

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

(3) The employee's case is based on an argument or issue adversely determined by the Supreme Judicial Court;

(4) The employee's case is based on a claim of discrimination governed by section 353;

(5) There is no record of medical assessment stating that the employee's injury was either caused by, aggravated by or precipitated by the employee's work or, when the issue is aggravation, there is no record of medical assessment stating that the employee's work aggravated a preexisting condition in a significant manner; or

(6) The employee has admitted to a fraudulent act, has been convicted of a fraudulent act by a court of competent jurisdiction or has been found to have committed a fraudulent act by the abuse investigation unit of the board; and

C. With the written approval of the staff attorney, present lump-sum settlements on cases pursuant to section 352.

A qualified employee whose case is declined or whose advocate assistance ceases pursuant to this subsection may appeal the action to the executive director of the board, within 30 days of the action. The executive director's ruling on the appeal is final and is not subject to judicial review. If the executive director finds assistance by an advocate should resume, the employee must be assigned to an advocate other than the advocate who declined the case or ceased assistance.

7. Rulemaking. In addition to the case management authority established in subsection 6, the board may establish by rule additional reasons for which the advocates may decline or cease assistance on cases. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter II-A.

Sec. 2. 39-A MRSA §318, as enacted by PL 1991, c. 885, Pt. A, §8 and affected by §§9 to 11, is amended by enacting a new 2nd paragraph to read:

The hearing officer, upon motion by the petitioning party, may include a finding in the decree that the employer's refusal to pay the benefits at issue was not based on any rational grounds developed between the claim and formal hearing. Upon such a finding, the employer shall pay interest to the employee under section 205, subsection 6 at a rate of 25% per annum

from the date each payment was due, instead of 10% per annum.

See title page for effective date.

CHAPTER 411

H.P. 797 - L.D. 1120

An Act to Amend the Uniform Health Care Decisions Act

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

Sec. 1. 18-A MRSA §5-801, sub-§(q), as enacted by PL 1995, c. 378, Pt. A, §1, is amended to read:

(q) "Surrogate" means an individual with capacity, other than a patient's agent or guardian, authorized under this Part to make a decision to withhold or withdraw life-sustaining treatment for a patient who does not have capacity and who is either in a terminal condition or in a persistent vegetative state health care decisions as provided in section 5-805.

Sec. 2. 18-A MRSA §5-805, sub-§(a), as enacted by PL 1995, c. 378, Pt. A, §1, is amended to read:

(a) A surrogate may make a decision to withhold or withdraw life-sustaining treatment for a patient who is an adult or emancipated minor if the patient has been determined by the primary physician to lack capacity, no agent or guardian has been appointed or the agent or guardian is not reasonably available and the patient is in a terminal condition or a persistent vegetative state as determined by the primary physician.

A surrogate also is authorized to make any other health care decision for a patient who is an adult or emancipated minor if the patient has been determined by the primary physician to lack capacity and no agent or guardian exists, except that a surrogate may not deny surgery, procedures or other interventions that are lifesaving and medically necessary.

A medically necessary procedure is one providing the most patient-appropriate intervention or procedure that can be safely and effectively given.

Sec. 3. 18-A MRSA §5-805, sub-§(b), (1-A) is enacted to read:

(1-A) An adult who shares an emotional, physical and financial relationship with the patient similar to that of a spouse;

See title page for effective date.

CHAPTER 412

H.P. 22 - L.D. 32

An Act to Allow Reimbursement of Registered Nurse First Assistants for Surgical Procedures

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

Sec. 1. 24 MRSA §2332-J is enacted to read:

§2332-J. Coverage for services provided by registered nurse first assistants

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

A. "Perioperative nursing" means a practice of nursing in which the nurse provides preoperative, intraoperative and postoperative nursing care to surgical patients.

B. "Recognized program" means a program that addresses all content of the core curriculum for registered nurse first assistants as established by the Association of Operating Room Nurses or its successor organization.

C. "Registered nurse first assistant," or "RNFA," means a person who:

- (1) Is licensed as a registered nurse under Title 32, chapter 31;
- (2) Is experienced in perioperative nursing; and
- (3) Has successfully completed a recognized program.

2. Institutional powers. Each health care institution, as defined in Title 22, chapter 405, may establish specific procedures for the appointment and reappointment of registered nurse first assistants and for granting, renewing and revising their clinical privileges.

3. Required coverage for services. Notwithstanding any other provisions of this chapter, a nonprofit hospital and medical service organization that issues individual and group health care contracts that provide coverage for surgical first assisting

benefits or services shall provide coverage and payment under those contracts to a registered nurse first assistant who performs services that are within the scope of a registered nurse first assistant's qualifications. The provisions of this subsection apply only if reimbursement for an assisting physician would be covered and a registered nurse first assistant who performed those services is used as a substitute.

4. Limits; coinsurance; deductibles. Any contract that provides coverage for the services required by this section may contain provisions for maximum benefits and coinsurance and reasonable limitations, deductibles and exclusions to the extent that these provisions are not inconsistent with the requirements of this section.

Sec. 2. 24-A MRSA §2756 is enacted to read:

§2756. Coverage for services provided by registered nurse first assistants

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

A. "Perioperative nursing" means a practice of nursing in which the nurse provides preoperative, intraoperative and postoperative nursing care to surgical patients.

B. "Recognized program" means a program that addresses all content of the core curriculum for registered nurse first assistants as established by the Association of Operating Room Nurses or its successor organization.

C. "Registered nurse first assistant," or "RNFA," means a person who:

- (1) Is licensed as a registered nurse under Title 32, chapter 31;
- (2) Is experienced in perioperative nursing; and
- (3) Has successfully completed a recognized program.

2. Institutional powers. Each health care institution, as defined in Title 22, chapter 405, may establish specific procedures for the appointment and reappointment of registered nurse first assistants and for granting, renewing and revising their clinical privileges.

3. Required coverage for services. Notwithstanding any other provisions of this chapter, an insurer that issues individual health insurance policies and contracts that provide coverage for surgical first assisting benefits or services shall provide coverage and payment under those contracts to a registered