

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.

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PUBLIC LAWS
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gation by ~~his office shall be~~ the Department of the Attorney General are confidential.

Sec. 2. 22 MRSA §3022, sub-§11 is enacted to read:

11. Written or recorded material expressing suicidal intent. Written or otherwise recorded communications that express or are evidence of suicidal intent held by the Office of Chief Medical Examiner pursuant to section 3028, subsections 4 and 5, are not subject to public access.

Sec. 3. 22 MRSA §3025, sub-§1, ¶H, as repealed and replaced by PL 1985, c. 611, §6, is amended to read:

H. Deaths suspected of being medical examiner cases which may have been improperly certified by other than medical examiners or the equivalent of a medical examiner or inadequately examined, including, but not limited to, bodies brought into the State under those circumstances;

Sec. 4. 22 MRSA §3028, sub-§8, as enacted by PL 1979, c. 538, §8, is amended to read:

8. Autopsy. If, in any medical examiner case, in the opinion of the medical examiner, the Chief Medical Examiner, the district attorney for the district in which the death has occurred or the Attorney General, it is advisable and in the public interest that an autopsy be made, the autopsy ~~shall~~ must be conducted by the Chief Medical Examiner or by such pathologist as a physician that the medical examiner, with the approval of the Chief Medical Examiner, may designate. The medical examiner, with the approval of the Chief Medical Examiner, may elect to perform the autopsy. That The person who performs the autopsy shall make a complete report of the findings of the autopsy and shall transmit the report to the medical examiner and the Office of the Chief Medical Examiner, retaining one copy ~~thereof of the report.~~

Sec. 5. 22 MRSA §3034 is enacted to read:

§3034. Missing persons

1. Files; information. The Office of Chief Medical Examiner shall maintain files on missing persons sufficient for the purpose of identification when there is reason to suspect that those persons may not be found alive. These files may include such material as medical and dental records and specimens, details of personal property and physical appearance, samples of hair, fingerprints and specimens that may be useful for identification. The Chief Medical Examiner may require hospitals, physicians, dentists and other medical institutions and practitioners to provide information, samples and specimens. A person participating in good faith in the provision of the information, samples or speci-

mens under this section is immune from any civil or criminal liability for that act or for otherwise cooperating with the Chief Medical Examiner.

2. Confidentiality; disclosure. All information and materials gathered and retained pursuant to this section must be used solely for the purposes of identification of deceased persons and persons found alive who are unable to identify themselves because of mental or physical impairment. The files and materials are confidential, except that compiled data that does not identify specific individuals may be disclosed to the public. Upon the identification of a deceased person, those records and materials used for the identification may become part of the records of the Office of Chief Medical Examiner and may then be subject to public disclosure as pertinent law provides.

3. Reporting of missing persons. Missing persons may be reported directly to the Office of Chief Medical Examiner by interested parties. Law enforcement agencies or other public agencies that receive reports of missing persons, or that gain knowledge of missing persons, shall report that information to the Office of Chief Medical Examiner. Law enforcement agencies shall report all attempts to locate missing persons to the Office of Chief Medical Examiner. All absences without leave by individuals from state institutions must also be reported to the Office of Chief Medical Examiner when there exists a reasonable possibility of harm to that individual.

4. Cooperation. All state and law enforcement agencies and public and private custodial institutions shall cooperate with the Office of Chief Medical Examiner in reporting, investigating, clearing and gathering further information and materials on missing persons.

See title page for effective date.

CHAPTER 340

S.P. 524 - L.D. 1402

An Act to Provide Confidentiality of Proprietary Data Provided to State Agencies

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

5 MRSA §1890-B, sub-§4 is enacted to read:

4. Confidentiality. Computer programs, technical data, logic diagrams and source code related to data processing or telecommunications are confidential and are not public records as defined in Title 1, section 402, subsection 3 to the extent of the identified trade secrets. To qualify for confidentiality under this subsection, computer programs, technical data, logic diagrams and source code must:

A. Contain trade secrets as defined in Title 10, section 1542, subsection 4 held in private ownership; and

B. Have been provided to a state agency by an authorized independent vendor or contractor under an agreement by which:

(1) All trade secrets that can be protected are identified without disclosing the secret;

(2) The vendor or contractor retains all intellectual property rights in those trade secrets; and

(3) The state agency agrees to hold and use the programs, data, diagrams or source code without disclosing any identified trade secrets.

See title page for effective date.

CHAPTER 341

H.P. 966 - L.D. 1393

An Act Increasing the Membership of the Nursing Home Administrators Licensing Board and Clarifying the Penalty for Unlicensed Practice

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

Sec. 1. 32 MRSA §61, as amended by PL 1985, c. 233, §3, is further amended to read:

§61. Requirement for license

No medical care facility other than a hospital may operate except under the supervision of a licensed administrator and no person may be an administrator of a medical care facility other than a hospital unless he that person is the holder of a current administrator's license or a temporary permit issued pursuant to this chapter.

Sec. 2. 32 MRSA §62, sub-§1, as enacted by PL 1969, c. 350, is amended to read:

1. Administrator. "Administrator" means an individual who is charged with and has responsibility for the general administration of a facility other than a hospital whether or not such individual has an ownership interest in such home and whether or not his that individual's functions and duties are shared with one or more other individuals.

Sec. 3. 32 MRSA §63-A, as amended by PL 1989, c. 503, Pt. B, §119, is further amended to read:

§63-A. Board established; membership and organization

1. Membership. The Nursing Home Administrators Licensing Board, as established by Title 5, section 12004-A, subsection 23, shall consist consists of 7 8 members

appointed by the Governor. The members ~~shall~~ must be citizens of the United States and residents of this State. One member ~~shall~~ must be a hospital administrator with not less than 5 years of active practice in the State as a hospital administrator. One member ~~shall~~ must be a registered nurse with not less than 5 years of active practice in nursing homes in the State. Two members ~~shall~~ must be representatives of the public. Three members ~~shall~~ must be administrators of nursing homes with not less than 5 years of active experience in the State. One member must be an administrator of an intermediate care facility for the mentally retarded with not less than 5 years of active practice in that capacity.

2. Terms. Appointments ~~shall be~~ are for 3-year terms, except that the terms of no more than 3 members ~~shall~~ may expire in any calendar year and appointments for terms of less than 3 years may be made in order to comply with this limitation. No person may be eligible to serve more than 3 consecutive full terms, provided that for this purpose only a period actually served which exceeds 1/2 of the 3-year term ~~shall be deemed is~~ considered a full term. Upon expiration of a member's term, ~~he that member~~ shall serve until ~~his~~ a successor is appointed and qualified. The successor's term ~~shall be~~ is for 3 years from the date of expiration, regardless of the date of appointment. Any vacancy occurring prior to the expiration of the specified term ~~shall~~ must be filled by appointment for the unexpired term. A member may be removed by the Governor for cause.

3. Meetings; chair; quorum. The board shall meet at least once a year to conduct its business and to elect a ~~chairman~~ chair. Additional meetings ~~shall~~ must be held as necessary to conduct the business of the board, and may be convened at the call of the ~~chairman~~ chair or of a majority of the board members. ~~Four~~ Five members of the board ~~shall~~ constitute a quorum for all purposes.

4. Compensation. Members of the board ~~shall be~~ are compensated according to the provisions of Title 5, chapter 379.

5. Employees. With the advice of the board, the commissioner may appoint, subject to the Civil Service Law, such employees as ~~may be~~ necessary to carry out this chapter. Any person so employed ~~shall~~ must be located in the department and under the administrative and supervisory direction of the commissioner.

6. Fees. All fees received by the board ~~shall~~ must be paid to the Treasurer of State to be used for carrying out this chapter. Any balance of these fees ~~shall~~ may not lapse, but ~~shall~~ must be carried forward as a continuing account to be expended for the same purposes in the following fiscal years.

7. Reports; budget. Not later than August 1st of each year, the board shall submit to the commissioner a report of its transactions of the preceding fiscal year ending