

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND SEVENTEENTH LEGISLATURE

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ONE HUNDRED AND EIGHTEENTH LEGISLATURE

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NON-EMERGENCY LAWS IS
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NON-EMERGENCY LAWS IS
SEPTEMBER 19, 1997

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
1997

CHAPTER 109

S.P. 325 - L.D. 1063

An Act Allowing Registered Nurses Employed by Licensed Home Health Care Agencies to Possess and Administer Certain Noncontrolled Prescription Drugs under Certain Conditions

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

Sec. 1. 32 MRSA c. 117, sub-c. XI is enacted to read:

SUBCHAPTER XI

NONCONTROLLED PRESCRIPTION DRUG ADMINISTRATION

§13810. Drug administration by nurses under certain conditions

A professional nurse or an advanced practice registered nurse who is an employee of a home health care provider, as defined in Title 22, section 2142, subsection 3, or a hospice program or hospice provider, as defined in Title 22, section 8621, subsection 10, may:

1. Possession. Possess, in the course of employment, such noncontrolled prescription drugs as are approved by the board. In adopting the rules the board shall consult with the Board of Licensure in Medicine, the Board of Osteopathic Licensure, the State Board of Nursing, the Maine Hospice Council, the Department of Human Services and the Home Care Alliance of Maine. Rules adopted pursuant to this subsection are routine technical rules as defined by Title 5, chapter 375, subchapter II-A; and

2. Administration. Administer, in the course of employment, such drugs as are approved under subsection 1 according to written protocols approved annually by the employer's professional advisory committee, which must include a physician licensed under chapter 36 or chapter 48.

See title page for effective date.

CHAPTER 110

H.P. 871 - L.D. 1188

An Act to Amend the Maine Administrative Procedure Act to Clarify the Definition of a Proposed Rule and the State Agencies' Ability to Solicit Input into the Rule Development Process

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

Sec. 1. 5 MRSA §8002, sub-§8-A is enacted to read:

8-A. Proposed rule. "Proposed rule" or "proposed agency rule" means a rule that an agency has formally proposed for adoption through submission of the rule to the Secretary of State for publication pursuant to section 8053, subsection 5.

Sec. 2. 5 MRSA §8052, sub-§1, as corrected by RR 1995, c. 2, §8, is amended to read:

1. Notice; public hearing. Prior to the adoption of any rule, the agency shall give notice as provided in section 8053 and may hold a public hearing, provided that a public hearing is held if otherwise required by statute or requested by any 5 interested persons.

~~A public meeting or other public forum held by an agency for any purpose that includes receiving public comments on a proposed agency rule is a public hearing and is subject to all the provisions of this subchapter regarding public hearings. This subsection does not require compliance with this subchapter when an agency holds an informal meeting for the purpose of gathering public input prior to developing or deciding whether to proceed with development of a proposed rule.~~

See title page for effective date.

CHAPTER 111

S.P. 548 - L.D. 1666

An Act Concerning the Authority of the Secretary of State to Suspend and Revoke Licenses and Privileges to Operate in Maine

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

Whereas, the Secretary of State has the authority to suspend and revoke the licenses and privileges

of certain corporations and entities doing business in and operating under the State's motor vehicle laws when these entities are found in violation of state law; and

Whereas, the Secretary of State may not suspend or revoke licenses and privileges of corporations or entities that are newly formed from corporations and entities for which the licenses and operation privileges have been suspended by the Secretary of State for violations of state law as a means to circumvent the suspension or revocation; and

Whereas, the public health, safety and welfare is placed at risk when these corporations and entities continue to do business or operate in the State under the guise of a new corporation or entity; 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. 29-A MRSA §2458, sub-§5, as amended by PL 1995, c. 482, Pt. A, §27, is further amended to read:

5. Penalty. A person commits a Class E crime if that person recklessly or with criminal negligence fails upon request to disclose to the Secretary of State information required under subsection 6 or, after notice of suspension, revocation, or cancellation fails to obey an order of the Secretary of State under this section or fails to surrender to the Secretary of State on demand a license, certificate of title, certificate of registration or fuel use decal that has been suspended, revoked or cancelled by proper authority.

Sec. 2. 29-A MRSA §2458, sub-§6 is enacted to read:

6. Suspension and revocation of related entities. If the license or authority to engage in a business or commercial activity is suspended, the suspension applies to any related individual or related entity unless the requirements of paragraph C are met.

A. For the purposes of this subsection, unless the context otherwise indicates, the following terms have the following meanings.

(1) "Entity" means a corporation, firm, partnership, sole proprietorship, joint venture, association, fiduciary, trust, estate or any other legal or commercial entity.

(2) "Related entity" includes:

(a) All entities owned, operated or controlled by the person or named entity, by related individuals, by any person who is an officer or director of the named entity or by shareholders of the named entity;

(b) Any entity that has as an officer, director or partner an individual whose license or authority to engage in the business or commercial activity has been suspended;

(c) Any entity that has an officer, partner or 25% of its directors in common with the named entity; and

(d) Any entity in which 25% of the outstanding shares are owned or controlled by the suspended person or by an individual, related individual or entity who, taken together, also owned 25% or more of the outstanding shares of the named entity.

(3) "Related individual" means a spouse, parent, grandparent, sibling, child or grandchild, whether by blood or marriage, of a person whose license or authority to engage in the business or commercial activity has been suspended.

(4) "Suspension" means a suspension or revocation.

B. When the Secretary of State's suspension is based on a recommendation of the Motor Carrier Review Board, the board also shall make a recommendation on suspension of related entities.

C. If the related entity is able to satisfy the Secretary of State, by a preponderance of the evidence, that it is not, in fact, controlled by the suspended person, by related individuals, or by the named entity or its officers, partners or shareholders or that the actual operation of the related entity does not pose a risk to public safety, the Secretary of State shall exclude the related entity from the suspension.

D. The Secretary of State may require individuals and entities subject to suspension and the officers, directors and partners of those entities to disclose, under oath, the relationships between the individual or the entity, its officers, directors, partners and shareholders and those of other entities.

E. Any entity that would have been suspended as a related entity but for the failure or refusal of the suspended person or named entity or its offi-

cers, directors or partners to disclose the required information is nevertheless suspended and subject to the same penalties and sanctions as the suspended person or the named entity for violation of the suspension. If an entity becomes a related entity or is created after the Secretary of State has made the decision to suspend or after the Motor Carrier Review Board makes its recommendation to suspend, the Secretary of State may immediately suspend the related entity.

Sec. 3. Application. This Act applies to suspensions or revocations in effect on or after the effective date of this Act.

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

Effective April 18, 1997.

CHAPTER 112

S.P. 19 - L.D. 17

An Act Regarding Funding for the Extended Responsibilities of the Department of Inland Fisheries and Wildlife

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

Sec. 1. 12 MRSA §7034, sub-§11 is enacted to read:

11. Report to Legislature. The commissioner shall submit an annual report to the joint standing committee of the Legislature having jurisdiction over appropriations and financial affairs and the joint standing committee of the Legislature having jurisdiction over inland fisheries and wildlife matters. This report must identify all specific extended responsibility services provided by the department to individuals who do not pay a particular fee to the department for the provision of that service, including all search and rescue activities conducted by the department. This report must include an estimate of the total cost of providing the identified extended responsibility services. The report must be submitted on or before January 1st of each year. Upon receipt of the report, the joint standing committee of the Legislature having jurisdiction over appropriation and financial affairs and the joint standing committee of the Legislature having jurisdiction over inland fisheries and wildlife matters shall give separate consideration to funding

the department's estimated cost of providing the identified extended responsibility services.

See title page for effective date.

CHAPTER 113

S.P. 24 - L.D. 22

An Act to Designate 2 Weekends When a Person May Fish without a License

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

Sec. 1. 12 MRSA §7035, sub-§11-B is enacted to read:

11-B. Free fishing days. The commissioner shall designate 2 weekends in each calendar year as "free fishing days." One weekend must be during ice fishing season and one weekend must be during open water fishing season. For purposes of this subsection, "weekend" means a consecutive Saturday and Sunday. Notwithstanding sections 7151 and 7371, it is lawful during any free fishing day established under this subsection for any person to fish without a license in inland waters, except that this subsection does not apply to any person whose license to fish is under suspension or revocation. All other provisions of chapters 701 to 721 relating to fishing apply during any free fishing day.

See title page for effective date.

CHAPTER 114

H.P. 21 - L.D. 46

An Act to Amend the Laws Regarding Law Enforcement Officers' Insurance Rates

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

Sec. 1. 24-A MRSA §2174-B, sub-§4 is enacted to read:

4. Penalty. An insurer who violates this section commits a civil violation pursuant to section 12-A.

See title page for effective date.