

MAINE STATE LEGISLATURE

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OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTIETH LEGISLATURE

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

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FIRST REGULAR SESSION
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Penmor Lithographers
Lewiston, Maine
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CHAPTER 433

H.P. 885 - L.D. 1211

An Act To Amend the Laws Relating to Medical Certification of the Cause of Death and the Medical Examiner Act and To Create the Maine Elder Death Analysis Review Team

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

Sec. 1. 5 MRSA §200-H is enacted to read:

§200-H. Maine Elder Death Analysis Review Team

There is created, within the Office of the Attorney General, the Maine Elder Death Analysis Review Team, referred to in this section as "the team."

1. Composition. The team is composed of 13 members as follows:

A. The Chief Medical Examiner, ex officio;

B. The Director of Investigations for the Office of the Attorney General, ex officio;

C. The Director of the Division of Licensing and Certification within the Department of Human Services, Bureau of Medical Services, ex officio;

D. The Director of the Health Care Crimes Unit within the Office of the Attorney General, ex officio;

E. The Director of Community Resource Development within the Department of Human Services, Bureau of Elder and Adult Services, ex officio;

F. The Director of the Adult Protective Services program within the Department of Human Services, Bureau of Elder and Adult Services, ex officio;

G. The Director of Adult Mental Health Services within the Department of Behavioral and Developmental Services, ex officio;

H. The executive director of the long-term care ombudsman program, as established in Title 22, section 5106, subsection 11-C, ex officio;

I. A representative of victim services, appointed by the Attorney General;

J. A commanding officer of the Criminal Investigation Division within the Department of Public Safety, Bureau of the State Police, appointed by the Attorney General;

K. A prosecutor, nominated by a statewide association of prosecutors and appointed by the Attorney General;

L. A police chief, nominated by a statewide association of chiefs of police and appointed by the Attorney General; and

M. A sheriff, nominated by a statewide association of sheriffs and appointed by the Attorney General.

2. Designees; terms of office. An ex officio member may appoint a designee to represent the ex officio member on the team. A designee, once appointed, qualifies as a full voting member of the team who may hold office and enjoy all the other rights and privileges of full membership on the team. All of the appointed members of the team serve for a term of 3 years. Any vacancy on the team must be filled in the same manner as the original appointment, but for the unexpired term.

3. Meetings; officers. The team shall meet at such time or times as may be reasonably necessary to carry out its duties, but it shall meet at least once in each calendar quarter at such place and time as the team determines, and it shall meet at the call of the chair. The Attorney General shall call the first meeting before January 1, 2004. The team shall organize initially and thereafter annually by electing a chair and a vice-chair from among its members. The vice-chair shall also serve as secretary.

4. Powers and duties. The team shall examine deaths and serious injuries associated with suspected abuse or neglect of elderly adults and vulnerable adults. The purpose of such examinations is to identify whether systems that have the responsibility to assist or protect victims were sufficient for the particular circumstances or whether such systems require adjustment or improvement. The team shall recommend methods of improving the system for protecting persons from abuse and neglect, including modifications of statutes, rules, training and policies and procedures.

5. Access to information and records. In any case subject to review by the team, upon oral or written request of the team, notwithstanding any other provision of law, any person that possesses information or records that are necessary and relevant to a team review shall as soon as practicable provide the team with the information and records. Persons disclosing or providing information or records upon request of the team are not criminally or civilly liable for disclosing or providing information or records in compliance with this subsection.

6. Confidentiality. The proceedings and records of the team are confidential and are not subject to

subpoena, discovery or introduction into evidence in a civil or criminal action. The Office of the Attorney General shall disclose conclusions of the review team upon request, but may not disclose information, records or data that are otherwise classified as confidential.

Sec. 2. 22 MRSA §2842, sub-§2-A is enacted to read:

2-A. Medical certification. Notwithstanding subsection 2, with respect to a person who dies within the State naturally and for whom the physician was the attending physician the medical certification of the cause of death may be completed and signed by a physician authorized to practice at the Veterans Administration Hospital at Togus or at another federal medical facility within the State or by a physician licensed to practice in New Hampshire, Vermont or Massachusetts, who, at the request of the Chief Medical Examiner, is willing to do so.

Sec. 3. 22 MRSA §3025, sub-§1, as amended by PL 2001, c. 222, §4 and c. 354, §3, is further amended to read:

1. Circumstances of death that must be reported. A medical examiner case ~~exists~~ may exist and must be reported as provided in section 3026 when remains are found ~~which~~ that may be human and raise suspicion that death has occurred under any of the following circumstances:

A. Death is suspected of having been caused by any type of physical injury, including poisoning, regardless of whether the suspected manner of death is homicide, suicide or accident; This circumstance must be reported irrespective of whether the deceased had been attended by a physician, was a patient in a hospital, survived for a considerable time following the physical injury or died from terminal natural causes consequent to and following the physical injury;

B. Suddenly when the person is in apparent good health and has no specific natural disease sufficient to explain death;

C. During diagnostic or therapeutic procedures under circumstances indicating gross negligence or when clearly due to trauma or poisoning unrelated to the ordinary risks of those procedures;

D. Death when the person is in custody pursuant to an arrest, confined in a state correctional facility, county institution, facility or local lockup, unless clearly certifiable by an attending physician as due to specific natural causes;

E. Death while the person is a patient or resident of a facility of the Department of Behavioral and

Developmental Services or residential care facility maintained or licensed by the Department of Human Services, unless clearly certifiable by an attending physician as due to specific natural causes;

F. Death suspected of being due to a threat to the public health when the authority of the medical examiner is needed to adequately study the case for the protection of the public health;

G. Death suspected of not having been certified, including, but not limited to, bodies brought into the State and any buried remains uncovered other than by legal exhumation;

H. Deaths suspected of being medical examiner cases which may have been improperly certified or inadequately examined, including, but not limited to, bodies brought into the State under those circumstances;

I. Sudden infant death syndrome deaths and all other deaths of children under the age of 18 unless clearly certifiable by an attending physician as due to specific natural causes unrelated to abuse or neglect;

J. Whenever human or possibly human remains are discovered not properly interred or disposed of, for which the responsibility to do so cannot be readily determined; or

K. Any cause when there is no attending physician capable of certifying the death as due to natural causes. When a person dies who is under the care of a religious practitioner who uses prayer and spiritual means of healing, the fact that the deceased has been under such religious care does not warrant suspicion of foul play or investigation beyond that warranted by the other facts of the case.

In any case in which the necessity of a report is questionable, a report must be made.

Sec. 4. 22 MRSA §3025, sub-§1-A is enacted to read:

1-A. Medical examiner case determination. Notwithstanding that a case must be reported under subsection 1, the acceptance of any reported death as a medical examiner case is to be determined by the Chief Medical Examiner unless acceptance is specifically ordered by the Attorney General or district attorney having jurisdiction.

The following deaths that must be reported need not be accepted by the Chief Medical Examiner as a medical examiner case:

A. Deaths due to the consequences of long-term alcohol use, long-term exposure to environmental or occupational toxins or long-term exposure to carcinogens;

B. Deaths in the elderly who have sustained limb or axial fractures, excluding the head, for which they are or have been hospitalized; or

C. Sudden natural deaths in the elderly who have not had previous specific symptoms or who were not under treatment by a physician for the specific natural cause that is considered to be the cause of death.

These reportable deaths may be referred back to the attending physician by the Chief Medical Examiner for certification of the death, even though the attending physician has not treated the patient for the specific natural disease that the attending physician will enter as the physician's diagnosis.

Sec. 5. 22 MRSA §3025, sub-§2, as amended by PL 2001, c. 222, §5, is repealed.

Sec. 6. 22 MRSA §3025, sub-§4, as amended by PL 2001, c. 222, §6, is repealed.

See title page for effective date.

CHAPTER 434

S.P. 545 - L.D. 1590

An Act To Amend the Motor Vehicle Laws

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

Whereas, this legislation needs to take effect before the expiration of the 90-day period in order to delay the effective date of the Maine Revised Statutes, Title 29-A, section 1601-A; 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. 10 MRSA §1171-B, sub-§1, ¶¶A, B and D, as enacted by PL 1987, c. 521, §5, are amended to read:

A. Except as provided by this section, a person may not engage in business or serve in the capacity of or act as a manufacturer or distributor without obtaining a license for each line make maintained in the State as provided in this section.

B. An application for a license for a manufacturer or distributor must be on a form prescribed by the Secretary of State. The applicant shall file a separate application for each separate line make. The application must contain the manufacturer or distributor's address of its principal place of business, the address where notices should be sent and the address of its registered agent in this State and must be accompanied by its annual report and a list of its franchised new motor vehicle dealers in this State.

D. The annual fee for a license is \$1,500 ~~for each manufacturer and distributor.~~

Sec. 2. 29-A MRSA §101, sub-§17, ¶C, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

C. Is used in the transportation of hazardous materials requiring placarding under the federal Hazardous Materials Transportation Act and related regulations in 49 Code of Federal Regulations, Part 172, Subpart F or any quantity of a material listed as a select agent or toxin in 42 Code of Federal Regulations, Part 73.

Sec. 3. 29-A MRSA §101, sub-§27, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

27. Hazardous material. "Hazardous material" ~~has the same meaning as in the federal Hazardous Materials Transportation Act,~~ means any material that has been designated as hazardous under 49 United States Code, Section 1801 et seq Sections 5101 to 5127 (2003) and is required to be placarded under 49 Code of Federal Regulations, Part 172, Subpart F or any quantity of material listed as a select agent or toxin in 42 Code of Federal Regulations, Part 73.

Sec. 4. 29-A MRSA §251, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, is amended to read:

§251. Records and databases related to driver's licenses and motor vehicles

1. Records required to be kept. The Secretary of State shall keep a record of applications for driver's licenses, motor vehicle registrations and certificates of title, and of issued driver's licenses, instruction permits, motor vehicle registrations and certificates of title.