

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTIETH LEGISLATURE

SECOND REGULAR SESSION
January 2, 2002 to April 25, 2002

THE GENERAL EFFECTIVE DATE FOR
SECOND REGULAR SESSION
NON-EMERGENCY LAWS IS
JULY 25, 2002

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
2002

~~predetermination of independent contractor status:~~

(1) A person who contracts directly with the landowner if the person meets the criteria for obtaining a certificate of independent status or a predetermination of independent contractor status and:

- (a) Performs all of the wood harvesting alone;
- (b) Performs all of the wood harvesting alone or with the assistance of one or more of the following persons whose relationship with the person is that of spouse, parent, sibling, child, niece or nephew;
- (c) Performs all of the wood harvesting alone or with the assistance of one or more other persons all covered by workers' compensation insurance; or
- (d) Performs all of the wood harvesting alone or with the assistance of a partner when a legal partnership exists and neither partner acts as a supervisor of the other;

(2) A spouse, parent, sibling, child, niece or nephew of a person who contracts directly with the landowner to perform all of the wood harvesting alone or with the assistance of one or more of the following: the person's spouse, parent, sibling, child, niece or nephew; or

(3) A partner of a person who contracts directly with the landowner to perform all of the wood harvesting alone or with the assistance of a partner when a legal partnership exists and neither partner acts as a supervisor of the other.

Unless employed by a private employer, a person considered an employee under this paragraph shall obtain personal coverage in the same manner and under the same provisions as a person described in paragraph B who elects to be covered by this Title.

See title page for effective date.

CHAPTER 491

H.P. 1451 - L.D. 1948

An Act to Clarify the Method of Sale for Heating Oil and Retail Motor Fuels

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

Sec. 1. 10 MRSA §2623, as amended by PL 1977, c. 694, §183, is repealed and the following enacted in its place:

§2623. Method of sale

1. Sales of commodities. Except as otherwise provided by the State Sealer, sales of commodities must comply with the following:

A. Commodities in liquid form must be sold by liquid measure or by weight;

B. Commodities not in liquid form must be sold only by weight, by measure or by count; and

C. A seller selling commodities in liquid form and using temperature compensators must have the seller's entire fleet of vehicles equipped with temperature compensators or have prior approval by the State Sealer for regional use of temperature compensators, and must provide accurate and adequate quantity information that permits the buyer to make price and quantity comparisons. Such equipment must be sealed and in use throughout the year.

Sec. 2. 10 MRSA §2624, sub-§3, as enacted by PL 1973, c. 91, §10, is amended to read:

3. Quantity. The quantity delivered and the quantity upon which the price is based, if this differs from the delivered quantity, including when temperature-compensated sales are made, that fact must be stated;

See title page for effective date.

CHAPTER 492

H.P. 1514 - L.D. 2017

An Act to Increase the Licensing Fee Caps of the Board of Osteopathic Licensure

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

Sec. 1. 32 MRSA §2571, first ¶, as amended by PL 1997, c. 50, §3, is further amended to read:

An individual, before engaging in the practice of osteopathic medicine in this State, shall make application for a license to the board, on a form prescribed by the board. The application must be filed with the board at least 60 days before the date of examination together with a fee of not more than ~~\$350~~ \$525. The applicant shall present a diploma granted by a school or college of osteopathic medicine approved by the American Osteopathic Association. That applicant shall present evidence of having completed an internship of at least 12 months in a hospital conforming to the minimal standards for accreditation by the American Osteopathic Association, or the equivalency, as determined by the board. All applicants shall provide reasonable and proper facts as the board in its application may require. The board at its discretion may permit an applicant, who is otherwise qualified to be examined during internship, a license to be withheld until successful completion of internship.

Sec. 2. 32 MRSA §2573, as amended by PL 1997, c. 50, §5, is further amended to read:

§2573. Temporary licensure

An osteopathic physician in good repute who is a graduate of a school or college of osteopathic medicine approved by the American Osteopathic Association, serving as a fellow, intern or resident physician in a hospital in this State, shall register with the board and must be issued a temporary license by the board evidencing the right to practice only under hospital control. Such a license may not be issued for a period in excess of one year but may be renewed from time to time, not to exceed an aggregate of 5 years. The license must be in a form prescribed by the board and may be revoked or suspended by the board with the suspension or revocation effective immediately when written notification from the board is received by the hospital. An examination may not be required for applicants for this temporary license. The fee for such a license may not be more than ~~\$300~~ \$450.

Sec. 3. 32 MRSA §2574, as amended by PL 1997, c. 50, §6, is further amended to read:

§2574. Locum tenens

An osteopathic physician who is a graduate of a school or college of osteopathic medicine approved by the American Osteopathic Association and who is of good repute may, at the discretion of the board, be given a temporary license to be effective for not more than 6 months after issuance, for the purpose of permitting the physician to serve as "locum tenens" for another osteopathic physician who is unable, because

of illness or some other substantiated reason, to maintain the practice, thus fulfilling a need in that area for providing health services. The fee for such a license may be not more than ~~\$500~~ \$600.

Sec. 4. 32 MRSA §2575, as amended by PL 1997, c. 50, §7, is further amended to read:

§2575. Camp physicians

An osteopathic physician who is a graduate of a school or college of osteopathic medicine approved by the American Osteopathic Association and who is of good repute may, at the discretion of the board, make application for a temporary license to practice as a camp physician at a specified camp. Such an osteopathic physician is entitled to practice only on the patients at the camp. The license must be obtained each year. Applications for such a temporary license must be made in the same manner as for regular licenses. An examination may not be exacted from applicants for temporary licenses. The fee may not be more than ~~\$500~~ \$600.

Sec. 5. 32 MRSA §2576, as amended by PL 1993, c. 600, Pt. A, §178, is further amended to read:

§2576. Visiting instructors

A temporary visiting instructor's license may be granted an osteopathic physician who holds a current and valid license to practice osteopathic medicine in another state. This license entitles the osteopathic physician to practice in this State when that physician is performing osteopathic medical procedures as a part of a course or courses of instruction in continuing medical education in a hospital in this State. The annual fee for such a temporary license may not be more than ~~\$400~~ \$150. The license issued pursuant to this section is for a duration set by the board. Such a temporary license may be revoked for any one of the reasons in section 2591-A.

Sec. 6. 32 MRSA §2581, 2nd ¶, as amended by PL 1993, c. 600, Pt. A, §180, is further amended to read:

Every osteopathic physician legally licensed to practice in this State, shall, on or before the ~~first day of January of each even numbered year~~ expiration date of the osteopathic physician's license, pay to the board a fee set by the board not to exceed ~~\$500~~ \$600 for the renewal of the osteopathic physician's license to practice. An osteopathic physician's license is issued for a period of 2 years and must be renewed in accordance with a schedule adopted by the board by rule. Rules adopted pursuant to this section are routine technical rules pursuant to Title 5, chapter 375, subchapter II-A. In addition to the payment of the renewal fee, each licensee applying for the renewal of the osteopathic physician's license shall furnish to the

board satisfactory evidence that the osteopathic physician has attended in the 2 preceding years at least 100 hours of educational programs devoted to continuing medical education approved by the board. The required education must be obtained from formalized programs of continuing medical education sponsored by recognized associations, colleges or universities, hospitals, institutes or groups approved by the board. A copy of the current approved list must be available in the office of the secretary-treasurer of the board. At least 40% of these credit hours must be osteopathic medical education approved in the rules established by the board. The board may adjudicate continuing medical education performance in situations of illness, hardship or military service upon written petition by the applicant. The secretary-treasurer of the board shall send a written notice of the foregoing requirements to each osteopathic physician, at least 60 days prior to ~~January 1st~~ each osteopathic physician's license expiration date, directed to the last known address of the licensee and enclosing with the notice proper blank forms for application for renewal. If a licensee fails to furnish the board evidence of attendance at continuing medical educational programs, as approved by the board, fails to pay the renewal fee or fails to submit a completed application for renewal, the osteopathic physician automatically forfeits the right to practice osteopathic medicine in this State. After ~~January 1st of each even-numbered year~~ the expiration of a license, the board shall send notice by first class mail to each licensee who has failed to meet the requirements for renewal. If the failure is not corrected within 30 days, then the osteopathic physician's license may be considered lapsed by the board. The secretary-treasurer of the board may reinstate the osteopathic physician upon the presentation of satisfactory evidence of continuing medical education as outlined and approved by the board and upon payment of the renewal fee.

Sec. 7. 32 MRSA §2594-C, sub-§2, ¶¶H and I, as amended by PL 1993, c. 600, Pt. A, §186, are further amended to read:

H. Requirements for initial licensure, including fees, which may not exceed ~~\$100~~ \$150;

I. Requirements for annual licensure, including fees, which may not exceed ~~\$75~~ \$125;

Sec. 8. 32 MRSA §2594-C, sub-§2, ¶¶L and M, as amended by PL 1993, c. 600, Pt. A, §186, are further amended to read:

L. Requirements for physician supervision of physician extenders, including fees, which may not exceed ~~\$400~~ \$150; and

M. Requirements for transfer of licensure by a physician extender to another physician, including fees, which may not exceed ~~\$25~~ \$50.

See title page for effective date.

CHAPTER 493

H.P. 1452 - L.D. 1949

An Act to Clarify Roles and Positions within the Department of Behavioral and Developmental Services

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

Sec. 1. 34-B MRSA §1204, sub-§2, ¶C, as amended by PL 2001, c. 439, Pt. J, §6, is further amended to read:

C. The commissioner shall appoint the following officials to serve at the commissioner's pleasure:

- (1) Associate Commissioners;
- (2) Superintendent, Augusta Mental Health Institute;
- (3) Superintendent, Bangor Mental Health Institute;
- ~~(5) Director, Mental Retardation Facility;~~
- (6) Director, Elizabeth Levinson Center;
- (8) Assistant to the Commissioner;
- (10) Regional Directors, who shall report ~~directly to the commissioner~~ to the Associate Commissioner of Systems Operations;
- (11) Director, Office of Substance Abuse, who shall report directly to the commissioner; and
- (12) Deputy Commissioner.

See title page for effective date.

CHAPTER 494

H.P. 1405 - L.D. 1843

An Act to Require that Temporary Nurse Agencies Verify Certified Nursing Assistants' Eligibility Before Hiring Certified Nursing Assistants