

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

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IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,
TITLE 3, SECTION 163-A, SUBSECTION 4.

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for maintaining accountability for the custody and use of resources and shall assign qualified individuals for that purpose. Periodic comparison must be made between the resources and the recorded accountability of the resources to reduce the risk of unauthorized use or loss and protect against waste and wrongful acts. The vulnerability and value of the state agency or department resources determine the frequency of this comparison.

Within each state agency or department there must be a qualified employee whose responsibility, in addition to the employee's regularly assigned duties, is to ensure that the state agency or department has written documentation of its internal accounting and administrative control system on file. The employee shall, annually, or more often as conditions warrant, evaluate the effectiveness of the state agency's or department's internal control system and establish and implement changes necessary to ensure the continued integrity of the system. The employee shall:

- (1) Ensure that the documentation of all internal control systems is readily available for examination by the State Controller, Commissioner of Administrative and Financial Services and State Auditor;
- (2) Certify to the State Controller that the appropriate updates have been made and implemented by the state agency or department;
- (3) Ensure that the results of audits and recommendations to improve state agency or department internal controls are promptly evaluated by the state agency or department management;
- (4) Ensure that timely and appropriate corrective actions are effected by the state agency or department management in response to an audit; ~~and~~
- (5) Ensure that all actions determined by the state agency or department management as necessary to correct or otherwise resolve matters are addressed by the state agency or department in its budgetary request to the Legislature; and
- (6) Immediately notify the State Controller when an auditor, inspector general or other representative from the Federal Government or another nonstate organization requests access to state agency resources and records related to internal controls.

All unaccounted for variances, losses, shortages or thefts of funds or property must be immediately reported to the State Controller, who shall review the matter to determine the amount involved that must be reported to the appropriate state agency or department management, law enforcement officials and the State Auditor. The State Controller shall also determine the internal control weakness that contributed to or caused the condition. The State Controller shall then make recommendations to the state agency or department official overseeing the internal control system and other appropriate management officials. The recommendations of the State Controller must address the correction of the conditions found and the necessary internal control policies and procedures that must be modified. The state agency or department oversight official and the appropriate management officials shall immediately implement policies and procedures necessary to prevent a recurrence of the problems identified and report the steps taken to the State Controller. From time to time the State Controller shall examine the policies and procedures implemented to ensure that the relevant policies and procedures are functioning appropriately.

Sec. 4. Revision clause. Wherever in the Maine Revised Statutes the words "Bureau of Accounts and Control" appear or reference is made to that bureau within the Department of Administrative and Financial Services, those words are amended to read or mean, as the case may be, "Office of the State Controller," and the Revisor of Statutes shall implement this revision when updating, publishing or republishing the statutes.

See title page for effective date.

CHAPTER 601

H.P. 1432 - L.D. 1933

**An Act To Implement the
Recommendations of the Joint
Standing Committee on Business,
Research and Economic
Development Regarding the Board of
Licensure in Medicine Pursuant to
Reviews Conducted under the State
Government Evaluation Act**

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

Sec. 1. 24 MRSA §2505, first ¶, as enacted by PL 1977, c. 492, §3, is amended to read:

Any professional competence committee within this State and any physician licensed to practice or otherwise lawfully practicing within this State shall, and any other person may, report the relevant facts to the appropriate board relating to the acts of any physician in this State if, in the opinion of the committee, physician or other person, the committee or individual has reasonable knowledge of acts of the physician amounting to gross or repeated medical malpractice, habitual drunkenness, addiction to the use of drugs ~~or~~, professional incompetence or sexual misconduct identified by board rule. The failure of any such professional competence committee or any such physician to report as required is a civil violation for which a fine of not more than \$1,000 may be adjudged.

Sec. 2. 32 MRSA §3266, as amended by PL 1993, c. 600, Pt. A, §201, is further amended to read:

§3266. Elections; meetings; seal; expenses

The members of the board shall meet on the 2nd Tuesday of July of the uneven-numbered years at the time and place the board may determine and shall elect a chair and a secretary who shall hold their respective offices for the term of 2 years. The secretary of the board ~~is the treasurer and shall perform such duties as delegated by the board, including license application review functions.~~ The board through its executive director shall receive all fees, charges and assessments payable to the board and account for and pay over the same according to law. The board shall hold regular meetings, one in March, one in July and one in November of each year, and any additional meetings at other times and places as it may determine. The board shall cause a seal to be engraved and shall keep a record of all their proceedings.

Sec. 3. 32 MRSA §3270-C, sub-§1, as amended by PL 1993, c. 600, Pt. A, §207, is further amended to read:

1. Grounds. The sanctions of section ~~3283-A~~ 3282-A apply to a physician assistant who has:

- A-1. Claimed to be legally licensed or allowed another to represent that physician assistant as holding a valid license;
- B. Performed otherwise than at the direction and under the supervision of a physician licensed by this board;
- C. Been delegated and performed a task or tasks beyond the physician assistant's competence; and
- D. Administered, dispensed or prescribed a controlled substance otherwise than as authorized by law.

Sec. 4. 32 MRSA §3271, sub-§2, as repealed and replaced by PL 1995, c. 462, Pt. A, §60, is amended to read:

2. Postgraduate training. Each applicant who has graduated from an accredited medical school on or after January 1, 1970 must have satisfactorily completed at least 24 months in a graduate educational program ~~approved~~ accredited by the Accreditation Council on Graduate Medical Education, the Canadian Medical Association or the Royal College of Physicians and Surgeons of Canada. Notwithstanding other requirements of postgraduate training, an applicant is eligible for licensure when the candidate has satisfactorily graduated from a combined postgraduate training program in which each of the contributing programs is accredited by the Accreditation Council on Graduate Medical Education and the applicant is eligible for accreditation by the American Board of Medical Specialties in both specialties. Each applicant who has graduated from an accredited medical school prior to January 1, 1970, must have satisfactorily completed at least 12 months in a graduate educational program ~~approved~~ accredited by the Accreditation Council on Graduate Medical Education, the Canadian Medical Association or the Royal College of Physicians and Surgeons of Canada. Each applicant who has graduated from an unaccredited medical school must have satisfactorily completed at least 36 months in a graduate educational program ~~approved~~ accredited by the Accreditation Council on Graduate Medical Education, the Canadian Medical Association, the Royal College of Physicians and Surgeons of Canada or the Royal Colleges of Physicians of England, Ireland or Scotland. ~~Notwithstanding this subsection, an applicant who is board certified in family practice and who graduated prior to July 1, 1974, is board certifiable, board certified or board eligible in emergency medicine and who graduated prior to July 1, 1982, by the American Board of Medical Specialties is deemed to meet the postgraduate training requirements of this subsection.~~

Sec. 5. 32 MRSA §3276, as amended by PL 1999, c. 685, §9, is further amended to read:

§3276. Temporary licensure

A physician who is qualified under section 3275 may, without examination, be granted a temporary license for a period not to exceed one year, when the board determines that this action is necessary in order to provide relief for local or national emergencies or for situations in which the number of physicians is insufficient to supply adequate medical services or for the purpose of permitting the physician to serve as locum tenens for another physician who is licensed to practice medicine in this State. The fee for this temporary license may not be more than \$400.

Sec. 6. 32 MRSA §3278, as amended by PL 1999, c. 685, §10, is further amended to read:

§3278. Locum tenens

A physician who is ~~qualified under section 3275 may, at the discretion of the board, be given a temporary license to be effective for not more than 6 months after issuance for the purpose of permitting the physician to serve as "locum tenens" for some other physician who is then licensed to practice medicine in this State and whose own license is not temporary or limited under the provisions of this chapter, if the Maine physician is unable to maintain the practice because of illness or because of absence from the general locus of this physician's practice or for other reasons determined sufficient by the board. The fee for this temporary license may not be more than~~ presents a current active unconditioned license from another United States licensing jurisdiction and who can provide reasonable proof of meeting qualifications for licensure in this State must be issued a license to serve as locum tenens for declared emergencies in the State or for other appropriate reasons as determined by the board. The locum tenens license is effective for not more than 100 days. The fee for this locum tenens license may be not more than \$400.

Sec. 7. 32 MRSA §3279, sub-§1, as amended by PL 1993, c. 600, Pt. A, §215, is repealed.

Sec. 8. 32 MRSA §3279, sub-§§2 and 6, as amended by PL 1993, c. 600, Pt. A, §215, are further amended to read:

2. Residents. An applicant who is qualified under section 3271, subsection 1; may receive a temporary educational certificate from the board to act as a hospital resident. A certificate to a hospital resident may be renewed ~~annually~~ every 3 years at the discretion of the board for not more than ~~5~~ 7 years.

6. Fees. The board shall set fees for physicians and students licensed pursuant to this section. The amounts set for licenses issued under this section may not be more than ~~\$100~~ \$300.

Sec. 9. 32 MRSA §3280-A, sub-§2, ¶A, as enacted by PL 1993, c. 526, §2 and affected by §4, is amended to read:

A. The board may pose any question to the licensee or other sources that the board determines appropriate related to qualification for relicensure. These matters may include, but are not limited to, confirmation of health status, professional standing and conduct, professional liability claims history and license status in other jurisdictions. The board shall, after affording the licensee due process, deny license renewal if the board finds cause that may be considered

grounds for refusal to renew the license pursuant to section 3282-A, including, but not limited to, a determination that an outstanding financial obligation to the board exists; and

See title page for effective date.

CHAPTER 602

H.P. 1437 - L.D. 1940

An Act To Clarify Departmental Reporting Requirements for Developmental Disability Prevention Activities

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

Sec. 1. 22 MRSA §3573, as amended by PL 2001, c. 354, §3, is repealed and the following enacted in its place:

§3573. Reporting

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Developmental disability" means a disability attributable to a mental or physical impairment or combination of mental and physical impairments that:

- (1) Is manifested before the person reaches 22 years of age;
- (2) Is likely to continue indefinitely;
- (3) Results in substantial functional limitations in 3 or more of the following areas of major life activity:
 - (a) Self-care;
 - (b) Receptive and expressive language;
 - (c) Learning;
 - (d) Mobility;
 - (e) Self-direction;
 - (f) Capacity for independent living; and
 - (g) Economic self-sufficiency.

A person from birth through 9 years of age who has a substantial developmental delay or specific congenital or acquired condition