

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
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NON-EMERGENCY LAWS IS
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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 449

S.P. 403 - L.D. 1197

An Act To Preserve the Role of
Assisted Living

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

Sec. 1. 22 MRSA §7807 is enacted to read:

§7807. License not required

A license is not required to operate an independent housing with services program, as defined in section 7852.

Sec. 2. 22 MRSA §7853, first ¶, as enacted by PL 2001, c. 596, Pt. A, §1 and affected by Pt. B, §25, is amended to read:

The commissioner shall adopt rules for licensed assisted housing programs. Rules adopted pursuant to this section are major substantive rules as defined in Title 5, chapter 375, subchapter ~~H-A~~ 2-A.

Sec. 3. 22 MRSA §7853, sub-§§5 and 6, as enacted by PL 2001, c. 596, Pt. A, §1 and affected by Pt. B, §25, are amended to read:

5. Assisted living program rules. The commissioner shall adopt rules for ~~independent housing with services programs and~~ assisted living programs. In addition to the subject matter of rules listed in subsection 2, the rules must recognize and promote the efficiencies inherent in providing services in the applicable setting with respect to staffing and other responsibilities, while ensuring quality of care and safety. The rules must set requirements and standards for services rendered in the applicable settings that recognize the differences between those settings and private homes served pursuant to chapter 419. The rules must permit staff in assisted ~~housing~~ living programs to be shared in accordance with section 1812-C, subsection 6-A and section 7914.

6. Applicability of residents' rights rules. Any rules adopted pursuant to this section pertaining to residents' rights are applicable to ~~independent housing with services programs and~~ licensed assisted living housing programs.

Sec. 4. 22 MRSA §7853, sub-§7 is enacted to read:

7. Relationship to tax credit financing. In adopting rules under this section, the department shall give due consideration to and shall avoid conflicts

with the requirements of the federal Internal Revenue Code and regulations promulgated under the federal Internal Revenue Code and any other requirements imposed by the Internal Revenue Service when financing based on low-income housing tax credits is utilized for the housing component of assisted living programs.

Sec. 5. Tax credit financing. By October 1, 2003, the Maine State Housing Authority shall file a request with the Internal Revenue Service for a private letter ruling regarding compliance with applicable provisions of Section 42 of the federal Internal Revenue Code and regulations promulgated under that section for the housing component of assisted living programs as such compliance pertains to rulemaking by the Department of Human Services for assisted living programs. In developing the request, the Maine State Housing Authority shall consult with the Department of Human Services, providers of assisted living programs that utilize financing based on low-income housing tax credits and representatives of lenders and investors in affordable assisted living programs financed by low-income housing tax credits. Within 3 months of receiving guidance from the Internal Revenue Service, the Maine State Housing Authority and the Department of Human Services shall report to the joint standing committee of the Legislature having jurisdiction over health and human services matters regarding that guidance and any recommendations for legislation or rulemaking.

Sec. 6. Landlord-tenant responsibilities. The Department of Human Services and the Maine State Housing Authority shall work with representatives of assisted living program providers, consumers, consumer advocates and entities providing financing through low-income housing tax credits on landlord-tenant responsibilities in assisted living programs. The goal is to develop a common and consistent process and operative rules for the lease, termination of the lease, transfer of a consumer and discharge of a consumer. The Department of Human Services and the Maine State Housing Authority shall report to the Joint Standing Committee on Health and Human Services by January 15, 2004 on their progress on issues related to the landlord-tenant responsibilities in assisted living programs.

Sec. 7. Rulemaking. The Department of Human Services shall amend the rules for independent housing with services programs that receive funding from the Bureau of Elder and Adult Services to provide for copayment requirements of not less than 20% and not more than 40% of the cost of services. Notwithstanding the provisions of Public Law 1999, chapter 4, Part N, section 2, rules adopted pursuant to

this section are routine technical rules as defined in the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A.

See title page for effective date.

CHAPTER 450

H.P. 1048 - L.D. 1429

An Act To Authorize the Department of Audit To Perform Other Audits and Reviews

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

Sec. 1. 5 MRSA §243, sub-§2, as amended by PL 1999, c. 208, §1, is further amended to read:

2. Counties. To perform annual audits of all accounts and other financial records of the several counties or any departments or agencies thereof, the expenses of such audits to be paid by the counties. ~~Reports of such audits must accompany the county estimates submitted to the Legislature as provided by Title 30-A, chapter 3, subchapter I, and must be published in the county reports next following the completion of such audits;~~

Sec. 2. 5 MRSA §243-A, as enacted by PL 2001, c. 104, §1, is amended to read:

§243-A. Random audits and reviews

In addition to the powers and duties specified in section 243, the Department of Audit shall conduct random audits and reviews of state programs to sample the accuracy of the financial records of those departments and agencies that administer or oversee the programs and report to the joint standing committees of the Legislature having jurisdiction over state and local government matters and appropriations and financial affairs no later than January 15, 2002 and no later than January 15th of each year thereafter on the random auditing and review of state programs. The report must include at a minimum the number of random audits and reviews conducted, the programs audited and reviewed and an assessment of findings and resulting recommendations ~~resulting from the additional audits.~~

This section is repealed January 30, 2006.

Sec. 3. 5 MRSA §243-B is enacted to read:

§243-B. Report regarding discrepancies

In addition to the report required pursuant to section 243-A, if in the course of any audit of a state department or agency the Department of Audit finds

significant discrepancies in the financial records of that state department or agency, the State Auditor shall report, in person, to the joint standing committee of the Legislature that has jurisdiction over that state department or agency within 60 days of the audit findings and the joint standing committees of the Legislature having jurisdiction over appropriations and financial affairs and state and local government matters. If the Legislature is not in session during that 60 days, the State Auditor may report in writing to those committees.

Sec. 4. 5 MRSA §244, as amended by PL 1999, c. 208, §2, is further amended to read:

§244. Records and reports; findings of improper practices

The State Auditor ~~keeps no accounts in the Department of Audit~~ may not perform the accounting functions for the State, but shall audit the accounts, books, records and other evidences of financial transactions kept in the Department of Financial and Administrative Services or in the other departments and agencies of State Government. The State Auditor shall prepare and publish a report for each fiscal year, setting forth the essential facts of such audits in summary form, within the following fiscal year after the books of the State Controller have been officially closed. If the State Auditor finds in the course of an audit evidences of ~~material weaknesses, reportable conditions, improper transactions, or of incompetence~~ unacceptable practices in keeping accounts or handling funds or of any other improper practice of financial administration, the State Auditor shall report the same to the Governor and the Legislature immediately. After reporting evidence of material weaknesses or reportable conditions, the State Auditor shall provide for subsequent review to ensure that those conditions are addressed in a timely manner and report to the Governor and the Legislature to confirm the status of the correction of those conditions. If the State Auditor finds evidences of illegal transactions, the State Auditor shall immediately report those transactions both to the Governor and to the Attorney General. All such evidences must be included in the annual reports of the State Auditor and the State Auditor may, at the State Auditor's discretion, make them public at any time during the fiscal year.

By September 15th of each year, the State Auditor shall schedule a meeting with each joint standing committee of the Legislature having jurisdiction over those departments or agencies in the audit of which the State Auditor has identified findings and the joint standing committees of the Legislature having jurisdiction over appropriations and financial affairs and state and local government matters. The State Auditor shall present an assessment of findings and recommendations of the most recently