

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND NINETEENTH LEGISLATURE

FIRST REGULAR SESSION
December 2, 1998 to June 19, 1999

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
SEPTEMBER 18, 1999

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
1999

payment of an additional \$50, but only 2 such reexaminations are permitted. Podiatrists licensed in another state and applying for a license to practice in this State without examination shall pay a an application fee of not more than \$200 and a license fee of not more than \$600.

A doctor of podiatric medicine licensed to practice podiatric medicine and surgery within this State shall apply, on or before August 1, 1993 and on or before July 1st of every year after August 1, 1993, to the board for a license renewal on a form furnished by the board and pay a renewal fee of not more than \$200 \$600.

Sec. 2. 32 MRSA §3654, first ¶, as repealed and replaced by PL 1993, c. 600, Pt. A, §247, is repealed.

Sec. 3. 32 MRSA §3654, 2nd ¶, as repealed and replaced by PL 1993, c. 600, Pt. A, §247, is amended to read:

Beginning July 1, 1995, the board may issue a license to practice podiatry by endorsement to an applicant who has successfully passed the written examination of another state or of a national certifying agency in podiatry recognized by the board if the written examination of the other state or national certifying agency was, in the opinion of the board, equivalent to its own examination and if the applicant satisfies in all other respects the requirements for licensure in section 3651-A. An applicant for licensure by endorsement who graduated after January 1, 1991 from podiatric medical school under section 3651-A shall provide the board evidence of satisfactory completion of at least one year of postgraduate clinical training in a podiatric residency training program under section 3651-A. The application to the board must be accompanied by an application fee of not more than \$200 and a license fee of not more than \$600.

Sec. 4. 32 MRSA §9909, sub-§1, as amended by PL 1991, c. 509, §33, is further amended to read:

1. Renewal. A license expires biennially annually on December 31st or on such other date as the commissioner may determine September 30th. Notice of expiration must be mailed to each licensee's last known address at least 30 days in advance of the expiration of the license. The notice must include any requests for information necessary for renewal.

Licenses may be renewed up to 90 days after the date of expiration upon payment of a late fee of \$10 in addition to the renewal fee. Any person who submits an application for renewal more than 90 days after the licensing renewal date is subject to all requirements governing new applicants under this chapter. In

addition, the board may assess penalties for renewals more than 90 days after expiration.

Sec. 5. 32 MRSA §9911, sub-§1, as amended by PL 1995, c. 502, Pt. H, §41, is further amended to read:

1. Amount. Application fees may be established by the board in amounts that are reasonable and necessary. Licensing fees may not exceed the following amounts:

A. For an original dietitian's or dietetic technician's license, ~~\$160~~ \$200;

B. For a renewal dietitian's or dietetic technician's license, ~~\$160~~ \$200; or

C. For a temporary dietitian's or dietetic technician's license, ~~\$50~~ \$100.

Sec. 6. 32 MRSA §12514, sub-§2, as enacted by PL 1995, c. 671, §13, is amended to read:

2. Licensure. The initial license fee is established by the board and may not exceed ~~\$200~~ \$675 annually.

Sec. 7. 32 MRSA §12526, sub-§1, as enacted by PL 1995, c. 671, §13, is amended to read:

1. Fees. Applications for licensing and specialty certification must be on forms prescribed and furnished by the board. The application fee is set by the board by rule and is nonrefundable. An initial license fee must be established by the board in an amount not to exceed ~~\$300~~ \$675. A specialty certification fee must be established by the board in an amount not to exceed \$50 annually.

See title page for effective date.

CHAPTER 258

H.P. 1248 - L.D. 1777

An Act to Update the Laws Concerning Prearranged Funerals

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

Sec. 1. 24-A MRSA §2176, as amended by PL 1991, c. 885, Pt. E, §27 and affected by §47, is further amended to read:

§2176. Funeral and burial service contracts prohibited

~~No~~ An insurer may not contract or agree with any funeral director, funeral establishment, mortuary

establishment, cemetery, cemetery corporation or association, crematorium, mausoleum or columbarium or any representative of any of these directors or establishments to the effect that the director or establishment shall conduct the funeral, burial, or cremation or other disposal of the remains of any individual insured by the insurer. An insurer may not retain, utilize or employ any director or establishment as a producer or agency of the insurer and a director or establishment may not act as or purport to be an insurance producer or engage in insurance producer activities. Nothing in this section prevents compliance with Title 39-A, section 216, or the use of an insurance policy, including, subject to the provisions of section 2420, the assignment of rights under life insurance contracts, to provide security for the payment for a funeral, burial or cremation or, subject to chapter 27, the naming of a funeral home or funeral director as beneficiary under a life insurance policy to provide payment for a funeral, burial or cremation. Nothing in this section prohibits the use of an insurance policy as an investment by a mortuary trustee pursuant to Title 32, section 1401.

Sec. 2. 32 MRSA §1401, as amended by PL 1989, c. 674, is repealed and the following enacted in its place:

§1401. Prearranged funerals or burial plans

1. Plan requirements. Any prearranged funeral or burial plan contracted or undertaken within this State must comply with the following.

A. All money paid during a person's lifetime to any individual, firm, association, partnership or corporation, by that person or by someone on behalf of that person, under an agreement that services will be performed or personal property will be delivered in connection with the disposition of that person's body after death must be deposited by the payee within 10 days after receipt of the money in a separate account in a financial institution or credit union authorized to do business in this State, as defined in Title 9-B, section 131, subsections 12-A and 17-A, in the name of the payee as mortuary trustee for the person for whose benefit the payment was made and must be held in that account together with interest if any.

B. The payee shall deposit the money in either a federally insured deposit or share account or a trust account; the type of account must be disclosed to the payor or the payor's representative and a deposit in a trust account may be invested in or used to purchase only the following:

(1) Federally insured deposit or share accounts;

(2) Securities issued, insured or guaranteed by the United States or by any agency or corporate or other instrumentality of the United States;

(3) Municipal securities that are exempt from registration under Title 32, section 10502, subsection 1, paragraph A; and

(4) Permanent life insurance, other than variable life insurance and annuities, from an insurer authorized to transact insurance in this State, subject to the provisions of Title 24-A, chapter 27. A payee or mortuary trustee may not receive any commission, fee or other consideration from an insurer in connection with the procurement or purchase of insurance permitted by this subparagraph.

Except for fees allowed by this section, all investments made with trust assets remain trust assets.

C. Within 30 days after the deposit of funds by the payee, the financial institution or credit union shall provide a written confirmation of the deposit, including the amount deposited, to the payor or the payor's legal representative. Nothing in this section may be construed to prevent transfer of these funds to another financial institution or credit union by payee transfer, by financial institution or credit union merger or consolidation or by operation of law, provided that within 30 days after transfer of the funds, the recipient financial institution or credit union shall provide a written confirmation of the deposit, including the amount deposited, to the payor or the payor's legal representative.

D. The agreement must be in writing and a copy must be furnished to the payor or the payor's legal representative by the payee when the agreement is executed. The agreement may be revocable or irrevocable; however, if irrevocable, there must be a provision to allow for the transfer of the account by the appointment of successor trustees. The agreement must clearly state terms providing for disposition of excess funds after funeral goods and services have been provided. The agreement must clearly state any fees that may be charged against the account; fees must be reasonable, as defined by the board, and may be charged only:

(1) Upon transfer of the account by the appointment of a successor trustee;

(2) Upon revocation of the agreement if the agreement is revocable; and

(3) For the actual financial and tax administration of the account.

The payee shall maintain a complete record of the deposit of all funds, including principal and interest. The record must be available for inspection by the payor, the payor's legal representative, the commissioner's designee or an inspector for the board and must contain the name and address of the financial institution or credit union and the dates and amounts of deposits.

E. The funds may be withdrawn, if otherwise lawful and permitted by contract, by the payee on written instructions of the payor or the payor's legal representative or on the death of the person for whose benefit the funds were paid, in which event they must be used in accordance with the agreement.

2. Rulemaking. The board shall adopt rules regarding prearranged funeral agreements, including, but not limited to:

A. The form, format and content of trust agreements;

B. Standards regarding when service contracts are required in conjunction with trust agreements and the form, format and content of the service contracts;

C. The establishment of reasonable fees that may be charged only pursuant to subsection 1, paragraph D; and

D. Inspection of trust agreements, account information and any related documentation.

Rules adopted pursuant to this section are routine technical rules under the Maine Revised Statutes, Title 5, chapter 375, subchapter II-A.

3. Financial institution or credit union liability. The financial institution or credit union is discharged from liability for payment of the funds in an account under subsection 1 upon presentation of a written consent to withdrawal signed by the payor or the payor's legal representative and by the payee or upon presentation of proof of death of the person for whose benefit the funds were paid.

4. Applicability. This section does not apply to the sale of cemetery lots, crypts, niches, cemetery burial privileges, cemetery space or perpetual care.

5. Cotrustees. This section may not be construed as prohibiting any person, including a payor, from serving as a mortuary cotrustee with the payee.

6. Penalties. Any person who violates this section is guilty of a Class E crime. This section does not preclude prosecution or conviction under other applicable laws, including, but not limited to, disciplinary actions under this chapter.

Sec. 3. Application. That section of this Act that repeals and replaces the Maine Revised Statutes, Title 32, section 1401 applies to prearranged funeral or burial plan agreements entered into on or after the effective date of this Act.

Sec. 4. Allocation. The following funds are allocated from Other Special Revenue funds to carry out the purposes of this Act.

1999-00

PROFESSIONAL AND FINANCIAL REGULATION, DEPARTMENT OF

Office of Licensing and Registration

All Other \$1,500

Provides funds for the costs associated with adopting rules on behalf of the State Board of Funeral Service.

See title page for effective date.

CHAPTER 259

H.P. 1012 - L.D. 1423

An Act to Revise the Staffing and Resources of the Office of Public Advocate

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

Sec. 1. 2 MRSA §6, sub-§2, as repealed and replaced by PL 1995, c. 560, Pt. K, §2, is amended to read:

2. Range 90. The salaries of the following state officials and employees are within salary range 90:

Superintendent of Banking;

State Tax Assessor;

Superintendent of Insurance;