

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND NINETEENTH LEGISLATURE

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J.S. McCarthy Company
Augusta, Maine
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CHAPTER 128

H.P. 956 - L.D. 1354

**An Act to Amend the Law Regarding
Conflict of Interest****Be it enacted by the People of the State of
Maine as follows:**

Sec. 1. 20-A MRSA §1002, sub-§1, as enacted by PL 1981, c. 693, §§5 and 8, is repealed and the following enacted in its place:

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Employee" means a person who receives monetary payment or benefits, no matter the amount paid or hours worked, for personal services performed for a school administrative unit.

B. "Volunteer" means a person who performs personal services for a school administrative unit without monetary payment or benefits of any kind or amount.

Sec. 2. 20-A MRSA §1002, sub-§2, as enacted by PL 1981, c. 693, §§5 and 8, is amended to read:

2. Employment by school administrative unit, school union, academy. A member of a school board or spouse of a member may not be ~~employed as a full-time~~ an employee in a public school within the jurisdiction of the school board to which the member is elected or in a contract high school or academy located within a supervisory union in which the member is a representative on the union committee.

Sec. 3. 20-A MRSA §1002, sub-§2-A is enacted to read:

2-A. Volunteer placement by school administrative unit, school union, academy. A member of a school board or member's spouse may not serve as a volunteer when that volunteer has primary responsibility for a curricular, cocurricular or extracurricular program or activity and reports directly to the superintendent, principal, athletic director or other school administrator in a public school within the jurisdiction of the school board to which the member is elected or in a contract high school or academy located within a supervisory union in which the member is a representative on the school committee. Volunteer activities of a member of a school board or member's spouse, other than in roles that are prohibited by this subsection, may be prescribed by policies

developed and approved by the school board of the school administrative unit.

See title page for effective date.

CHAPTER 129

S.P. 382 - L.D. 1083

**An Act to Amend the Real Estate
Brokerage Law****Be it enacted by the People of the State of
Maine as follows:**

Sec. 1. 32 MRSA §13002, sub-§2, as amended by PL 1991, c. 53, §1, is further amended to read:

2. Transactions by attorneys-at-law. Transactions conducted by an attorney-at-law in the performance of duties as an attorney-at-law. This exception does not apply to attorneys who are regularly engaged in real estate brokerage; ~~and~~

Sec. 2. 32 MRSA §13002, sub-§3, as enacted by PL 1987, c. 395, Pt. A, §212, is amended to read:

3. Exception. Any person licensed as an auctioneer under chapter 5, hired to call bids at an auction, if the person employed does not prepare contracts or otherwise control the actual sale or take custody of any part of the purchase price; and

Sec. 3. 32 MRSA §13002, sub-§4 is enacted to read:

4. Time share. Real estate transaction services subject to the provisions of Title 33, chapter 10-A.

Sec. 4. 32 MRSA §13066, sub-§1, ¶B, as enacted by PL 1987, c. 395, Pt. A, §212, is repealed.

Sec. 5. 32 MRSA §13067, sub-§1, ¶L, as amended by PL 1991, c. 53, §4, is further amended to read:

L. Failure to produce to the director any requested documents in the licensee's possession or under the licensee's control concerning any ~~transaction~~ matter under investigation; and

Sec. 6. 32 MRSA §13069, sub-§6, ¶A, as enacted by PL 1987, c. 395, Pt. A, §212, is amended to read:

A. Dismiss With the commission's approval, dismiss the complaint;

Sec. 7. 32 MRSA §13173, sub-§6, as enacted by PL 1987, c. 395, Pt. A, §212, is amended to read:

6. Branch office. Other locations where real estate brokerage business is regularly conducted or ~~which~~ that are advertised as locations where the public may contact the agency or its employees concerning brokerage services ~~shall~~ must be licensed as a branch office, ~~except that places of residence need not be licensed as a branch office.~~ In order to qualify for a branch office license, the agency designated broker ~~must~~ may designate ~~himself~~ or another broker to act as branch manager, in which case the manager ~~shall~~ has designated broker responsibilities for that office. ~~The designated broker may designate himself to act as manager for all branch offices.~~

Sec. 8. 32 MRSA §13177, first ¶, as enacted by PL 1987, c. 395, Pt. A, §212, is amended to read:

~~All exclusive right to sell contracts, exclusive agency contracts and any nonexclusive contract relating to one to 4 family residential properties shall be in writing, signed by the person to be charged and shall specifically identify the date upon which the contract will expire. Nonexclusive listing contracts relating to one to 4 family residential properties, in addition to all exclusive right-to-sell and exclusive agency listing contracts must be in writing, signed by the person to be charged and specifically identify the date upon which the contract will expire. If the parties to the contract desire to continue the contract, a new contract must be executed.~~

Sec. 9. 32 MRSA §13195, as enacted by PL 1987, c. 395, Pt. A, §212, is amended to read:

§13195. Changes

Any change of address, name or other material change in the conditions or qualifications set forth in the original application ~~shall~~ , including but not limited to criminal convictions or suspension or revocation of any professional license, must be reported to the director no later than 10 days after the change. Upon proper application and payment of the prescribed fee, the commission records ~~shall~~ must be changed and a new license ~~shall~~ be issued for the unexpired term of the current license, if appropriate.

Sec. 10. 32 MRSA §13196, as amended by PL 1991, c. 53, §8, is repealed and the following enacted in its place:

§13196. Inactive licenses

1. Placement on inactive status. Any licensee who does not desire to perform any of the activities described in section 13001 and who wants to preserve the license while not engaged in any brokerage

activity may surrender that license to the commission for placement on inactive status. The commission may place the license on inactive status and issue an inactive license only upon proper application by the licensee. During inactive status, the licensee is required to renew the license biennially, but is not required to maintain a place of business or meet the educational provisions of section 13197.

2. Reinstatement to active status. Licensees who have surrendered their licenses pursuant to this section and who have remained on inactive status for 6 years or more may have their licenses reinstated to active status by submitting proper application and fee and by successfully passing a license examination designated by commission rule for this purpose. Licensees who activate within 6 years of the initial inactive license may activate by successfully completing the designated examination or by completing continuing education courses that meet commission approved clock hours as follows:

A. For those applicants remaining inactive from the issuance of the inactive licenses up to 2 years, 15 clock hours of continuing education completed within the previous biennium;

B. For those applicants remaining inactive for more than 2 years but less than 4 years, 22 clock hours of continuing education completed within the previous biennium; or

C. For those applicants remaining inactive for more than 4 years but less than 6 years, 30 clock hours of continuing education completed within the previous biennium.

Sec. 11. 32 MRSA §13197, sub-§1, as enacted by PL 1987, c. 395, Pt. A, §212, is amended to read:

1. Requirement. As a prerequisite to renewal of a license, applicants ~~shall have completed 12~~ must complete 15 clock hours of continuing education within 2 years prior to the date of application in programs or courses approved by the commission. This requirement ~~shall~~ does not apply to agency and company licenses.

Sec. 12. 32 MRSA §13199, sub-§2, ¶C, as enacted by PL 1987, c. 395, Pt. A, §212, is repealed.

Sec. 13. 32 MRSA §13201, as enacted by PL 1987, c. 395, Pt. A, §212, is repealed.

Sec. 14. 32 MRSA §13251, as enacted by PL 1987, c. 770, §10, is repealed.

Sec. 15. 32 MRSA §13271, sub-§§10 and 12, as enacted by PL 1993, c. 679, §1, are amended to read:

10. Real estate brokerage agency. "Real estate brokerage agency" means a person or entity providing real estate brokerage services through that person's designated broker, associates or employees and licensed by the commission as a real estate brokerage agency.

12. Subagent. "Subagent" means a licensee real estate brokerage agency engaged by another brokerage agency to perform brokerage tasks for a client.

Sec. 16. Application. The time frames for determining the requirements for reinstatement of a real estate broker license to active status, as described in the Maine Revised Statutes, Title 32, section 13196, subsection 2, begin running on the effective date of this Act.

See title page for effective date.

CHAPTER 130

H.P. 434 - L.D. 576

**An Act to Update and Amend the
Maine Pharmacy Act**

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

Whereas, this bill establishes a statutory review committee to review the current scope of practice for pharmacists and to make recommendations for change; and

Whereas, the review must be initiated before the 90-day period expires in order that the review may be completed and the report submitted in time for submission to the next legislative session; 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. 32 MRSA §13702, sub-§1-A is enacted to read:

1-A. Automated pharmacy systems. "Automated pharmacy systems" means mechanical systems that perform operations or activities, other than compounding, relative to the storage, packaging, labeling, dispensing or distribution of medications,

and systems that collect, control and maintain all transactional information.

Sec. 2. 32 MRSA §13702, sub-§2-A is enacted to read:

2-A. Compounding. "Compounding" means the preparation, mixing, assembling, packaging or labeling of a drug or device by a pharmacist for the pharmacist's patient either for dispensing as the result of a practitioner's prescription drug order, or for the purpose of, or as an incident to, research, teaching or chemical analysis and not for sale or dispensing. "Compounding" also includes the preparation of drugs or devices in anticipation of prescription drug orders to be received by the pharmacist based on routine, regularly observed prescribing patterns.

Sec. 3. 32 MRSA §13702, sub-§10-A is enacted to read:

10-A. Electronic transmission. "Electronic transmission" means transmission of information in electronic form or the transmission of the exact visual image of a document by way of electronic equipment.

Sec. 4. 32 MRSA §13702, sub-§23, as enacted by PL 1987, c. 710, §5, is amended to read:

23. Practitioner. "Practitioner" means a physician, dentist, podiatrist, veterinarian, scientific investigator or other person, other than pharmacists, licensed in the United States and Canada to dispense, conduct research with respect to or administer drugs in the course of professional practice or research an individual who is licensed, registered or otherwise authorized in the appropriate jurisdiction to prescribe and administer drugs in the course of professional practice.

Sec. 5. 32 MRSA §13702, sub-§25, as enacted by PL 1987, c. 710, §5, is amended to read:

25. Prescription drug order. "Prescription drug order" means a lawful written or oral order of a practitioner for a drug or device. Written orders may be issued on a prescription form or by electronic transmission.

Sec. 6. 32 MRSA §13722, sub-§1, ¶B-1 is enacted to read:

B-1. Establish standards for the use, maintenance and supervision of automated pharmacy systems.

Sec. 7. 32 MRSA §13733, sub-§1, ¶G, as enacted by PL 1987, c. 710, §5, is amended to read:

G. Have presented to the board proof of initial licensure by examination and proof that the license and any other license or licenses granted to