

# 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.

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J.S. McCarthy Company  
Augusta, Maine  
1993

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**PUBLIC LAWS**  
**OF THE**  
**STATE OF MAINE**

**AS PASSED AT THE**  
**FIRST REGULAR SESSION**

**of the**  
**ONE HUNDRED AND SIXTEENTH LEGISLATURE**

**1993**

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(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.

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

Effective June 7, 1993.

## CHAPTER 286

### H.P. 586 - L.D. 790

#### An Act to Clarify the Tax-exempt Status of Community Mental Health Service Facilities

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

**Whereas,** nonprofit community mental health service facilities are a vital component of our mental health care system; and

**Whereas,** nonprofit community mental health service facilities serve populations of Maine citizens that have no other access to similar resources; and

**Whereas,** funds for nonprofit community mental health service facilities are extremely scarce, making it imperative that funds for services be devoted solely to the rendition of services and not dissipated in the form of costly legal fees for the litigation of issues relating to the tax-exempt status of the activities of nonprofit community mental health service facilities; and

**Whereas,** immediate action is necessary to prevent the inappropriate assessment of real estate of nonprofit community mental health service facilities as of the annual assessment date of April 1st; 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.** 36 MRSA §652, sub-§1, ¶A, as amended by PL 1991, c. 420, is further amended to read:

A. The real estate and personal property owned and occupied or used solely for their own purposes by benevolent and charitable institutions incorporated by this State, and none of these may be deprived of the right of exemption by reason of the source from which its funds are derived or by reason of limitation in the classes of persons for whose benefit such funds are applied.

(1) Any such institution which that is in fact conducted or operated principally for the benefit of persons who are not residents of Maine is entitled to an exemption not to exceed \$50,000 of current just value only when the total amount of any stipends or charges which that it makes or takes during any tax year, as defined by section 502, for its services, benefits or advantages divided by the total number of persons receiving such services, benefits or advantages during the same tax year does not result in an average rate in excess of \$30 per week when said weekly rate is computed by dividing the average yearly charge per person by the total number of weeks in a tax year during which such institution is in fact conducted or operated principally for the benefit of persons who are not residents of Maine. No such institution which that is in fact conducted or operated principally for the benefit of persons who are not residents of Maine and makes charges which that result in an average weekly rate per person, as computed under this subparagraph, in excess of \$30 may be entitled to tax exemption. This subparagraph does not apply to institutions incorporated as nonprofit corporations for the sole purpose of conducting medical research.

For the purposes of this paragraph, "benevolent and charitable institutions" include, but are not limited to, nonprofit nursing homes and nonprofit boarding homes and boarding care facilities licensed by the Department of Human Services pursuant to Title 22, chapter 1665 or its successor and nonprofit community mental health service facilities licensed by the Commissioner of Mental Health and Mental Retardation, pursuant to Title 34-B, chapter 3. For the purposes of this paragraph, "nonprofit" means a facility exempt from taxation under Section 501(c)(3) of the Code; ;

**Sec. 2. Application.** This Act applies for property tax years beginning on or after April 1, 1993.

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

Effective June 7, 1993.

## CHAPTER 287

### S.P. 401 - L.D. 1232

#### An Act Regarding Reciprocity of Licensing Barbers and Cosmetologists