

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

(3) Knowledge of legal documents, court procedures and rules of evidence; and

(4) Knowledge of medical and legal terminology and practices with respect to workers' compensation.

B. The board shall ensure that advocates receive appropriate and ongoing education and training.

C. An advocate may not represent before the board any insurer, self-insurer or 3rd-party administrator for a period of 2 years after terminating employment with the board.

Sec. 12. 39-A MRSA §222, sub-§3, ¶B, as enacted by PL 1991, c. 885, Pt. A, §8 and affected by §§9 to 11, is amended to read:

B. The superintendent shall consult with the ~~chair~~ executive director of the board in formulating and adopting these rules.

Sec. 13. 39-A MRSA §320, as enacted by PL 1991, c. 885, Pt. A, §8 and affected by §§9 to 11, is amended to read:

§320. Review by full board

Within 5 days ~~of~~ after issuing a decision, a hearing officer may request that the full board review a decision of the hearing officer if the decision involves an issue that is of significance to the operation of the workers' compensation system. There may be no such review of findings of fact made by a hearing officer.

If a hearing officer asks for review, the time for appeal to the Law Court pursuant to section 322 is stayed and no further action may be taken until a decision of the board has been made. If the board reviews a decision of a hearing officer, any appeal must be from the decision of the board. The time for appeal begins upon the board's issuance of a written decision on the merits of the case or written notice that the board denies review.

~~Upon the approval of a majority of the members of the board, the request for review may be granted. The board shall vote on whether to review the decision. If a majority of the board's membership fails to vote to grant review or the board fails to act within 60 days after receiving the initial request for review, the decision of the hearing officer stands. If the board votes to review the decision, the board may delegate responsibility for reviewing the decision of the hearing officer under this section to panels of board members consisting of equal numbers of representatives of labor and management. Review must be on the record and on written briefs only. Upon a majority vote of a majority of the board's membership, the board shall issue a written decision affirming, reversing or~~

modifying the hearing officer's decision. The written decision of the board must be filed with the board and mailed to the parties or their counsel. ~~The~~ If the board fails to adopt a decision by majority vote, the decision of the hearing officer stands if the result of the voting is less than a majority vote and is subject to direct appellate review in the same manner as if the board had not voted to review the decision.

Sec. 14. Transition. The incumbent Executive Director of the Workers' Compensation Board on the effective date of this Act shall serve until a successor is confirmed and takes office. The terms of the incumbent management representative and the incumbent labor representative who have served for the longest time on an acting basis conclude immediately upon the effective date of this Act. The other incumbent management and labor representatives shall remain in office until February 1, 2005, unless replaced sooner by the Governor. No later than August 31, 2004, the employer and labor organizations designated in the Maine Revised Statutes, Title 39-A, section 151, subsection 1 shall each submit lists of no fewer than 12 names to the Governor. From these lists, the Governor shall appoint 3 management representatives and 3 labor representatives to serve on the board. The terms of one management and one labor representative expire February 1, 2006. The terms of one management and one labor representative expire February 1, 2007. The terms of one management and one labor representative expire February 1, 2008.

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

Effective April 8, 2004.

CHAPTER 609

S.P. 747 - L.D. 1908

An Act To Amend the Licensing Laws for Hearing Aid Dealers and Fitters

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

Sec. 1. 32 MRSA §1658-A, sub-§2, as amended by PL 2001, c. 323, §19, is further amended to read:

2. License for business organization. Any corporation, partnership, trust, association or other like organization engaged in the business of selling or offering for sale hearing aids at retail in the State shall apply to the board for a license to engage in that business. No business entity may so engage in the

business of selling or offering for sale hearing aids without a license to do so. The board shall issue a license upon payment by the business entity of an application and license fee under section 1658-P set by the director and upon filing of a sworn statement from a person with authority from the business entity. That sworn statement must list the names and addresses of all hearing aid dealers and fitters directly or indirectly employed by the entity and must certify that the entity employs only hearing aid dealers and fitters who are duly licensed by the State. At least one of the licensees employed by the business entity must have been licensed for a minimum of 2 years and have at least 3,000 hours of work experience as a hearing aid dispenser or be certified by the National Board for Certification in Hearing Instrument Sciences, except that if the business entity is an audiologist licensed by the Board of Examiners on Speech-language Pathology and Audiology, the business entity need not hire such an employee.

The license required by this chapter must be conspicuously posted in the licensee's office or place of business.

Sec. 2. 32 MRSA §1658-I, sub-§1, ¶D, as amended by PL 1997, c. 156, §3, is further amended to read:

D. Has obtained a trainee permit pursuant to section 1658-J and has received a minimum of 750 hours of training in the practice of fitting and dealing in hearing aids under the direct supervision of a licensee during a period of not fewer than 6 nor more than 12 months. Audiologists licensed by the Board of Examiners on Speech-language Pathology and Audiology are exempt from the requirements of this paragraph.

Sec. 3. 32 MRSA §1658-I, sub-§2, as amended by PL 1997, c. 156, §4, is further amended to read:

2. Examination. The applicant for license by examination shall appear at a time, place and before such persons as the board may designate, to be examined by means of written, practical and oral tests in order to demonstrate that the applicant is qualified to practice the fitting and sale of hearing aids. The board may appoint a consultant to assist in preparing the examination itself as well as conducting and supervising the testing. The examination administered as directed by the board constituting standards for licensing may not be conducted in such a manner that college training be required in order to pass the examination. Nothing in this examination may imply that the applicant possesses the degree of medical competence normally expected by physicians. Audiologists licensed by the Board of Examiners on

Speech-language Pathology and Audiology are exempt from the requirements of this subsection.

See title page for effective date.

CHAPTER 610

S.P. 624 - L.D. 1692

An Act To Enhance Pine Tree Development Zones

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

Sec. 1. 30-A MRSA §5248, as enacted by PL 2003, c. 451, Pt. NNN, §2, is amended to read:

§5248. Procedure

1. Notice and hearing. Before designating a Pine Tree Development Zone or adopting a development plan, the ~~legislative body~~ municipal officers of each applicant unit of local government or the ~~legislative body's~~ municipal officers' designee must hold at least one public hearing. Notice of the hearing must be published at least 10 days before the hearing in a newspaper of general circulation ~~within the unit of serving the area of the State in which the local government is located.~~

2. Vote of unit of local government legislative body. Each applicant unit of local government must designate that portion of the Pine Tree Development Zone contained within its boundaries and take all actions required to satisfy the requirements of section 5247, subsection 2 by majority vote of its municipal officers or legislative body.

3. Effective date. The establishment of a Pine Tree Development Zone is effective upon designation by the commissioner.

4. Administration of zone. The participating units of local government may ~~create an contract or otherwise arrange with a public or private organization, designate an existing department or agency or enter into a contractual arrangement with a private entity including a regional council as described in section 2302, to administer activities authorized under this subchapter. The organization may act as the lead entity for the purpose of applying for and administering the Pine Tree Development Zone.~~

5. Amendments. ~~A participating unit of local government may amend the designation of that portion of~~ The designation, size, location, number and configuration of the parcels in a Pine Tree Development Zone contained within its boundaries or an adopted or the terms of a development plan only after