

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND SEVENTEENTH LEGISLATURE

SECOND SPECIAL SESSION
September 5, 1996 to September 7, 1996

ONE HUNDRED AND EIGHTEENTH LEGISLATURE

FIRST REGULAR SESSION
December 4, 1996 to March 27, 1997

FIRST SPECIAL SESSION
March 27, 1997 to June 20, 1997

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
JUNE 26, 1997

FIRST SPECIAL SESSION
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

A licensed propane and natural gas technician who does not have the appropriate endorsement specified under this chapter or a person holding a temporary registration as a plant operator or delivery technician, is not required to register as a propane and natural gas helper when assisting a licensed propane and natural gas technician who has the appropriate endorsement to perform a function.

7. Exceptions. The licensing provisions of this section do not apply to a highway transport driver who delivers propane to bulk plants or industrial customers.

Sec. 3. 32 MRSA §14808, sub-§4, as enacted by PL 1995, c. 389, §4, is amended to read:

4. Limited operator's license; training. The on-site owner or operator of a dispensing station must hold a limited operator's license issued biennially by the board. The board shall set by rule the requirements for obtaining the limited license. The holder of the limited license is responsible for training other dispensing station employees and documenting that training.

The training for the limited license must include a manual prepared by a regional propane gas association, a video prepared by a national propane gas association or equivalent materials approved by the board. The training documentation must be kept at the station. ~~The on-site owner or operator of the dispensing station is responsible for compliance and is subject to section 14809.~~

Sec. 4. 32 MRSA §14809, as enacted by PL 1995, c. 389, §4, is repealed.

See title page for effective date.

CHAPTER 271

H.P. 394 - L.D. 539

**An Act to Clarify the Laws
Regarding the Board of Licensure in
Medicine and Ensure That Physician
Discipline Is Reported to the
Appropriate Licensing Board**

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

Sec. 1. 5 MRSA §9057, sub-§6, as amended by PL 1989, c. 175, §1, is further amended to read:

6. Confidential information. Information may be disclosed ~~which~~ that is confidential pursuant to Title 22, chapters 958-A and 1071 and sections 7703 and 1828; Title 24, section 2506; and Title 34-A,

except for information, the disclosure of which is absolutely prohibited under Title 34-A, section 3003. Disclosure may be only for the determination of issues involving unemployment compensation proceedings relating to a state employee, state agency personnel actions and professional or occupational board licensure, certification or registration.

A. For the purpose of this subsection, "hearing officer" means presiding officer, judge, board chairman, arbitrator or any other person ~~deemed~~ considered responsible for conducting a proceeding or hearing subject to this subsection. In the case of the Civil Service Appeals Board, the presiding officer ~~shall be~~ is the entire board. "Employees of the agency" means employees of a state agency or department or members, agents or employees of a board who are directly related to and whose official duties involve the matter at issue.

B. The confidential information disclosed pursuant to this subsection is subject to the following limitations:

(1) The hearing officer determines that introduction of the confidential information is necessary for the determination of an issue before the hearing officer;

(2) During the introduction of confidential information, the proceeding is open only to the hearing officer, employees of the agency, parties, parties' representatives, counsel of record and the witness testifying regarding the information, and access to the information is limited to these people. Disclosure is limited to information directly related to the matter at issue;

(3) Witnesses ~~shall be~~ are sequestered during the introduction of confidential information, except when offering testimony at the proceeding;

(4) The names or identities of reporters of confidential information or of other persons ~~shall~~ may not be disclosed, except when disclosure is ~~deemed~~ determined necessary and relevant by the hearing officer; and

(5) After hearing, the confidential information is sealed within the record and ~~shall~~ may not be further disclosed, except upon order of court.

Sec. 2. 24 MRSA §2502, sub-§§1-B and 2-A are enacted to read:

1-B. Carrier. "Carrier" has the same meaning as in Title 24-A, chapter 56-A.

2-A. Managed care plan. "Managed care plan" has the same meaning as in Title 24-A, chapter 56-A.

Sec. 3. 24 MRSA §2506, as amended by PL 1989, c. 462, §1, is further amended to read:

§2506. Provider and carrier reports

A health care provider shall, within 60 days, report in writing to the disciplined practitioner's board or authority the name of any licensed, certified or registered employee or person privileged by the provider whose employment or privileges have been revoked, suspended, limited or terminated or who resigned while under investigation or to avoid investigation for reasons related to clinical competence or unprofessional conduct, together with pertinent information relating to that action. Pertinent information includes a description of the adverse action, the date, the location and a description of the event or events giving rise to the adverse action. Upon request, the following information must be released to the board or authority: medical records relating to the event or events; written statements signed or prepared by any witness or complainant to the event; and related correspondence between the practitioner and the provider. The report ~~shall~~ must include situations in which employment or privileges have been revoked, suspended, limited or otherwise adversely affected by action of the health care practitioner while the health care practitioner was the subject of disciplinary proceedings, and it also ~~shall~~ must include situations where employment or privileges have been revoked, suspended, limited or otherwise adversely affected by act of the health care practitioner in return for the health care provider terminating such proceeding. Any reversal, modification or change of action reported pursuant to this section ~~shall~~ must be reported immediately to the practitioner's board or authority, together with a brief statement of the reasons for that reversal, modification or change. The failure of any such health care provider to report as required is a civil violation for which a fine of not more than \$1,000 may be adjudged.

Carriers providing managed care plans are subject to the reporting requirements of this section when they take adverse actions against a practitioner's credentials or employment for reasons related to clinical competence or unprofessional conduct that may adversely affect the health or welfare of the patient.

Sec. 4. 24 MRSA §2511, first ¶, as amended by PL 1993, c. 600, Pt. A, §19, is further amended to read:

Any person acting without malice, any physician, podiatrist, health care provider, or professional society ~~or~~ any member of a professional competence

committee, or professional review committee ~~or~~ any board or appropriate authority is and any entity required to report under this chapter are immune from civil liability:

Sec. 5. 32 MRSA §2594-B, sub-§1, as amended by PL 1993, c. 600, Pt. A, §185, is further amended to read:

1. License required. A physician assistant may not practice under the supervision of an osteopathic physician until the physician assistant has applied for and obtained a license issued by the Board of Osteopathic Licensure, which must be renewed ~~annually~~ biennially.

Sec. 6. 32 MRSA §2599, as amended by PL 1993, c. 600, Pt. A, §192, is further amended by adding at the end a new paragraph to read:

Provision of information protected by this section to the board pursuant to Title 24, section 2506 does not waive or otherwise affect the confidentiality of the records or the exemption from discovery provided by this section for any other purpose.

Sec. 7. 32 MRSA §3270-B, as amended by PL 1993, c. 600, Pt. A, §206, is further amended by repealing the headnote and replacing it with the following:

§3270-B. License and regulation

Sec. 8. 32 MRSA §3270-B, first ¶, as amended by PL 1993, c. 600, Pt. A, §206, is further amended to read:

A physician assistant is not permitted to practice until the physician assistant has applied for and obtained a ~~certificate of qualification~~ license issued by the Board of Licensure in Medicine, which must be renewed biennially, and a certificate of registration, ~~which must be renewed biennially~~. All applications for certificate of qualification registration must be accompanied by an application by the proposed supervisory physician, ~~which application that~~ must contain a statement that that physician is responsible for all medical activities of the physician assistant. The Board of Licensure in Medicine is authorized to adopt rules regarding the training and ~~certification~~ licensure of physician assistants and the agency relationship between the physician assistant and the supervising physician. Those rules may pertain, but are not limited, to the following matters:

Sec. 9. 32 MRSA §3270-B, sub-§1, as enacted by PL 1975, c. 680, §1, is amended to read:

1. Application information. The information to be contained in the application for a certificate of ~~qualification~~ registration;

Sec. 10. 32 MRSA §3270-B, sub-§11, as amended by PL 1993, c. 600, Pt. A, §206, is further amended to read:

11. Fees for biennial license renewal. Fees for the biennial ~~registration~~ license renewal of physician assistants in an amount not to exceed \$100.

Sec. 11. 32 MRSA §3286, 2nd ¶, as amended by PL 1993, c. 600, Pt. A, §219, is further amended to read:

For the purpose of this ~~section~~ chapter, by practicing or by making and filing a biennial license to practice medicine in this State, every physician licensed under this chapter who accepts the privilege to practice medicine in this State is deemed to have given consent to a mental or physical examination when directed in writing by the board and to have waived all objections to the admissibility of the examining physicians' testimony or examination reports on the grounds that the testimony or reports constitute a privileged communication.

Sec. 12. 32 MRSA §3296, as amended by PL 1993, c. 600, Pt. A, §223, is further amended by adding at the end a new paragraph to read:

Provision of information protected by this section to the board pursuant to Title 24, section 2506 does not waive or otherwise affect the confidentiality of the records or the exemption from discovery provided by this section for any other purpose.

See title page for effective date.

CHAPTER 272

H.P. 1049 - L.D. 1466

An Act to Provide Flexibility and Costs-savings in Department of Transportation Property Acquisition Procedures

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

Sec. 1. 23 MRSA §153-B, sub-§2, as enacted by PL 1993, c. 536, §2, is amended to read:

2. Survey and appraisal. When property is to be purchased or taken over and held for the State, unless the department determines that an adequate description already exists, the department shall first cause the property or interest in the property to be acquired to be surveyed and described, and a plan of the property made, and to be appraised by one or more appraisers. The owner or the owner's designated representative must be given an opportunity to

accompany the appraisers during the appraiser's inspection of the property. All persons employed by the department are authorized, to the extent necessary for surveys, appraisals and preliminary engineering, to enter and cross all lands within, adjoining and adjacent to the area ~~to be surveyed~~ proposed for acquisition in carrying out the objectives of this section. The department may prescribe ~~a procedure~~ procedures to waive the appraisal in cases involving the acquisition by sale or donation of property or interest in property. The department may prescribe procedures to waive the appraisal in cases in which the fair market value of the property or interest in the property to be taken is estimated at \$5,000 or less and valuation can be established by another method. In any case in which the department and the owner do not reach an agreement about the value of property or interest in property to be acquired, or if the owner requests, the department shall perform an appraisal.

Sec. 2. 23 MRSA §154, as amended by PL 1987, c. 395, Pt. A, §§94 and 95, is further amended to read:

§154. Condemnation proceedings

If the department determines that public exigency requires the taking of ~~such~~ property or any interest ~~therein~~ forthwith in property, or is unable to purchase ~~such a property and or any interest therein~~ in a property, or the necessary ways and access ~~thereto~~ to a property at what it ~~deems~~ considers a reasonable valuation, or if the title in a property is defective, it shall file in the registry of deeds for the county or registry district where the land is located a notice of condemnation which ~~shall~~ must contain a description of the project specifying the property and the interest ~~therein~~ taken and the name or names of the owner or owners of record so far as they can be reasonably determined. The department may prescribe procedures for the reasonable determination of the owner or owners of record. The department may join in the ~~same~~ notice one or more separate properties whether in the same or different ownership and whether or not taken for the same use.

~~A-~~ The department shall serve a check in the amount of the determined net damage and offering price and a copy of the notice of condemnation shall be served on the owner or owners of record. In case there is multiple ownership, the check may be served on any one of the owners. With that copy there shall be served the department must serve on each individual owner of record a copy of so much that part of the plan as relates to the particular parcel or parcels of land taken from him that owner and a statement by the department with respect to the particular parcel or parcels of land taken from him that owner which shall must: