

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

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
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

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. 24-A MRSA §6603, sub-§1, ¶C, as enacted by PL 1993, c. 688, §1, is amended to read:

C. Must be operated pursuant to a trust agreement by a board of trustees that has complete fiscal control over the arrangement and that is responsible for all operations of the arrangement. The trustees selected must be owners, partners, officers, directors or employees of one or more employers in the arrangement. A trustee may not be an owner, officer or employee of the administrator or service company of the arrangement. The trustees have the authority to approve applications of association members for participation in the arrangement and to contract with a ~~state resident~~ licensed administrator or service company to administer the day-to-day affairs of the arrangement;

Sec. 2. 24-A MRSA §6603, sub-§5, as enacted by PL 1993, c. 688, §1, is amended to read:

5. Funds held in trust. All funds of a multiple-employer welfare arrangement must be held in trust in this State in the name of the arrangement in a qualified financial institution by state or federally chartered financial institutions until such time as they are disbursed.

Emergency clause. In view of the emergency cited in the preamble, this Act takes effect when approved.

Effective May 30, 2003.

CHAPTER 375

H.P. 111 - L.D. 102

An Act to Require Disclosure of Retail Prescription Drug Prices

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

Sec. 1. 32 MRSA §13784, sub-§3 is enacted to read:

3. Retail price. With each prescription dispensed, the pharmacist shall disclose to the patient in writing the usual and customary price of the prescription and the cost of any payment toward the price required of the patient.

Sec. 2. Application. The provisions of the Maine Revised Statutes, Title 32, section 13874, subsection 3 apply to a pharmacy beginning January 1, 2006 or when the pharmacy updates its computer software program with regard to prescription drug price and patient payment, whichever occurs first.

See title page for effective date.

CHAPTER 376

H.P. 579 - L.D. 780

An Act To Amend the Maine Registry of Certified Nursing Assistants

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

Whereas, the delivery of high-quality care for persons who are elderly or disabled depends in large part on the personal qualifications of the person delivering the care; and

Whereas, persons seeking to employ certified nursing assistants to deliver care to persons who are elderly or disabled need timely and accurate information about the qualifications of those potential workers; 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. 22 MRSA §1812-G, sub-§§4 and 5, as enacted by PL 1997, c. 465, §2, are amended to read:

4. Verification of credentials and training. The department shall verify the credentials and training of all ~~certified nursing assistants~~ applicants to the Maine Registry of Certified Nursing Assistants.

5. Verifying certified nursing assistant listing. A health care institution, facility or organization ~~employing that employs~~ a certified nursing assistant shall, before hiring a certified nursing assistant, verify with the Maine Registry of Certified Nursing Assistants that the certified nursing assistant is listed on the Maine Registry of Certified Nursing Assistants.

Sec. 2. 22 MRSA §1812-G, sub-§§6 to 9 are enacted to read:

6. Registry notations. Except as otherwise provided in this section:

A. An individual may not be employed in a hospital, nursing facility, home health agency or assisted housing program as a certified nursing assistant if that individual has been convicted in a court of law of a crime involving abuse, neglect or misappropriation of property in a health care setting; and

B. An individual may not be employed in a hospital, nursing facility, home health agency or assisted housing program as a certified nursing assistant if that individual:

(1) Has been the subject of a complaint involving abuse or neglect that was substantiated by the department pursuant to its responsibility to license hospitals, nursing facilities, home health agencies and assisted housing programs and that was entered on the Maine Registry of Certified Nursing Assistants; or

(2) Has been the subject of a complaint involving the misappropriation of property in a health care setting that was substantiated by the department and entered on the Maine Registry of Certified Nursing Assistants.

7. Time limit on consideration of prior criminal conviction. Except as otherwise provided in this section, an individual may not be employed in a hospital, home health agency or assisted housing program as a certified nursing assistant if that individual has a prior criminal conviction within the last 10 years of:

A. A crime for which incarceration of 3 years or more may be imposed under the laws of the state in which the conviction occurred; or

B. A crime for which incarceration of less than 3 years may be imposed under the laws of the state in which the conviction occurred involving sexual misconduct or involving abuse, neglect or exploitation in a setting other than a health care setting.

8. Exception. The restrictions on employment under subsections 6 and 7 do not apply to an individual listed and active on the Maine Registry of Certified Nursing Assistants prior to the effective date of this subsection, as long as the individual meets other state and federal requirements for certified nursing assistants and continues to maintain an active status by timely reregistration as required by the rules.

9. Notification. A nursing assistant training program must notify applicants to that program of the restrictions under subsections 6 and 7 prior to the acceptance of any applicant.

Emergency clause. In view of the emergency cited in the preamble, this Act takes effect when approved.

Effective June 2, 2003.

CHAPTER 377

H.P. 617 - L.D. 840

An Act To Clarify the Duties of Conservators

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

Sec. 1. 18-A MRSA §5-418, sub-§§(d) and (e) are enacted to read:

(d) If any property not included in the original inventory comes to the knowledge of the conservator or if the conservator or court learns that the value or description indicated in the original inventory for any item is erroneous or misleading, the conservator shall make a supplementary inventory or appraisal showing the market value of the new item or the revised market value or descriptions and the appraisers or other data relied upon, if any, and file it with the court and furnish copies to persons interested in the new information.

(e) When an inventory has not been filed under this section and an interested party makes a prima facie case that property that should have been inventoried is now missing, the conservator has the burden of proving by a preponderance of the evidence that the specific property would properly be excluded from the inventory.

See title page for effective date.

CHAPTER 378

H.P. 102 - L.D. 93

An Act Regarding the Duties of a Personal Representative

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

Sec. 1. 18-A MRSA §3-706, as amended by PL 1979, c. 690, §§8 and 9, is further amended by adding at the end a new paragraph to read: