

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND TWENTY-FIRST LEGISLATURE

FIRST SPECIAL SESSION
August 21, 2003 to August 22, 2003

The General Effective Date For
First Special Session
Non-Emergency Laws Is
November 22, 2003

SECOND REGULAR SESSION
January 7, 2004 to January 30, 2004

The General Effective Date For
Second Regular Session
Non-Emergency Laws Is
April 30, 2004

SECOND SPECIAL SESSION
February 3, 2004 to April 30, 2004

The General Effective Date For
Second Special Session
Non-Emergency Laws Is
July 30, 2004

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

Penmor Lithographers
Lewiston, Maine
2004

Sec. 4. Revision clause. Wherever in the Maine Revised Statutes the words "applied technology education" appear, those words are amended to read and mean "career and technical education."

Sec. 5. Revision clause. Wherever in the Maine Revised Statutes the words "applied technology center," "applied technology region," "applied technology satellite," "applied technology program" or "applied technology course of study" appear or reference is made to any of those things, those words are amended to read or mean, as the case may be, "career and technical education center," "career and technical education region," "career and technical education satellite," "career and technical education program" or "career and technical education course of study," respectively.

Sec. 6. Revision clause. Wherever in the Maine Revised Statutes, Title 20-A the words "applied technology" appear when referring to an educational purpose and training for careers, those words are amended to read and mean "career and technical."

See title page for effective date.

CHAPTER 546

H.P. 1145 - L.D. 1563

An Act Regarding Standard Contracts for Assisted Living Services

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

Sec. 1. 22 MRSA §7862 is enacted to read:

§7862. Contracts for assisted living services

All contracts or agreements executed by providers of assisted living services under this chapter and a consumer or the legal representative of the consumer are subject to the requirements of this section.

1. Required contract provisions. Each contract or agreement for assisted living services must contain the provisions designated as required in the standardized contract adopted by the department by rule pursuant to Public Law 1999, chapter 731, Part BBBB, section 5 and may contain additional provisions as allowed under subsection 2.

2. Other contract provisions. In addition to the provisions required under subsection 1, each contract or agreement for assisted living services may contain provisions that do not violate a state law or rule or federal law or regulation. A contract or agreement must be consistent with the rules adopted by the

department applicable to the type of assisted living services provided.

3. Rulemaking. The commissioner shall adopt rules to implement this section. The rules must be developed in consultation with the long-term care ombudsman program established under section 5107-A, consumer representatives and providers of assisted living services. Rules adopted pursuant to this section are routine technical rules as defined by Title 5, chapter 375, subchapter 2-A.

See title page for effective date.

CHAPTER 547

H.P. 1282 - L.D. 1760

An Act To Amend the Random Drug Testing Laws

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

Sec. 1. 26 MRSA §683, sub-§2, as amended by PL 2001, c. 556, §2, is further amended by amending the first paragraph to read:

2. Written policy. Before establishing any substance abuse testing program, an employer must develop or, as required in section 684, subsection 3, paragraph C, must appoint an employee committee to develop a written policy in compliance with this subchapter providing for, at a minimum:

Sec. 2. 26 MRSA §684, sub-§3, as amended by PL 2001, c. 706, §1, is further amended to read:

3. Random or arbitrary testing of employees. In addition to testing employees on a probable cause basis under subsection 2, an employer may require, request or suggest that an employee submit to a substance abuse test on a random or arbitrary basis if ~~at least one of the following conditions is met:~~

A. The employer and the employee have bargained for provisions in a collective bargaining agreement, either before or after the effective date of this subchapter, that provide for random or arbitrary testing of employees. A random or arbitrary testing program that would result from implementation of an employer's last best offer is not considered a provision bargained for in a collective bargaining agreement for purposes of this section; ~~or~~

B. The employee works in a position the nature of which would create an unreasonable threat to the health or safety of the public or the employee's ~~co-workers~~ coworkers if the employee

were under the influence of a substance of abuse. It is the intent of the Legislature that the requirements of this paragraph be narrowly construed; or

C. The employer has established a random or arbitrary testing program under this paragraph that applies to all employees, except as provided in subparagraph (4), regardless of position.

(1) An employer may establish a testing program under this paragraph only if the employer has 50 or more employees who are not covered by a collective bargaining agreement.

(2) The written policy required by section 683, subsection 2 with respect to a testing program under this paragraph must be developed by a committee of at least 10 of the employer's employees. The employer shall appoint members to the committee from a cross-section of employees who are eligible to be tested. The committee must include a medical professional who is trained in procedures for testing for substances of abuse. If no such person is employed by the employer, the employer shall obtain the services of such a person to serve as a member of the committee created under this subparagraph.

(3) The written policy developed under subparagraph (2) must also require that selection of employees for testing be performed by a person or entity not subject to the employer's influence, such as a medical review officer. Selection must be made from a list, provided by the employer, of all employees subject to testing under this paragraph. The list may not contain information that would identify the employee to the person or entity making the selection.

(4) Employees who are covered by a collective bargaining agreement are not included in testing programs pursuant to this paragraph unless they agree to be included pursuant to a collective bargaining agreement as described under paragraph A.

(5) Before initiating a testing program under this paragraph, the employer must obtain from the Department of Labor approval of the policy developed by the employee committee, as required in section 686. If the employer does not approve of the written policy developed by the employee committee, the employer may decide not to submit the policy to the department and not

to establish the testing program. The employer may not change the written policy without approval of the employee committee.

(6) The employer may not discharge, suspend, demote, discipline or otherwise discriminate with regard to compensation or working conditions against an employee for participating or refusing to participate in an employee committee created pursuant to this paragraph.

Sec. 3. 26 MRSA §685, sub-§2, ¶B, as amended by PL 1989, c. 832, §12, is further amended to read:

B. Before taking any action described in paragraph A in the case of an employee who receives an initial confirmed positive result, an employer shall provide the employee with an opportunity to participate for up to 6 months in a rehabilitation program designed to enable the employee to avoid future use of a substance of abuse and to participate in an employee assistance program, if the employer has such a program. The employer may take any action described in paragraph A if the employee receives a subsequent confirmed positive result from a test administered by the employer under this subchapter.

See title page for effective date.

CHAPTER 548

H.P. 1294 - L.D. 1772

An Act To Revise the Frequency of Home Health Licensing Surveys

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

Sec. 1. 22 MRSA §2144, sub-§3, ¶B, as enacted by PL 1983, c. 570, is repealed and the following enacted in its place:

B. The term of a full license may not exceed 24 months.

Sec. 2. 22 MRSA §2144, sub-§3, ¶D, as enacted by PL 1983, c. 570, is amended to read:

D. Regardless of the term of the license, the department shall monitor for continued compliance with applicable laws and rules on at least ~~an annual~~ a biennial basis. The department shall adopt rules, which are routine technical rules as defined