

# MAINE STATE LEGISLATURE

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**LAWS**  
**OF THE**  
**STATE OF MAINE**

**AS PASSED BY THE**  
**ONE HUNDRED AND TWENTIETH LEGISLATURE**  
**FIRST REGULAR SESSION**  
**December 6, 2000 to June 22, 2001**

**THE GENERAL EFFECTIVE DATE FOR**  
**FIRST REGULAR SESSION**  
**NON-EMERGENCY LAWS IS**  
**SEPTEMBER 21, 2001**

**PUBLISHED BY THE REVISOR OF STATUTES**  
**IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,**  
**TITLE 3, SECTION 163-A, SUBSECTION 4.**

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**J.S. McCarthy Company**  
**Augusta, Maine**  
**2001**

by a board recognized by the American Board of Medical Specialties or the American Osteopathic Association or their successor organizations. A chiropractor licensed by the Board of Chiropractic Licensure, who has an active practice of treating patients ~~or who discontinued an active practice not more than 2 years before the examination~~, may provide a 2nd opinion when the initial opinion was given by a chiropractor. Once an employer selects a health care provider to examine an employee, the employer may not request that the employee be examined by more than one other health care provider, other than an independent medical examiner appointed pursuant to section 312, without prior approval from the employee or a hearing officer. This provision does not limit an employer's right to request that the employee be examined by a specialist upon referral by the health care provider. Once the employee is examined by the specialist, the employer may not request that the employee be examined by a different specialist in the same specialty, other than an independent medical examiner appointed pursuant to section 312, without prior approval from the employee or the board. The employee has the right to have a physician, surgeon or chiropractor of the employee's own selection present at such an examination, whose costs are paid by the employer. The employer shall give the employee notice of this right at the time the employer requests an examination.

**Sec. 2. 39-A MRSA §207**, as amended by PL 1999, c. 365, §1, is further amended by adding after the first paragraph a new paragraph to read:

The health care provider examining an employee under this section shall, prior to commencing the examination, advise the employee fully of all records, documents and other communications that the health care provider has available in conducting the examination. The health care provider shall also advise the employee and the employee's health care provider of the scope and purpose of the requested examination and all persons with whom the health care provider has communicated in preparation for the examination. Simultaneously with providing an oral or written report to the employer, the health care provider shall provide the same information to the employee and, if requested by the employee, to the employee's health care provider.

See title page for effective date.

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## CHAPTER 279

H.P. 157 - L.D. 168

### An Act Concerning Standardized Contracts for Long-term Care Services

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

**Sec. 1. 22 MRSA §7916** is enacted to read:

**§7916. Contracts for assisted living services**

All contracts or agreements executed by a provider of assisted living services under this chapter and a consumer or the legal representative of the consumer are subject to the requirements of this section.

**1. Required contract provisions.** Each contract or agreement for assisted living services must contain the provisions designated as required in the standardized contract adopted by the department pursuant to Public Law 1999, chapter 731, Part BBBB, section 5 and may contain additional provisions as allowed under subsection 2.

**2. Other contract provisions.** In addition to the provisions required under subsection 1, each contract or agreement for assisted living services may contain provisions that do not violate a state law or rule or federal law or regulation. Contracts or agreements must be consistent with the rules adopted by the department applicable to the type of housing services provided.

**3. Rulemaking.** The commissioner shall adopt rules to implement this section. The rules must be developed in consultation with the long-term care ombudsman program established under section 5107-A, consumer representatives and providers of assisted living services. Rules adopted pursuant to this subsection are routine technical rules as defined by Title 5, chapter 375, subchapter II-A.

See title page for effective date.

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## CHAPTER 280

H.P. 1017 - L.D. 1366

### An Act Concerning Responsibilities of Conservators for Persons With Disability and Minors

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

**Sec. 1. 18-A MRSA §5-418**, as enacted by PL 1979, c. 540, §1, is repealed and the following enacted in its place:

**§5-418. Inventory and records**

(a) Within 90 days following a conservator's appointment, the conservator shall prepare and file with the appointing court a complete inventory of the estate of the protected person together with the conservator's

oath or affirmation that it is complete and accurate so far as the conservator is informed. The conservator shall provide a copy of the completed inventory to the protected person if the person can be located, has attained 14 years of age and has sufficient mental capacity to understand these matters, and to any parent or guardian with whom the protected person resides.

(b) A conservator shall keep suitable records of the conservator's administration and exhibit the same on request of any interested person.

(c) If a conservator fails without good cause to file an inventory, the court may require the conservator or the conservator's surety to pay to the protected person's estate a minimum of \$100 and a maximum of the amount the court determines is just to compensate the estate for any damage resulting from the failure to file the inventory. The payments required by this subsection are in addition to any other award or remedy available at law or in equity for fiduciary misconduct of the conservator.

**Sec. 2. 18-A MRSA §5-419**, as amended by PL 1995, c. 462, Pt. A, §39, is further amended to read:

#### **§5-419. Accounts**

(a) Every conservator ~~must~~ shall account to the court for the administration of the trust as specified by the court at the time of the initial order or at the time of a subsequent order or as provided by court rule and upon resignation or removal. On termination of the protected person's minority or disability, a conservator may account to the court or may account to the former protected person or that person's personal representative. Prior to the termination of the protected person's minority, the conservator ~~must~~ shall account to the court and the protected person.

(b) Subject to appeal or vacation within the time permitted, an order, made upon notice and hearing, allowing an intermediate account of a conservator, adjudicates as to ~~his~~ the conservator's liabilities concerning the matters considered in connection therewith; and an order, made upon notice and hearing, allowing a final account adjudicates as to all previously unsettled liabilities of the conservator to the protected person or ~~his~~ the protected person's successors relating to the conservatorship. In connection with any account, the court may require a conservator to submit to a physical check of the estate in ~~his~~ the conservator's control, to be made in any manner the court may specify.

(c) The court may appoint a visitor to review the conservator's accounts and determine if appropriate provision for the use, care and protection of the protected person's property has been made. The

visitor shall report ~~his~~ the findings to the court in writing.

(d) If the conservator fails without good cause to file the accounting required by the court, the court may require the conservator or the conservator's surety to pay to the protected person's estate a minimum of \$100 and a maximum of the amount the court determines is just to compensate the estate for any damage resulting from the failure to file the accounting. The payments required by this subsection are in addition to any other award or remedy available at law or in equity for fiduciary misconduct of the conservator.

See title page for effective date.

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## **CHAPTER 281**

### **S.P. 309 - L.D. 1056**

#### **An Act to Enforce the Taxation of Building Materials and Modular Homes**

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

**Sec. 1. 10 MRSA §9006-D** is enacted to read:

#### **§9006-D. Notice of installation**

**1. Notice of installation.** A manufacturer, dealer, mechanic and installer shall notify the board every month of the installations completed by that person that month. The notice must include the location of each unit of manufactured housing, the owner of each unit at the time of installation, the type or model of the unit, the manufacturer of the unit, written certification that the installation meets standards that conform to those required by the board and the name and address of the manufacturer, dealer, mechanic or installer. The information must be submitted within 10 days after the end of each month in the form and manner prescribed by the board by rule. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter II-A.

**2. Failure to file.** The board may require a manufacturer, dealer, mechanic or installer who fails to comply with this section to pay a fine of not less than \$5 and not more than \$100 for each day the notice is late.

**Sec. 2. 10 MRSA §9021, sub-§9** is enacted to read:

**9. Proof of sales tax registration.** The board shall require that an applicant for a manufacturer or