

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND FIFTEENTH LEGISLATURE

SECOND SPECIAL SESSION

December 12, 1991 to January 7, 1992

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PUBLIC LAWS
OF THE
STATE OF MAINE

AS PASSED AT THE
SECOND REGULAR SESSION

of the
ONE HUNDRED AND FIFTEENTH LEGISLATURE

1991

Sec. 8. 29 MRSA §2241, sub-§4, as amended by PL 1991, c. 293, §3, is further amended to read:

4. Notice of suspension or revocation. Notice Except as provided in section 2301-B, notice of any suspension or revocation ordered or issued under this Title must be sent by regular mail or served in hand. Written notice is sufficient if sent by regular mail to the last known name and address provided by the person, as required by section 546, to the Secretary of State or, in the case of a person who has not applied for or who has not been issued a Maine operator's license, to the last address shown by the records maintained by the Secretary of State. The notice must also state that the license will not be reinstated and the person may not operate a motor vehicle before payment of the reinstatement fee as required under section 2241-D.

Sec. 9. 29 MRSA §2301-B, as enacted by PL 1991, c. 549, §15 and affected by §17, is amended by adding at the end a new paragraph to read:

Written notice is sufficient if sent by regular mail to the last known name and address provided by the person on the Violation Summons and Complaint, written answer to a Violation Summons and Complaint, a written pleading filed with the violations bureau or, if the person has not so provided an address, to the address shown on the Violation Summons and Complaint, a copy of which has been served on the person. The notice must also state that the license, permit or right to operate will not be reinstated and the person may not operate a motor vehicle before payment of the reinstatement fee as required under section 2241-D.

Sec. 10. 30-A MRSA §121, sub-§4, as amended by PL 1989, c. 104, Pt. A, §4 and Pt. C, §§8 and 10, is further amended to read:

4. Parking areas. The county commissioners may lay out parking areas on county lands near county buildings and may enact ordinances for the reasonable use of those areas and enforce them by suitable penalties. Any violation of these ordinances is a ~~traffic infraction~~ civil violation.

County public parking areas are subject to any applicable requirements of the Maine Human Rights Act, Title 5, chapter 337, subchapter V.

Emergency clause. In view of the emergency cited in the preamble, this Act takes effect when approved.

Effective March 26, 1992.

CHAPTER 734

S.P. 879 - L.D. 2251

An Act to Clarify the Enrollment Period for the 5-year Medical Liability Demonstration Project and to Clarify Provisions of the Rural Medical Access Program

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

Whereas, the 5-year Medical Liability Demonstration Project established in Public Law 1989, chapter 931 began on January 1, 1992; and

Whereas, confusion exists under the statute as to whether or not participants may be enrolled after the initial enrollment period; and

Whereas, physicians who have enrolled after the initial period may believe they are in the project when, in fact, they may not be enrolled as the result of an Attorney General opinion regarding open enrollment; and

Whereas, physicians licensed in the State since November 1, 1991 may wish to participate in the project; 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. 24 MRSA §2976, as enacted by PL 1989, c. 931, §4, is amended to read:

§2976. Physician participation

Any physicians practicing in a medical specialty area for which practice parameters and risk management protocols have been developed and adopted pursuant to section 2973, shall file notice with the Board of Registration in Medicine or the Board of Osteopathic Examination and Registration prior to November 1, 1991, indicating whether they elect to participate in the project. The medical liability demonstration project authorized by this subchapter does not begin with respect to a medical specialty area unless at least 50% of the physicians licensed in the State and practicing in that specialty area elect to participate. Continuation of a project is not dependent on the level of participation. Enrollments may be accepted by the boards after the initial enrollment period,

but a physician may not be reenrolled after enrolling and terminating initial enrollment.

Sec. 2. 24-A MRSA §6302, as enacted by PL 1989, c. 931, §5, is amended to read:

§6302. Purpose

The purpose of this chapter is to promote, ~~through financial incentives to physicians who practice in underserved areas of the State, the availability of physicians who deliver babies in those areas~~ perinatal services in underserved areas of the State.

Sec. 3. 24-A MRSA §6303, sub-§2-A is enacted to read:

2-A. Program. "Program" means the Rural Medical Access Program.

Sec. 4. 24-A MRSA §6304, sub-§3, as enacted by PL 1989, c. 931, §5, is amended to read:

3. Assistance from boards and Department of Human Services; insure through other means. The Board of Registration in Medicine and the Board of Osteopathic Examination and Registration shall assist the superintendent in identifying those physicians who insure against professional negligence by means other than through insurers defined in section 6303. The Department of Human Services, ~~Division of Licensure and Certification,~~ shall assist the superintendent in determining the insuring entity for any licensed hospital or physician's employer, ~~and~~ in identifying those hospitals and physician's employers that insure against professional negligence by means other than through insurers defined in section 6303 and in identifying the individual or entity who makes the insurance payment for each physician.

Sec. 5. 24-A MRSA §§6307, 6308 and 6309, as enacted by PL 1989, c. 931, §5, are amended to read:

§6307. Qualifications for premium assistance

1. Eligibility qualifications. A physician is a qualified physician eligible to receive professional liability premium assistance participate in the program if that physician:

- A. Is licensed to practice medicine in the State;
- B. Accepts and serves Medicaid patients;
- C. Provides complete obstetrical care for patients, including prenatal care and delivery, provided that physicians in an underserved area without a facility for obstetrical delivery are still eligible if they provide only prenatal care and have referral agreements for delivery with a physician meeting the requirements of paragraphs A and B; and

D. Practices at least 50% of the time in areas of the State that are underserved areas for obstetrical and prenatal medical services as determined by the Department of Human Services.

The Commissioner of Human Services shall determine those physicians who meet the requirements of this subsection. The commissioner shall adopt rules, pursuant to the Maine Administrative Procedure Act, determining underserved areas with respect to obstetrical and prenatal care. "Underserved areas" includes ~~Medically Underserved Areas~~ medically underserved areas, Health Manpower Shortage Areas health manpower shortage areas and other priority areas determined by the commissioner. The commissioner may adopt rules pursuant to the Maine Administrative Procedure Act defining the scope of services that must be provided to meet the requirements of paragraphs B and C and the method of prioritizing underserved areas for purposes of distribution of the assistance funds authorized by ~~this~~ section 6308.

2. Ineligible if premium owed. Any physician or physician's employer who owes premiums to any insurer for any policy year prior to the year ~~for which assistance that participation in the program~~ is sought is not eligible for assistance to participate.

§6308. Funding of the program

The amount of premium assistance funds available for the program is determined as follows.

1. Available funds. The amount available for ~~premium assistance~~ the program for policy years beginning on or after July 1, 1990, but before July 1, 1991, is 1/2 of the amount of the assessment determined under section 6305 for that year. For policy years beginning on or after July 1, 1991, ~~but before July 1, 1992, the Bureau of Insurance shall determine the amount available for premium assistance is the remainder of the amount determined under section 6305 that is not used in the first year that assistance is available added to the amount of, except that the amount may be no less than the assessment determined for that year. For subsequent policy years the amount available for premium assistance is the amount of the assessment determined under section 6305 for that year.~~

2. Determination of participants in the program. The superintendent shall apply the standards of prioritization adopted by the Commissioner of Human Services to determine the physicians who ~~will receive premium assistance~~ are eligible for the program. Each The funding available for each qualified physician is entitled to an annual premium credit the amount equal to the difference between the physician's medical malpractice insurance premiums with obstetrical care coverage and the physician's premiums without obstetrical care coverage; however, the amount of premium assistance

funding must be at least \$5,000 but may not be more than \$10,000 as determined by the superintendent. Program payments must be made to the individual or entity paying the medical malpractice premium for the qualified physician.

§6309. Intercorporate transfers

The superintendent may order intercorporate transfers of funds to balance assessments and ~~premium credits~~ program payments on an equitable basis among insurers and to provide for ~~credits~~ payments to eligible self-insureds.

Emergency clause. In view of the emergency cited in the preamble, this Act takes effect when approved.

Effective March 26, 1992.

CHAPTER 735

S.P. 876 - L.D. 2237

An Act to Implement a Comprehensive Ambient Toxics Monitoring Program

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

Sec. 1. 12 MRSA §7771, sub-§5 is enacted to read:

5. Permits allowing the use of gill nets by other state agencies. Notwithstanding the provisions of section 7621, the department may authorize the use of gill nets by other state agencies for purposes of scientific research or public safety projects. The authority granted to the department under this subsection is subject to the following constraints.

A. Any authorization by the department for another state agency to utilize gill nets must be given through written permit.

B. Both ends of the gill net must be marked with buoys that are clearly visible from a distance of 300 feet and that identify the state agency responsible for setting the net.

C. The results of each netting must be forwarded on a weekly basis to the Department of Inland Fisheries and Wildlife, where the records are available for public inspection.

Sec. 2. Findings. The discharge of pollutants from certain point and nonpoint sources into Maine waters introduces certain toxic substances, as defined in the Maine Revised Statutes, Title 38, section 420, into the

environment. The fate and impact of these substances is not well understood. The Legislature finds that:

A. The State should have a scientifically valid water toxics program to monitor for the presence of toxic substances in the ambient environment of all surface waters of the State. This program should take into consideration but be distinct from testing performed on the effluent from individual discharges;

B. Such a scientifically valid program should allow for the testing of tissue, sediment and the water column for priority pollutants and other suspected toxics and include biomonitoring;

C. The Department of Environmental Protection, other state, local and federal agencies, and private entities have collected and analyzed fish and shellfish tissue, sediment and ambient water samples for toxic substances in Maine lakes, rivers, estuaries and coastal waters. In addition, biomonitoring has been conducted on rivers and streams in the State;

D. Only limited compilation and systematic cataloging of existing data or data collection efforts have been performed in order to evaluate the adequacy of current data collection efforts and to identify gaps in the State's knowledge of the fate and significance of toxic substances in the aquatic and marine environment; and

E. Except for the existing dioxin program, the State currently has no formal program to monitor toxic substances in the ambient aquatic environment.

Sec. 3. Data collection; evaluation and program design. The Commissioner of Environmental Protection shall submit a written report to the joint standing committee of the Legislature having jurisdiction over energy and natural resource matters on or before January 15, 1993. The report must include:

A. A listing of current data collection efforts in the area of ambient water toxics monitoring;

B. The level and sources of funding for these efforts;

C. A summary of the results of these collection efforts that, in the commissioner's professional judgment, represents objective, verifiable and scientifically valid data;

D. The commissioner's findings on whether existing data and data collection efforts constitute a scientifically valid water toxics monitoring program; and