

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
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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

1. Provision of information. In order to provide for informed patient or resident decisions, a hospital or nursing facility shall provide lists of licensed providers of care and services for all patients or residents prior to discharge for whom home health care or nursing care is needed.

A. For all patients or residents requiring home health care, the list must include all licensed home health care providers that request to be listed and any branch offices, including addresses and phone numbers, that serve the area in which the patient or resident resides.

B. For all patients or residents requiring nursing facility care, the list must include all nursing facilities that request to be listed that serve the area in which the patient or resident resides or wishes to reside.

C. The hospital or nursing facility shall disclose to the patient or resident any direct or indirect financial interest the hospital or nursing facility has in the nursing facility or home health care provider.

2. Rulemaking. The department shall establish by rule guidelines necessary to carry out the purposes of this section. Rules adopted under this section are routine technical rules pursuant to Title 5, chapter 375, subchapter II-A.

See title page for effective date.

CHAPTER 338

H.P. 842 - L.D. 1147

**An Act to Ensure Consistency
Between State and Federal Special
Education Requirements**

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

Sec. 1. 20-A MRSA §7004 is enacted to read:

§7004. Special education

1. Rulemaking. The department shall identify in its regulatory agenda, when feasible, a proposed rule or provision of a proposed rule that is anticipated to be more stringent than the federal statute or regulation, if an applicable federal statute or regulation exists.

During the consideration of any proposed rule, when feasible, and using information available to it, the department shall identify provisions of the proposed rule that the department believes would impose a

regulatory burden more stringent than the burden imposed by the corresponding federal statute or regulation, if such a federal statute or regulation exists, and explain in a separate section of the basis statement the justification for the difference between the agency rule and the federal statute or regulation.

Sec. 2. Current rules; review. Any rule of the Department of Education concerning special education in existence on the effective date of this Act is subject to the review requirements of this Act for proposed rules. The department shall evaluate the current rules concerning special education, identify provisions believed to impose a regulatory burden more stringent than the burden imposed by the corresponding federal statute or regulation, if such a statute or regulation exists, and explain the justification for the difference. The department shall report the results of this evaluation to the Joint Standing Committee on Education and Cultural Affairs no later than December 15, 1997.

See title page for effective date.

CHAPTER 339

H.P. 547 - L.D. 738

**An Act to Allow Child Support for
Juveniles Committed to the Maine
Youth Center**

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

Sec. 1. 15 MRSA §3314, sub-§5, as enacted by PL 1987, c. 400, §3, is amended to read:

5. Support orders. Whenever the court commits a juvenile to the Department of Human Services, ~~to the Maine Youth Center~~ or to a relative or other person, the court may order either or both parents of the juvenile to pay a reasonable amount of support for the juvenile. The order is enforceable under Title 19-A, section 2603. A parent may not be required to pay support for a juvenile during any period when the juvenile resides in ~~the Maine Youth Center~~ or a county jail.

See title page for effective date.

CHAPTER 340

H.P. 287 - L.D. 351

**An Act to Decrease Infectious
Disease Transmission**

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

Sec. 1. 17-A MRSA §1110, as amended by PL 1989, c. 384, §5, is further amended to read:

§1110. Trafficking in or furnishing hypodermic apparatuses

1. A person is guilty of trafficking in ~~or furnishing~~ hypodermic apparatuses if ~~he the person~~ intentionally or knowingly trafficks in ~~or furnishes a one or more hypodermic apparatus apparatuses~~, unless the conduct ~~which that~~ constitutes such trafficking ~~or furnishing~~ is either:

A. Expressly authorized by ~~Title 22 or~~ Title 32; ~~or, section 13787-A.~~

B. Expressly made a civil violation by Title 22.

1-A. A person is guilty of furnishing hypodermic apparatuses if the person intentionally or knowingly furnishes 11 or more hypodermic apparatuses, unless the conduct that constitutes such furnishing is expressly authorized by Title 22, section 2383-B.

2. Trafficking in hypodermic apparatuses is a Class C crime. Furnishing hypodermic apparatuses is a Class D crime.

Sec. 2. 17-A MRSA §1111, as amended by PL 1989, c. 384, §6, is further amended to read:

§1111. Illegal possession of hypodermic apparatuses

1. A person is guilty of illegal possession of hypodermic apparatuses if ~~he the person~~ intentionally or knowingly ~~furnishes or~~ possesses a 11 or more hypodermic apparatus apparatuses, unless the conduct ~~which that~~ constitutes such possession is either:

A. Expressly authorized by Title 22, section 2383-B or Title 32; ~~or, section 13787-A.~~

B. Expressly made a civil violation by Title 22.

2. ~~Possession~~ Illegal possession of hypodermic apparatuses is a Class D crime.

Sec. 3. 22 MRSA c. 252-A is enacted to read:

CHAPTER 252-A

HYPODERMIC APPARATUS EXCHANGE PROGRAMS

§1341. Hypodermic apparatus exchange programs

1. Certification of programs. The Bureau of Health may certify hypodermic apparatus exchange

programs that meet the requirements established by rule under subsection 2.

2. Rules. The Bureau of Health shall adopt rules pursuant to the Maine Administrative Procedure Act establishing requirements for hypodermic apparatus exchange programs. The rules must include but are not limited to:

A. Procedures for the safe disposal of hypodermic apparatuses;

B. Tracking the number of hypodermic apparatuses distributed and collected; and

C. Drug abuse prevention and treatment education.

Rules adopted pursuant to this section are major substantive rules as defined in Title 5, chapter 375, subchapter II-A.

3. Reports. The Bureau of Health shall report to the joint standing committees of the Legislature having jurisdiction over judiciary matters and health and human services matters by January 15, 1999 and annually thereafter on hypodermic apparatus exchange programs certified under this section. The report must include but is not limited to: the number, location and operators of hypodermic apparatus exchange programs; data on hypodermic apparatuses distributed and collected; and the number of persons served by the programs.

Sec. 4. 22 MRSA c. 558 is amended by repealing the chapter headnote and enacting the following in its place:

CHAPTER 558

MARIJUANA, SCHEDULED DRUGS, IMITATION SCHEDULED DRUGS AND HYPODERMIC APPARATUSES

Sec. 5. 22 MRSA §2383-B, sub-§2, as amended by PL 1995, c. 499, §3 and affected by §5, is further amended to read:

2. Others lawfully in possession. Except as otherwise authorized or restricted, the following persons are authorized to possess, furnish and have control of scheduled or prescription drugs ~~or~~ controlled substances or hypodermic apparatuses:

A. Common carriers or warehouse operators while engaged in lawfully transporting or storing prescription drugs; or hypodermic apparatuses or any of their employees acting within the scope of their employment;

B. Employees or agents of persons lawfully entitled to possession who have temporary, incidental possession while acting within the scope of their employment or agency;

C. Persons whose possession is for the purpose of aiding public officers in performing their official duties while acting within the scope of their employment or duties;

D. Law enforcement officers while acting within the scope of their employment and official duties; ~~and~~

E. Physicians, dentists, podiatrists, pharmacists or other persons authorized by law or rule to administer, dispense, prescribe or sell scheduled or prescription drugs ~~or~~, controlled substances, or hypodermic apparatuses while acting within the course of their professional practice; and

F. With regard to the possession or furnishing of hypodermic apparatuses, persons authorized by the Bureau of Health pursuant to a hypodermic apparatus exchange program, certified under chapter 252-A while acting within the scope of their employment under such programs.

See title page for effective date.

CHAPTER 341

H.P. 969 - L.D. 1349

An Act to Reduce Insurance Premiums by Discouraging Insurance Fraud

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

Sec. 1. 24-A MRSA §2183, sub-§1, as enacted by PL 1987, c. 345, is amended to read:

1. Definition. For the purpose of this section, "fraudulent insurance act" means an act committed by any person who, knowingly and with intent to defraud, presents, causes to be presented or prepares with knowledge or belief that it will be presented to or by an insurer, purported insurer, broker or any agent of an insurer, any written statement as part of or in support of an application for the issuance of or the rating of an insurance policy for commercial insurance or a claim for payment or other benefit pursuant to an insurance policy for commercial or personal insurance ~~which he~~ the person knows to contain materially false information concerning any material fact or conceals, for the purpose of misleading, information concerning any material fact.

Sec. 2. 24-A MRSA §2183, sub-§3 is enacted to read:

3. Recovery costs. In a civil action in which it is proven that a person committed a fraudulent insurance act, the court may award reasonable attorney's fees and costs to the insurer. In a civil action in which the insurer alleges that a party committed a fraudulent insurance act that is not established at trial, the court may award reasonable attorney's fees and costs to the party if the allegation is not supported by any reasonable basis of law or fact.

See title page for effective date.

CHAPTER 342

H.P. 1128 - L.D. 1584

An Act Regarding Confidentiality of Information Concerning Residents of Certain Facilities

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

Sec. 1. 5 MRSA §19112, sub-§§2 and 3, as enacted by PL 1993, c. 738, Pt. B, §3 and affected by §9, are amended to read:

2. Evaluate allocation of resources. To evaluate on a continuing basis the allocation of resources to ensure the availability of quality services delivered in a coordinated and efficient manner that is consistent with the needs of children and families; ~~and~~

3. Develop coordinated policy. To continue the development of a comprehensive and coordinated approach to initiation and revision of policy affecting services to children and families; and

Sec. 2. 5 MRSA §19112, sub-§4 is enacted to read:

4. Informal information exchange. To develop a plan for the informal exchange of information among residential service providers, local law enforcement agencies and schools concerning children receiving residential services.

Sec. 3. 22 MRSA §7806 is enacted to read:

§7806. Confidentiality guidelines

As a condition of licensure under this subtitle, the department shall require entities described in section 7801, subsection 1, paragraphs A, A-1, B and C to develop policies for releasing nontreatment information about a resident to law enforcement agencies, schools, parents, guardians or other appropriate public agencies. The department shall establish