

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND FIFTEENTH LEGISLATURE

THIRD SPECIAL SESSION

October 1, 1992 to October 6, 1992

FOURTH SPECIAL SESSION

October 16, 1992

ONE HUNDRED AND SIXTEENTH LEGISLATURE

FIRST REGULAR SESSION

December 2, 1992 to July 14, 1993

THE GENERAL EFFECTIVE DATE FOR

FIRST REGULAR SESSION

NON-EMERGENCY LAWS IS

OCTOBER 13, 1993

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
1993

PUBLIC LAWS
OF THE
STATE OF MAINE

AS PASSED AT THE
FIRST REGULAR SESSION

of the
ONE HUNDRED AND SIXTEENTH LEGISLATURE

1993

(1) A business plan that forecasts 3rd-year operating costs exceeding \$500,000; or

(2) A transfer of ownership of an existing home health care provider; and

See title page for effective date.

CHAPTER 284

S.P. 190 - L.D. 626

An Act to Amend the Long-term Care Ombudsman Program

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

Sec. 1. 22 MRSA §5107-A, first and 2nd ¶¶, as enacted by PL 1991, c. 622, Pt. QQ, §2, are amended to read:

In accordance with the program established pursuant to section 5106, subsection 11-C, the ombudsman may enter onto the premises of any boarding care facility licensed according to section 7801 and any nursing home facility licensed according to section 1817 to investigate complaints concerning those facilities or to perform any other functions authorized by this section or other applicable law or rules. The ombudsman shall investigate complaints received on behalf of individuals receiving long-term care services provided by home-based care programs, the Medicaid waiver program, licensed home health agencies, certified homemaker agencies and licensed adult day care agencies. To carry out this function, any staff member or volunteer authorized by the ombudsman may enter onto the premises of any adult foster care facility, boarding care facility or nursing home during the course of an investigation, speak privately with any individual in the facility or home who consents to the conversation and inspect and copy all records pertaining to a resident as long as the resident or the legal representative of the resident consents in writing to that inspection. The consent, when required and not obtainable in writing, may be conveyed orally or otherwise to the staff of the facility or home. When a resident is not competent to grant consent and has no legal representative, the ombudsman may inspect the resident's records and may make copies ~~that do not contain personally identifiable material~~ without the written consent of a duly appointed legal representative. The ombudsman may authorize up to 25 persons as many individuals as necessary, in addition to staff, to carry out this function except that these individuals may not make copies of confidential client information. Appropriate identification must be issued to all such persons. In accordance with the federal 1987 Older Americans Act, 42 United States Code, as amended, a person may not serve as an om-

budsman without training as to the rights and responsibilities of an ombudsman or without a specific plan of action under direction of the ombudsman. The ombudsman shall renew the authorization and issue identification annually. The findings of the ombudsman must be available to the public upon request.

The ombudsman and volunteers shall visit, talk with and make personal, social and legal services available to residents; inform residents of their rights, entitlements and obligations under federal and state laws by distributing education materials and meeting with groups or individuals; assist residents in asserting their legal rights regarding claims for public assistance, medical care and social security benefits or in actions against agencies responsible for those programs, as well as in all other matters in which residents are aggrieved, including, but not limited to, advising residents to litigate; ~~and~~ investigate complaints received from residents or concerned parties regarding care or other matters concerning residents; and participate as observer and resource in any on-site survey or other regulatory review performed by state agencies pursuant to state or federal law.

See title page for effective date.

CHAPTER 285

S.P. 374 - L.D. 1130

An Act to Amend the Minimum Safety Standards for Firefighters

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

Whereas, firefighters need to implement changes in protective clothing requirements prior to the heat associated with summer; 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. 26 MRSA §2107, as amended by PL 1993, c. 50, §1, is further amended by adding at the end a new paragraph to read:

The Board of Occupational Safety and Health may issue advisory rulings in accordance with Title 5, section 9001 with respect to the applicability of this chapter.