

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

personal mobility device, scooter or bicycle equipped with a preemptive traffic light device.

3. Exemptions. This section does not apply to:

A. An authorized emergency vehicle maintained by a municipality, county or state agency or an ambulance or emergency medical services vehicle as defined in section 2054, subsection 1;

B. Transit route buses engaged in the transportation of passengers and maintained by or contracted to a municipal, county or state agency; or

C. A vehicle used by the Department of Transportation for the purpose of installing, maintaining or testing a lighted traffic control device.

Sec. 7. 29-A MRSA §2307, sub-§§1, 2 and 3, as enacted by PL 1993, c. 683, Pt. A, §2 and affected by Pt. B, §5, are amended to read:

1. Biannual inspection. Notwithstanding chapter 15, a school bus must be inspected by an official inspection station designated by the Chief of the State Police as a school bus inspection station, bi-annually during each August and February of the 2 months designated by the State Police in consultation with the Department of Education.

2. Additional inspection. In addition to ~~inspection~~ inspections under subsection 1, ~~between September 1st and November 30th and between March 1st and May 31st~~ a school bus inspection must be conducted by the State Police at least annually within 3 months following one of the inspections required by subsection 1.

3. Other dates. A school bus requiring inspection during a month other than ~~August and February~~ a month designated pursuant to subsection 1 that satisfies the inspection requirements must be issued the school bus inspection sticker that expires the next ~~August or February, whichever is earlier~~ month designated pursuant to subsection 1.

Sec. 8. 29-A MRSA §2411, sub-§1-A, ¶D, as enacted by PL 2003, c. 452, Pt. Q, §78 and affected by Pt. X, §2, is amended to read:

D. Violates paragraph A, B or C and:

(1) In fact causes serious bodily injury as defined in Title 17-A, section 2, subsection 23 to another person or in fact causes the death of another person; or

(2) Has either a prior conviction for a Class C crime under this section or former Title 29, section 1312-B or a prior criminal homicide conviction involving or resulting from the operation of a motor vehicle while

under the influence of intoxicating liquor or drugs or with a blood-alcohol level of 0.08% or greater.

See title page for effective date.

CHAPTER 634

H.P. 1275 - L.D. 1753

An Act To Improve Quality and Safety in Long-term Care

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

Sec. 1. 22 MRSA §1717, sub-§3, as enacted by PL 1997, c. 716, §1, is repealed and the following enacted in its place:

3. Prohibited employment. A personal care agency shall obtain criminal history record information about applicants for positions as unlicensed assistive personnel and may not hire an individual who:

A. Has worked as a certified nursing assistant and has been the subject of a notation by the state survey agency for a substantiated complaint of abuse, neglect or misappropriation of property in a health care setting that was entered on the Maine Registry of Certified Nursing Assistants;

B. Has been convicted in a court of law of a crime involving abuse, neglect or misappropriation of property in a health care setting; or

C. Has a prior criminal conviction within the last 10 years of:

(1) A crime for which incarceration of 3 years or more may be imposed under the laws of the state in which the conviction occurred; or

(2) A crime for which incarceration of less than 3 years may be imposed under the laws of the state in which the conviction occurred involving sexual misconduct or involving abuse, neglect or exploitation in a setting other than a health care setting.

Sec. 2. 22 MRSA §1717, sub-§4, as enacted by PL 1997, c. 716, §1, is repealed and the following enacted in its place:

4. Penalties. The following penalties apply to violations of this section.

A. A person who operates a personal care agency without registering with the department

as required by subsection 2 commits a civil violation for which a fine of \$500 per day of operation may be adjudged.

B. A person who operates a personal care agency in violation of the employment prohibitions in subsection 3 commits a civil violation for which a fine of \$500 per day of operation in violation may be adjudged, beginning on the first day that a violation occurs.

Sec. 3. 22 MRSA §1812-G, sub-§7, as enacted by PL 2003, c. 376, §2, is amended to read:

7. Time limit on consideration of prior criminal conviction. Except as otherwise provided in this section, an individual may not be employed in a hospital, nursing facility, home health agency or assisted housing program as a certified nursing assistant if that individual has a prior criminal conviction within the last 10 years of:

A. A crime for which incarceration of 3 years or more may be imposed under the laws of the state in which the conviction occurred; or

B. A crime for which incarceration of less than 3 years may be imposed under the laws of the state in which the conviction occurred involving sexual misconduct or involving abuse, neglect or exploitation in a setting other than a health care setting.

Sec. 4. 22 MRSA §2149-A is enacted to read:

§2149-A. Policies and procedures; employment

The requirements of this section apply to home health care providers required to be licensed under this chapter.

1. Policies and procedures. A home health care provider shall develop and implement written policies and procedures that prohibit abuse, neglect or misappropriation of a client's property.

2. Employment. A home health care provider shall obtain criminal history record information about applicants for positions as unlicensed assistive personnel as defined in section 1717, subsection 1, paragraph D and may not hire an individual who:

A. Has worked as a certified nursing assistant and has been the subject of a notation by the state survey agency for a substantiated complaint of abuse, neglect or misappropriation of property in a health care setting that was entered on the Maine Registry of Certified Nursing Assistants;

B. Has been convicted in a court of law of a crime involving abuse, neglect or misappropriation of property in a health care setting; or

C. Has a prior criminal conviction within the last 10 years of:

(1) A crime for which incarceration of 3 years or more may be imposed under the laws of the state in which the conviction occurred; or

(2) A crime for which incarceration of less than 3 years may be imposed under the laws of the state in which the conviction occurred involving sexual misconduct or involving abuse, neglect or exploitation in a setting other than a health care setting.

Sec. 5. 22 MRSA §2150-B, as enacted by PL 1995, c. 620, §3, is repealed.

Sec. 6. 22 MRSA §7851, sub-§4 is enacted to read:

4. Prohibited employment. A licensed assisted housing program may not hire as unlicensed assistive personnel as defined in section 1717, subsection 1, paragraph D an individual who is prohibited from employment as a certified nursing assistant pursuant to section 1812-G, subsection 6 or 7.

Sec. 7. 22 MRSA §7942, sub-§3, as amended by PL 2001, c. 596, Pt. B, §16 and affected by §25, is further amended to read:

3. Long-term care facility. "Long-term care facility" means an ~~assisted living facility or~~ assisted living program or residential care facility subject to licensure pursuant to chapters 1663 and 1664 and a nursing or intermediate care facility or unit subject to licensure pursuant to chapter 405.

Sec. 8. 22 MRSA §7942, sub-§7, as amended by PL 1999, c. 384, §18, is further amended to read:

7. State licensing rules. "State licensing rules" refers to the department's rules governing the licensing and functioning of nursing facilities, intermediate care facilities for persons with mental retardation and assisted living programs or residential care facilities.

Sec. 9. 22 MRSA §7944, sub-§1, ¶C, as amended by PL 1999, c. 99, §3, is further amended to read:

C. The department may impose a penalty upon a long-term care facility for operating without a license or for a violation of this chapter. The minimum penalty for operating without a license is \$500 per day. A penalty or a combination of penalties imposed on a facility may not be greater than a sum equal to \$10 times the total number of residents residing in the facility per

violation, up to a maximum of \$10,000 for each instance in which the department issues a statement of deficiency to a skilled nursing or intermediate care facility, or \$6 times the total number of residents residing in the facility per violation, up to a maximum of \$6,000 in each instance in which the department issues a statement of deficiency to any assisted living program or residential care facility.

Sec. 10. 22 MRSA §8606 is enacted to read:

§8606. Prohibited employment

1. Criminal history record information. An adult day care program shall obtain criminal history record information about applicants for positions as unlicensed assistive personnel as defined in section 1717, subsection 1, paragraph D and may not hire an individual who:

A. Has worked as a certified nursing assistant and has been the subject of a notation by the state survey agency for a substantiated complaint of abuse, neglect or misappropriation of property in a health care setting that was entered on the Maine Registry of Certified Nursing Assistants;

B. Has been convicted in a court of law of a crime involving abuse, neglect or misappropriation of property in a health care setting; or

C. Has a prior criminal conviction within the last 10 years of:

(1) A crime for which incarceration of 3 years or more may be imposed under the laws of the state in which the conviction occurred; or

(2) A crime for which incarceration of less than 3 years may be imposed under the laws of the state in which the conviction occurred involving sexual misconduct or involving abuse, neglect or exploitation in a setting other than a health care setting.

Sec. 11. Study. By March 1, 2005, the Long-term Care Oversight Committee, as established in the Maine Revised Statutes, Title 5, section 12004-I, subsection 47-F, shall report to the joint standing committee of the Legislature having jurisdiction over health and human services matters on the methods of conducting criminal history record checks for direct care workers. The report shall include recommendations for the standardization of requirements regarding criminal history record checks and employment restrictions for certified nursing assistants and unlicensed assistive personnel and strategies for the establishment of a registry for all unlicensed assistive

personnel that can be self-supporting and easily accessible to users.

See title page for effective date.

CHAPTER 635

S.P. 720 - L.D. 1872

An Act To Extend the Deadline for Reconsideration by Boards of Appeals

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

Sec. 1. 30-A MRSA §2691, sub-§3, ¶F, as amended by PL 1991, c. 234, is further amended to read:

F. The board may reconsider any decision reached under this section within ~~30~~ 45 days of its prior decision. A request to the board to reconsider a decision must be filed within 10 days of the decision that is to be reconsidered. A vote to reconsider and the action taken on that reconsideration must occur and be completed within ~~30~~ 45 days of the date of the vote on the original decision. The board may conduct additional hearings and receive additional evidence and testimony as provided in this subsection.

Notwithstanding paragraph G, appeal of a reconsidered decision must be made within 15 days after the decision on reconsideration.

See title page for effective date.

CHAPTER 636

H.P. 1411 - L.D. 1907

An Act To Govern and Regulate Life Settlements

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

Sec. 1. 24-A MRSA §601, sub-§27 is enacted to read:

27. Viatical or life settlement provider. Settlement provider license issuance fees and renewal fees may not exceed:

- A. Original license issuance fee \$400; and
- B. Annual renewal fee \$400