

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND SEVENTEENTH LEGISLATURE

FIRST SPECIAL SESSION
November 28, 1995 to December 1, 1995

SECOND REGULAR SESSION
January 3, 1996 to April 4, 1996

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
JULY 4, 1996

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
1995

3. Meetings. As soon as possible after appointment, a technical committee shall meet and review the proposal assigned to it. Each committee shall investigate the proposed regulation and, on its own motion, may solicit public input. Notice of all meetings must be printed in the legislative calendar at an appropriate time preceding the meeting.

4. Procedure for review. Applicant groups are responsible for furnishing evidence upon which a technical committee makes its findings. The technical committee may also utilize information received through public input or through its own research or investigation. The committee shall make a report of its findings and file the report with the commissioner. The committee shall evaluate the application presented to it based on the information provided as required by section 60-J. If the committee finds that additional information is required to assist in developing its recommendations, it may require that the applicant group provide this information or may otherwise solicit information for this purpose. If the committee finds that final answers to the evaluation criteria are sufficient to support regulation of a profession or occupation not currently regulated, the committee must also recommend the least restrictive method of regulation to be implemented, consistent with the public interest. Whether it recommends approval or denial of an application, the committee may make additional recommendations regarding solutions to problems identified during the review.

5. Commissioner report. After receiving and considering reports from the technical committee, the commissioner shall prepare a final report, for the joint standing committee of the Legislature that requested the review, that includes any legislation required to implement the commissioner's recommendation. The final report must include copies of the committee report, but the commissioner is not bound by the findings and recommendations of the report. In compiling the report, the commissioner shall apply the criteria established in section 60-J and may consult with the technical committee. The recommendations of the commissioner must reflect the least restrictive method of regulation consistent with the public interest. The final report must be submitted to the joint standing committee of the Legislature having jurisdiction over occupational and professional regulation matters no later than 9 months after the proposal is submitted to the technical committee and must be made available to all other members of the Legislature upon request.

The commissioner may recommend that no legislative action be taken on a proposal. If the commissioner recommends that a proposal of an applicant group be approved, the commissioner shall recommend an agency to be responsible for the regulation and the

level of regulation to be assigned to the applicant group.

Sec. 3. Allocation. The following funds are allocated from Other Special Revenue funds to carry out the purposes of this Act.

1996-97

PROFESSIONAL AND FINANCIAL REGULATION, DEPARTMENT OF Administrative Services Division

All Other \$1,500

Allocates funds for the costs of conducting the sunrise review process for proposed professional regulatory boards.

See title page for effective date.

CHAPTER 687

S.P. 668 - L.D. 1730

An Act to Require the Department of Human Services to Base Eligibility for Medicaid Reimbursement for Nursing Facility Care on a Person's Entire Medical Condition

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

Whereas, the Department of Human Services has implemented extremely strict medical eligibility criteria for Medicaid nursing facility assistance, which is commonly referred to by the name of the assessment form "MED-94"; and

Whereas, the MED-94 limits the review of an applicant's medical condition to the 7 days immediately prior to the day of the assessment, thereby precluding a comprehensive assessment based on the applicant's complete medical condition; and

Whereas, a 7-day period does not provide a sufficient basis by which to determine a person's long-term care needs and in many cases penalizes applicants for having an atypical week of relatively good health; and

Whereas, alternatives to nursing facility level of care continue to be grossly inadequate, particularly alternative settings that are capable of providing a high level of care to frail elderly citizens; 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. 22 MRSA §3174-I, sub-§1, ¶B-2 is enacted to read:

B-2. The department shall establish additional assessment practices and related policies for persons with Alzheimer's disease and other dementias as follows.

(1) For persons who have been assessed using the department's primary assessment instrument and found to have cognitive or behavioral difficulties but who do not require nursing intervention with the frequency necessary to qualify for nursing facility level of care, the department shall administer a supplemental dementia assessment for those persons with cognitive and behavioral impairments. By May 1, 1996, the criteria reflected in this supplemental dementia assessment and the scoring mechanism must be incorporated into rules adopted by the department in consultation with consumers, providers and other interested parties. The assessment criteria proposed in the rulemaking must consider, but are not limited to, the following: orientation, memory, receptive communication, expressive communication, wandering, behavioral demands on others, danger to self or others and awareness of needs.

(2) The department shall reimburse a nursing facility for individuals who are eligible for care based on the supplemental dementia assessment only if the nursing facility demonstrates a program of training in the care of persons with Alzheimer's disease and other dementias for all staff responsible for the care of persons with these conditions. The department, in consultation with consumers, providers and interested parties, shall develop the requirements for training and adopt rules containing those requirements. By July 1, 1997, the department, in consultation with consumers, providers and interested parties, shall adopt rules establishing the standards for treatments, services and settings to meet the needs of individuals who have Alzheimer's disease and other dementias. These stan-

dards must apply to all levels of care available to such individuals.

(3) No later than January 15, 1997, the department shall report to the joint standing committee of the Legislature having jurisdiction over health and human service matters on the extent to which the use of the supplemental dementia assessment has expanded medical eligibility for nursing facility care to include persons with Alzheimer's disease or other dementias.

(4) Rules adopted pursuant to this subsection are major substantive rules as defined by Title 5, chapter 375, subchapter II-A.

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

Effective April 11, 1996.

CHAPTER 688

S.P. 640 - L.D. 1675

An Act to Amend the Membership of Certain Boards and Commissions

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

Sec. 1. 5 MRSA §3307-E, sub-§1, ¶A, as enacted by PL 1991, c. 854, Pt. B, §1, is amended to read:

A. The Director of the State Planning Office, the Commissioner of Economic and Community Development, the Commissioner of Labor, the Commissioner of Professional and Financial Regulation, the Commissioner of Defense and Veterans' Services and the President of the Maine Technical College System, or the commissioners' designees, who serve ex officio;

Sec. 2. 5 MRSA §3307-E, sub-§3, as amended by PL 1993, c. 410, Pt. PPP, §1, is further amended to read:

3. Administration. The Commissioner of Economic and Community Development or the commissioner's designee is the chair of the task force. The Economic Conversion Division shall provide staff support to the task force. State agencies shall provide technical assistance to the task force as needed.

Sec. 3. 5 MRSA §3331, sub-§1, ¶H, as enacted by PL 1993, c. 721, Pt. C, §1 and affected by Pt. H, §1, is amended to read: