

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTIETH LEGISLATURE

FIRST SPECIAL SESSION
November 13, 2002 to November 14, 2002

ONE HUNDRED AND TWENTY-FIRST LEGISLATURE

FIRST REGULAR SESSION
December 4, 2002 to June 14, 2003

THE GENERAL EFFECTIVE DATE FOR
FIRST SPECIAL SESSION
NON-EMERGENCY LAWS IS
FEBRUARY 13, 2003

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FIRST REGULAR SESSION
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SEPTEMBER 13, 2003

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

Penmor Lithographers
Lewiston, Maine
2003

CHAPTER 346

S.P. 500 - L.D. 1500

An Act To Protect the Small Forest Landowners**Be it enacted by the People of the State of Maine as follows:****Sec. 1. 12 MRSA §8611, sub-§1**, as enacted by PL 1989, c. 555, §8, is amended to read:

1. Forest management information. The bureau shall provide a forest management information clearinghouse service with a statewide toll-free number. The information and referral service ~~shall~~ must include, but is not ~~be~~ limited to:

- A. Reporting, notification and management requirements pursuant to this chapter;
- B. Timber and forest management options;
- C. Soil conservation practices;
- D. Insect and disease management practices;
- E. Recreation management options; and
- F. Wildlife management options.

Names, addresses, telephone numbers and electronic mail addresses collected by the bureau for the purpose of contacting forest landowners owning less than 1,000 acres statewide to provide them with forest management information are not a public record for the purposes of Title 1, section 402, subsection 3. The bureau shall provide copies of forest management information sent to landowners to the joint standing committee of the Legislature having jurisdiction over agriculture, conservation and forestry matters.

Sec. 2. 12 MRSA §8612, sub-§4, as enacted by PL 1989, c. 555, §8, is amended to read:

4. Reporting requirements. The commissioner shall report biannually beginning in 1991, to the joint standing committee of the Legislature having jurisdiction over ~~energy and natural resources~~ forestry matters on activities under the field forester program. This report, to be completed by February 1st, ~~shall~~ must include a description of the types of assistance given to landowners and wood processors, a description of the activities of the field foresters and any recommendations for changes in the program.

See title page for effective date.

CHAPTER 347

H.P. 1142 - L.D. 1559

An Act To Amend the Laws Concerning State Board of Alcohol and Drug Counselors**Be it enacted by the People of the State of Maine as follows:****Sec. 1. 32 MRSA §6203, sub-§§1-B to 1-E** are enacted to read:

1-B. Agency. "Agency" means an establishment, organization or institution, public or private, that is licensed by the Department of Behavioral and Developmental Services and that offers, purports to offer, maintains or operates one or more programs for the assessment, diagnosis, care, treatment or rehabilitation of individuals who are suffering physically, emotionally or psychologically from the abuse of alcohol or other drugs.

1-C. Alcohol and drug counseling aide. "Alcohol and drug counseling aide" means an individual who is registered by the board to engage in an apprenticeship for the purpose of acquiring knowledge and experience in the performance of alcohol and drug counseling services, including but not limited to knowledge of ethical standards. An alcohol and drug counseling aide may facilitate individual and direct group counseling or assume other facilitation duties under supervision and may supervise nonclinical activities. An alcohol and drug counseling aide may write treatment chart notations when the notations are cosigned by a board-certified clinical supervisor. All work performed must be under the supervision of a board-certified clinical supervisor. An alcohol and drug counseling aide may not engage in independent or private practice. All work associated with the apprenticeship may be conducted only in an agency.

1-D. Certified alcohol and drug counselor. "Certified alcohol and drug counselor" means an individual who provides individual or group alcohol and drug counseling services unaided and who meets the criteria established in section 6214-C. A certified alcohol and drug counselor may not engage in independent or private practice. All work performed must be under the supervision of a board-certified clinical supervisor within an agency.

1-E. Certified clinical supervisor. "Certified clinical supervisor" means an individual who is certified by the board to provide supervision to individuals who provide alcohol and drug counseling services as required by this chapter. For the purposes of this subsection, "supervision" includes, but is not limited to, oversight of case record reviews, case

management, development of counseling skills, education and treatment modalities, clinical supervision log maintenance and client treatment plans and activities.

Sec. 2. 32 MRSA §6203, sub-§5, as amended by PL 1995, c. 394, §4, is repealed and the following enacted in its place:

5. Licensed alcohol and drug counselor. "Licensed alcohol and drug counselor" means an individual who provides individual or group alcohol and drug counseling services independently within an agency or in private practice and who meets the criteria established in section 6214-D. A licensed alcohol and drug counselor may also assume clinical supervision duties upon being certified by the board as a clinical supervisor.

Sec. 3. 32 MRSA §6203, sub-§5-A, as amended by PL 1995, c. 394, §4, is further amended to read:

5-A. Inactive alcohol and drug counselor. "Inactive alcohol and drug counselor" means a person who is licensed or registered or certified to provide alcohol and drug counselor counseling services and who registers with applies to the board for a leave from the field for a period not to exceed 2 years an inactive license under section 6219-B. Inactive alcohol and drug counselors are not required to take the written or oral examinations nor provide documentation of continuing education during the period they have abstained from practice. Inactive alcohol and drug counselors must notify the board for license renewal prior to resuming their practice.

Sec. 4. 32 MRSA §6203, sub-§7-A, as enacted by PL 1995, c. 394, §5, is repealed.

Sec. 5. 32 MRSA §6205, as amended by PL 1995, c. 394, §6, is further amended to read:

§6205. Licensing

A person may not, unless specifically exempted by this chapter, practice as an alcohol and drug counselor or profess to the public to be, or assume or use the title or designation of, "~~inactive certified~~ alcohol and drug counselor," "licensed alcohol and drug counselor" or ~~registered~~ "alcohol and drug counselor counseling aide" or the abbreviation "~~I.A.D.C.,~~" "~~C.A.D.C.,~~" "~~L.A.D.C.~~" or "~~R.A.D.C.~~" "~~A.D.C.A.~~" or any other title, designation, words, letters or device tending to indicate that such a person is licensed, certified or registered, unless that person is licensed, certified or registered with and holds a current and valid license, certificate or ~~certificate~~ of registration from the board. Any person who offers or gives alcohol and drug counseling services in violation of this section must be punished, upon conviction, by a

fine of not less than \$50 and not more than \$500 for each such offense.

Sec. 6. 32 MRSA §6207, as amended by PL 1995, c. 394, §7, is repealed.

Sec. 7. 32 MRSA §6207-A is enacted to read:

§6207-A. License required

Unless exempted under section 6206, a person may not practice alcohol and drug counseling or begin an apprenticeship in this State unless that person has first obtained a license, certification or registration as provided in this chapter.

Sec. 8. 32 MRSA §6212, sub-§4, as amended by PL 1983, c. 413, §214, is further amended to read:

4. Rules. The board may adopt such rules, including but not limited to rules regarding examinations; clinical supervision; reasonable practice and education requirements for registering alcohol and drug counseling aides; licensing alcohol and drug counselors; certified alcohol and drug counselors; and certified clinical supervisors, and establish such advisory committees as the board may ~~deem~~ determine necessary and proper to carry out this chapter. ~~All rules shall be adopted in accordance with the procedures established by the Maine Administrative Procedure Act, Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter H 2-A.~~

Sec. 9. 32 MRSA §6212, sub-§11, as enacted by PL 1991, c. 456, §20, is repealed.

Sec. 10. 32 MRSA §6212, sub-§12, as amended by PL 1999, c. 685, §17, is further amended to read:

12. Clinical supervision. For purposes of direct clinical supervision of licensed practitioners in the field of alcohol and drug counseling, the board may certify upon receipt of proper application and fee under section 6215 licensed psychologists, physicians, registered clinical nurse specialists, clinical professional counselors and clinical social workers; and any other licensed or certified mental health professionals who are qualified to provide alcohol and drug counseling services by virtue of the requirements for that profession and who meet the requirements established by board rules. ~~Other members of any mental health profession must meet the criteria set forth by the International Certification and Reciprocity Consortium or equivalent qualifications as determined by the board by rulemaking.~~

Sec. 11. 32 MRSA §6213, as amended by PL 1995, c. 394, §13, is repealed.

Sec. 12. 32 MRSA §6213-A, as amended by PL 1995, c. 394, §14, is repealed.

Sec. 13. 32 MRSA §6213-B is enacted to read:

§6213-B. Alcohol and drug counseling aide; qualification for registration

1. Requirements. The board shall issue a registration to practice as an alcohol and drug counseling aide to an applicant who meets the following minimal requirements. An applicant must:

- A. Be at least 18 years of age;
- B. Have a high school diploma or its equivalent;
- C. Be employed at an agency;
- D. Provide the name of the person who will be the applicant's certified clinical supervisor; and
- E. Have paid an application and registration fee under section 6215.

Sec. 14. 32 MRSA §6214-A, as amended by PL 1997, c. 210, §11, is repealed.

Sec. 15. 32 MRSA §6214-B, as amended by PL 1995, c. 394, §19, is repealed.

Sec. 16. 32 MRSA §§6214-C and 6214-D are enacted to read:

§6214-C. Certified alcohol and drug counselor; qualification for certification

1. Eligibility. To be eligible to practice as a certified alcohol and drug counselor, an applicant must:

- A. Be at least 18 years of age;
- B. Have taken and passed an examination as prescribed by board rule;
- C. Have paid an application and certification fee as set under section 6215; and
- D. Meet one of the following educational requirements:

(1) A high school diploma or its equivalent and a minimum of 4,000 hours of documented clinically supervised work experience as an alcohol and drug counseling aide consisting of at least 3 of the following alcohol and drug treatment functions:

- (a) Clinical evaluation consisting of intake screening and differential assessment;

(b) Treatment planning, including initial, ongoing and discharge planning;

(c) Counseling of individuals, groups, couples or families;

(d) Case management. For purposes of this paragraph, "case management" means services that include, at a minimum, assessment of the needs of a client and the client's family, service planning, referral and linkage to other services, advocacy, monitoring and crisis management; or

(e) Client and family education; or

(2) At a minimum, course work as defined by board rule or an associate degree from an accredited college or university in behavioral sciences, addiction counseling or a related field as defined by board rule.

§6214-D. Licensed alcohol and drug counselor; qualification for licensure

1. Eligibility. To be eligible to practice as a licensed alcohol and drug counselor, an applicant must:

- A. Be at least 18 years of age;
- B. Have taken and passed an examination as prescribed by board rule;
- C. Have paid an application and license fee under section 6215; and
- D. Meet one of the following educational requirements:

(1) A high school diploma or its equivalent, course work as defined by board rule and a minimum of 6,000 hours of documented supervised practice in alcohol and drug counseling or 2,000 hours if the applicant holds a valid certified alcohol and drug counselor certification;

(2) An associate or bachelor's degree from an accredited college or university in clinically based behavioral sciences or addiction counseling or a related field as defined by board rule, course work as defined by board rule and a minimum of 4,000 hours of documented supervised practice in alcohol and drug counseling; or

(3) A master's degree from an accredited college or university in clinically based behavioral sciences or addiction counseling or a related field as defined by board rule.

course work as defined by board rule and a minimum of 2,000 hours of documented supervised practice in alcohol and drug counseling.

Sec. 17. 32 MRSA §6215, as amended by PL 1999, c. 685, §18, is further amended to read:

§6215. Application; fees

Application for registration as a ~~registered alcohol and drug counselor, certification~~ or licensure as a licensed to practice alcohol and drug counselor counseling must be on forms prescribed and furnished by the board. The Director of the Office of Licensing and Registration may establish by rule fees for purposes authorized under this subchapter in amounts that are reasonable and necessary for their respective purposes, except that the fee for any one purpose may not exceed \$200 annually. Rules adopted pursuant to this section are routine technical rules pursuant to Title 5, chapter 375, subchapter ~~H-A~~ 2-A.

Sec. 18. 32 MRSA §6216, as amended by PL 1995, c. 394, §21, is repealed and the following enacted in its place:

§6216. Examinations

The board shall prepare an examination to measure the competence of an applicant to engage in the practice of alcohol and drug counseling in accordance with this chapter. The board may employ and cooperate with any organization or consultant in the preparation, administration and grading of an examination. The board may adopt rules establishing examination criteria. Applicants for examination must pay an examination fee as set under section 6215.

Sec. 19. 32 MRSA §6217-A, as amended by PL 1995, c. 394, §§22 to 25 and PL 1999, c. 547, Pt. B, §78 and affected by §80, is further amended to read:

§6217-A. Suspension and revocation

The board may suspend or revoke a registration, certificate or license or ~~certificate of registration~~ pursuant to Title 5, section 10004. In addition, the board may refuse to issue or renew or the District Court may suspend, revoke or refuse to renew a license ~~or~~, certificate ~~of~~ or registration on any of the following grounds:

1. Fraud or deceit. The practice of fraud or deceit in obtaining a registration, certificate or license or ~~a certificate of registration~~ under this chapter or in connection with services rendered as an alcohol and drug counselor, alcohol and drug counseling aide or clinical supervisor;

2. Active abuse. Active abuse of alcohol or any other drug that in the judgment of the board is detrimental to the performance or competency of an alcohol and drug counselor, alcohol and drug counseling aide or clinical supervisor;

3. Mental incompetency. A legal finding of mental incompetency;

4. Aiding and abetting misrepresentation. Aiding or abetting a person not duly licensed, certified or registered as a provider of alcohol and drug counselor counseling services in representing that person as a licensed alcohol and drug counselor, certified clinical supervisor, certified alcohol and drug counselor or registered alcohol and drug ~~counselor~~ counseling aide in this State;

5. Unprofessional conduct or negligence. Any gross negligence, incompetency, misconduct or violation of the existing code of ethics in the performance of alcohol and drug counseling services;

6. Criminal conviction. Subject to the limitations of Title 5, chapter 341, conviction of a Class A, B or C crime or of a crime ~~which~~ that, if committed in this State, would be punishable by one year or more of imprisonment; ~~or~~

6-A. Incompetence in the practice of counseling. Any incompetence in the practice of counseling such as engaging in conduct that evidences a lack of ability or fitness to discharge the duty owed by the certified alcohol and drug counselor, alcohol and drug counseling aide or certified clinical supervisor to a client or engaging in conduct that evidences a lack of knowledge or inability to apply principles or skills to carry out the practice for which that person is licensed, certified or registered; or

7. Valid cause. Any other valid cause including violation of any provision of this chapter or rule of the board.

Sec. 20. 32 MRSA §6218, as amended by PL 1991, c. 456, §31, is further amended to read:

§6218. Issuance after denial, suspension or revocation

Any individual whose license, certification or registration has been denied, suspended or revoked may apply to the board for licensure, registration or certification reinstatement one year after the date of the board's original action. A competency review is a condition of reinstatement. The board shall determine the nature of this review and shall adopt rules in accordance with the Maine Administrative Procedure Act, Title 5, chapter 375, subchapter ~~H~~ 2-A.

Sec. 21. 32 MRSA §6219, as amended by PL 1999, c. 685, §19, is further amended to read:

§6219. Expiration and renewal

~~The license and registration~~ All licenses, certifications and registrations issued pursuant to this chapter expire annually on November 30th or at such other time as the Commissioner of Professional and Financial Regulation may designate. Licensure or registration may be renewed upon written application, the approval of the board and the payment of the fee provided. Before a license or registration may be renewed, the applicant must present evidence of continued professional learning and training of a type acceptable to the board. At a minimum, applicants for renewal must document the successful completion of at least 50 hours of continuing education, as defined by the board, within 2 years. Licensees, certificate holders and registrants must renew their licenses, certificates and registrations on or before November 30th annually by filing an application prescribed by the board, completing any continuing education requirements established by board rule and paying the required fee under section 6215.

~~Licensure or registration~~ Licenses, certifications and registrations issued pursuant to this chapter may be renewed up to 90 days after the date of expiration upon payment of a late fee in addition to the renewal fee. Any person who submits an application for renewal more than 90 days after the license renewal date is subject to all requirements governing new applicants under this chapter, except that the board may in its discretion, giving due consideration to the protection of the public, waive examination if that renewal application is made within 2 years from the date of that expiration or if the applicant is a registered inactive alcohol and drug counselor. The board is responsible for mailing notification of the date of expiration of a license or a certificate of registration to any licensed alcohol and drug counselor, or inactive alcohol and drug counselor or registered alcohol and drug counselor not later than 30 days prior to the date of expiration.

Sec. 22. 32 MRSA §§6219-A and 6219-B are enacted to read:

§6219-A. Continuing education

1. Requirements. The board may adopt continuing education requirements and approve programs and courses by rule. Rules adopted pursuant to this subsection are routine technical rules as defined by Title 5, chapter 375, subchapter 2-A.

2. Program approval. Each application for approval of a continuing education program or course must be submitted according to the guidelines prescribed by rule, together with the required fee

under section 6215. The fee is retained whether or not the application is approved.

3. Core requirement. The board may establish a core educational requirement for each license type under this chapter.

§6219-B. Inactive license status

1. Placement on inactive status. A registrant, certificate holder or licensee under this chapter who does not desire to perform any of the activities described in section 6203, subsections 1-C, 1-D, 1-E and 5 and who wants to preserve the registration, certificate or license while not engaged in any alcohol and drug counseling activity may surrender that registration, certificate or license to the board for placement on inactive status. The board may place the registration, certificate or license on inactive status and issue an inactive license only upon proper application and payment of the required fee under section 6215. During inactive status, the registrant, certificate holder or licensee is required to renew the inactive registration, certificate or license annually but is not required to meet the continuing educational provisions of section 6219-A.

2. Reinstatement to active status. A registrant, certificate holder or licensee who has surrendered a registration, certificate or license pursuant to this section may have that registration, certificate or license reinstated to active status by submitting proper application and payment of the required fee under section 6215 and completing continuing education requirements as determined by board rule. Rules adopted pursuant to this subsection are routine technical rules as defined by Title 5, chapter 375, subchapter 2-A.

Sec. 23. 32 MRSA §6220, as amended by PL 1991, c. 456, §33, is repealed and the following enacted in its place:

§6220. Endorsement

The board may waive the requirements of this chapter and grant a registration, certificate or license to any applicant who presents proof of authorization to practice by another jurisdiction of the United States or another country that maintains professional standards considered by the board to be substantially equivalent to or higher than those set forth in this chapter, as long as there is no cause for denial of a registration, certificate or license under section 6217-A. The applicant must pay the application and license fee as set under section 6215.

Sec. 24. Change license status. The Department of Professional and Financial Regulation shall change its records pertaining to licenses to reflect the changes in status of licenses affected by the

provisions of this Act and shall issue the appropriate licenses to implement the following provisions.

1. Every person holding an active alcohol and drug counselor registration, R.A.D.C., must be issued an alcohol and drug counseling aide registration, A.D.C.A., at the time the registrant next is issued a registration upon proper application and satisfaction of the registration requirements.

2. Every person holding an active alcohol and drug counselor registration at the time the registrant next is up for renewal may apply for the alcohol and drug counselor certificate, C.A.D.C. The applicant must meet the certified alcohol and drug counselor requirements of this Act.

3. Every person holding an active alcohol and drug counselor license at the time the licensee next is up for renewal must be issued an alcohol and drug counselor license, L.A.D.C., upon proper application for renewal.

Sec. 25. Effective date. This Act takes effect November 1, 2004.

Effective November 1, 2004.

CHAPTER 348

S.P. 536 - L.D. 1576

An Act To Provide Group Health Insurance Coverage to Maine Citizens Eligible for Assistance Under the Federal Trade Adjustment Assistance Reform Act of 2002

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

Whereas, workers displaced by foreign trade competition face hardship in obtaining affordable, comprehensive health care coverage for themselves and their dependents; and

Whereas, the federal government has created a program of health coverage tax credits to assist such workers in the purchase of health care coverage; and

Whereas, this legislation is necessary to facilitate the implementation of the federal program; 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. 5 MRSA §285, sub-§11 is enacted to read:

11. Coverage for persons eligible under federal Trade Adjustment Assistance Reform Act of 2002. The Department of Administrative and Financial Services, Division of Employee Health and Benefits may provide, through a qualified insurance company, a group health plan product for individuals certified to receive federal assistance in paying for health coverage under the terms of the health coverage tax credit program within the federal Trade Adjustment Assistance Reform Act of 2002, Public Law 107-210. Certification of eligibility is made by the Department of Labor. Individuals may enroll eligible dependents. Individuals eligible for enrollment in this group health plan remain eligible for enrollment and coverage through the duration of their federal trade adjustment assistance eligibility and for one month after their federal trade adjustment assistance eligibility status ends.

Any person who is receiving a benefit payment from the federal Pension Benefit Guaranty Corporation and who has attained the age of 55, but who is not eligible for Medicare benefits, may also enroll in the group health plan. These individuals may enroll eligible dependents.

The eligibility requirements under the federal Trade Adjustment Assistance Reform Act of 2002, Public Law 107-210 apply to persons enrolling in the group health plan provided pursuant to this subsection.

Premium rates must be established to reflect the costs of providing insurance coverage. Premium payments must be provided by the United States Department of Labor and individual enrollees. The division may accept any funds allocated under the federal Trade Adjustment Assistance Reform Act of 2002 and other sources in order to pay premiums and to administer the program.

Sec. 2. Appropriations and allocations. The following appropriations and allocations are made.

ADMINISTRATIVE AND FINANCIAL SERVICES, DEPARTMENT OF

Accident-Sickness-Health Insurance 0455

Initiative: Allocates funds for 2 limited-period Employee Benefit Technician positions and associated administrative costs for the Division of Employee Health and Benefits to enroll eligible displaced workers in the trade adjustment assistance health insurance program.