or physical therapist assistant shall refer the patient to a licensed doctor of medicine, osteopathy, podiatry, dentistry or chiropractic.

3. Length of treatment. For treatment required beyond 120 days, the physical therapist or physical therapist assistant shall consult with, or refer the patient to, a licensed doctor of medicine, surgery, osteopathy, podiatry, dentistry or chiropractic. The physical therapist or physical therapist assistant shall document the action taken.

An employer is not liable under Title 39, section 52 for charges for services of a physical therapist or physical therapist assistant unless the employee has been referred to that practitioner by a licensed doctor of medicine, surgery, osteopathy, chiropractic, podiatry or dentistry.

§3113-B. Construction

Nothing in this chapter prohibits:

1. Engaging in licensed practice. Any person licensed in this State under any other provision of law from engaging in the practice for which that person is licensed;

2. Federal officials. Any person serving in the United States Armed Services or public health service or employed by the Veterans' Administration or other federal agency from performing that person's official duties, provided the duties are limited to that service or employment;

3. Persons employed by licensed doctors. Any person employed by and under the control of a duly licensed doctor in that doctor's office from administering physical therapy modalities, providing that person does not profess to be a physical therapist or physical therapist assistant or use words or letters to indicate that the person is a licensed physical therapist or physical therapist assistant;

4. Graduate physical therapist or assistant. The supervised practice of physical therapy by a graduate physical therapist or graduate physical therapist assistant, who has filed with the board an application for licensure by examination and has met all the qualifications between the date of filing and the publication of the results of the next examination, as long as that person indicates that that person is a graduate and works in a facility employing at least one physical

therapist licensed to practice in this State who assumes responsibility for patient-related activities of the individual;

5. Student physical therapist or assistant. The supervised practice of physical therapy by a student enrolled in an accredited physical therapist or physical therapist assistant program who indicates that that person is a "student"; or

6. Delegation to aides or assistants. Any physical therapist licensed pursuant to this chapter from delegating to a physical therapy aide or licensed physical therapist assistant treatment procedures or patient-related activities commensurate with the education and training of the person, but not including interpretation of referrals, performance or evaluation procedures or determination and modification of patient treatment programs. The board shall adopt rules governing supervision of physical therapy aides and licensed physical therapist assistants.

See title page for effective date.

CHAPTER 179

S.P. 333 - L.D. 908

An Act to Provide Funds to Dental Clinics

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

Sec. 1. PL 1989, c. 196, §3 is amended to read:

Sec. 3. Maternal and Child Health Block Grant Allocations. Allocations to Maternal and Child Health under the Maternal and Child Health Block Grants include \$16,000 in fiscal year 1989-90 and in fiscal year 1990-91 for each of the following: Chester Dental Clinic, Portland Dental Clinic, Bangor Dental Clinic and the Jessie Albert Memorial Dental Clinic in Bath, Maine. Allocations for these purposes shall be incorporated into future budget preparations.

Sec. 2. Maternal and Child Health Block Grant Allocations. Allocations to Maternal and Child Health under the Maternal and Child Health Block Grants include \$64,000 in fiscal year 1991-92 and in fiscal year 1992-93 for public and private nonprofit community dental clinics. Allocations for these purposes must be incorporated into future budget preparations.

See title page for effective date.

CHAPTER 180

S.P. 79 - L.D. 142

An Act to Revise Transition Services for Disabled Students

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

20-A MRSA §7803-A is enacted to read:

§7803-A. Transition services

Each school administrative unit shall provide an annual statement of the transition services needed by a handicapped youth in transition enrolled in that unit. The statement of transition services must be provided to all handicapped youth in transition who are 16 years of age or older and enrolled in school and may be provided to younger students when the school administrative unit finds it necessary. When appropriate, a cooperative agreement among the Department of Education, the Department of Human Services, the Department of Mental Health and Mental Retardation, the Department of Corrections and the Department of Labor must be included as part of the annual statement describing the responsibilities of and coordination required by those agencies. If a cooperating agency fails to provide agreed-upon services, the school administrative unit is responsible for reconvening the cooperating agencies for the purposes of developing alternative strategies to meet the transition objectives. This section does not require any school administrative unit to provide noneducational services to students.

See title page for effective date.

CHAPTER 181

H.P. 558 - L.D. 801

An Act to Amend the School Approval Standards

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

Sec. 1. 20-A MRSA §4502, sub-§5, ¶J, as enacted by PL 1983, c. 859, Pt. A, §§20 and 25, is amended to read:

J. Health, sanitation and safety requirements, including compliance with section 6302;

Sec. 2. 20-A MRSA §6302 is enacted to read:

§6302. School building ventilation

1. Applicability. This section applies to school buildings subject to basic school approval under section 4502 in which the heating, ventilation and air-conditioning system is mechanically driven.

2. Operation. Each school administrative unit shall ensure that the heating, ventilation and air-conditioning system is:

A. Maintained and operated to provide at least the quantity of outdoor air required by the state building standards code in effect at the time the building permit