

# MAINE STATE LEGISLATURE

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**LAWS**  
**OF THE**  
**STATE OF MAINE**

**AS PASSED BY THE**

**ONE HUNDRED AND TWENTY-SECOND LEGISLATURE**

**SECOND SPECIAL SESSION**

**July 29, 2005**

**SECOND REGULAR SESSION**

**January 4, 2006 to May 24, 2006**

**THE GENERAL EFFECTIVE DATE FOR**

**SECOND SPECIAL SESSION**

**NON-EMERGENCY LAWS IS**

**OCTOBER 28, 2005**

**THE GENERAL EFFECTIVE DATE FOR**

**SECOND REGULAR SESSION**

**NON-EMERGENCY LAWS IS**

**AUGUST 23, 2006**

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

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**Penmor Lithographers**

**Lewiston, Maine**

**2006**

**3. Other laws, rules and regulations.** This chapter does not exempt covered entities from compliance with laws governing certificates of need or other applicable laws, rules and regulations.

**4. Contract disputes.** A dispute between parties to a cooperative agreement concerning its meaning or terms is governed by normal principles of contract law.

**5. Termination; surrender.** This chapter does not prohibit certificate holders from terminating their cooperative agreement by mutual agreement, consent decree or court determination or by surrendering their certificate of public advantage to the department. Any certificate holder that terminates the agreement shall file a notice of termination with the department within 30 days after termination, surrender the certificate of public advantage and submit copies to the Attorney General and the Governor's Office of Health Policy and Finance at the time the notice of termination is submitted to the department.

#### **§1850. Assessment**

Except for state-operated mental health hospitals, any hospital licensed by the department is subject to an annual assessment under this chapter. The department shall determine and collect the assessment. The amount of the assessment must be based upon each hospital's gross patient service revenue. For any fiscal year, the aggregate amount raised by assessment may not exceed \$200,000. The department shall deposit funds collected under this section into a dedicated revenue account. Funds remaining in the account at the end of each fiscal year do not lapse but carry forward into subsequent years. Funds deposited into the account must be allocated to carry out the purposes of this chapter.

#### **§1851. Application fee**

The application fee for a certificate of public advantage is governed by this section. The application fee for a certificate of public advantage that involves a merger of 2 or more hospitals, each of which has 50 or more beds, is \$10,000. The application fee is \$2500 for a certificate of public advantage filed by health care providers or hospitals that are not subject to the \$10,000 fee pursuant to this section. The department shall deposit all funds received under this section and section 1844, subsection 5 into a nonlapsing dedicated revenue account to be used only by the Attorney General for the payment of the cost of experts and consultants in connection with reviews conducted under this chapter.

#### **§1852. Rulemaking**

The department shall adopt rules to carry out the purposes of this chapter. Rules adopted pursuant to

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

**Sec. 2. 22 MRSA c. 405-D.** as amended, is repealed.

**Sec. 3. Report.** The Department of Health and Human Services shall submit 2 reports to the joint standing committee of the Legislature having jurisdiction over health and human services matters on the experience of the department in administering the Hospital and Health Care Provider Cooperation Act. The reports must be submitted by April 1, 2007 and January 1, 2008.

**Sec. 4. Application.** This Act applies to cooperative agreements entered into on or after June 1, 2006 that are submitted to the Department of Health and Human Services for review under the Hospital and Health Care Provider Cooperation Act.

See title page for effective date.

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## CHAPTER 671

S.P. 860 - L.D. 2116

### An Act To Provide Protection for Victims of Domestic Violence

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

**Sec. 1. 19-A MRSA §4012, sub-§9** is enacted to read:

**9. Notification of attempted purchase of firearm.** When the Department of Public Safety receives notification from a federal agency that a background criminal records check conducted under the system established pursuant to 18 United States Code, Section 922(t) indicates that a potential buyer or transferee is prohibited from receipt or possession of a firearm pursuant to a temporary or final protection from abuse order, the department shall make every reasonable effort to notify as quickly as practicable both the individual intended to be protected by the protection from abuse order and another law enforcement agency with jurisdiction in the municipality in which that individual resides of the information received from the federal agency.

For the purposes of this subsection, notification may be made by the Department of Public Safety to the individual intended to be protected by the protection from abuse order through a law enforcement agency within the county in which the individual resides. When the department makes notification through such a law enforcement agency, that agency then must make reasonable effort to notify as quickly as

practicable the individual intended to be protected by the protection from abuse order. If, when notifying a law enforcement agency, the department is informed by that agency that it cannot notify the individual intended to be protected by the protection from abuse order, the department must continue to make a reasonable effort to notify that individual as quickly as practicable, including through a different law enforcement agency within the county in which the individual resides.

**Sec. 2. 19-A MRSA §4012, sub-§10** is enacted to read:

**10. Liability for damages.** The State, a political subdivision of the State or a law enforcement officer is not liable for damage that may be caused by the failure or inability to inform an individual who is the subject of a protection from abuse order in accordance with subsection 9. This subsection does not prohibit the State or a political subdivision of the State from pursuing legally authorized disciplinary action.

See title page for effective date.

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## CHAPTER 672

S.P. 312 - L.D. 904

### An Act To Create the Maine Asthma and Lung Disease Research Fund

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

**Sec. 1. 22 MRSA c. 275**, as amended, is amended by repealing the chapter headnote and enacting the following in its place:

#### CHAPTER 275

#### ASTHMA AND LUNG DISEASE

**Sec. 2. 22 MRSA §1700-A** is enacted to read:

#### **§1700-A. Maine Asthma and Lung Disease Research Fund**

There is established the Maine Asthma and Lung Disease Research Fund, an interest-bearing account, referred to in this section as "the fund." The fund receives money deposited by the Treasurer of State pursuant to Title 36, section 5290 and any other money contributed voluntarily to the fund. The fund is administered by the Bureau of Health. All money deposited in the fund and the earnings on that money remain in the fund to be used to provide research grants to develop and advance the understanding of lung disease, especially its prevention, causes,

treatment and cure. Areas of research eligible for grants under this section include, but are not limited to, asthma, health effects of indoor and outdoor air pollution, emphysema and chronic obstructive pulmonary disease. Money in the fund may also be used for the necessary administrative and personnel costs associated with the management of the fund but may not be deposited in the General Fund or any other fund except as specifically provided by law.

**Sec. 3. 36 MRSA §5290** is enacted to read:

#### **§5290. Maine Asthma and Lung Disease Research Fund; voluntary checkoff**

**1. Maine Asthma and Lung Disease Research Fund.** When filing a return, a taxpayer entitled to a refund under this Part may designate that a portion of that refund be paid into the Maine Asthma and Lung Disease Research Fund established in Title 22, section 1700-A. A taxpayer who is not entitled to a refund under this Part may contribute to the Maine Asthma and Lung Disease Research Fund by including with that taxpayer's return sufficient funds to make the contribution. The contribution may not be less than \$1. Each individual income tax return form must contain a designation in substantially the following form: "Maine Asthma and Lung Disease Research Fund: ( ) \$1, ( ) \$5, ( ) \$10, ( ) \$25 or ( ) Other \$.... ."

**2. Contributions credited to Maine Asthma and Lung Disease Research Fund.** The State Tax Assessor shall determine annually the total amount contributed pursuant to subsection 1. Prior to the beginning of the next year, the State Tax Assessor shall deduct the cost, up to \$2,000 annually, of administering the Maine Asthma and Lung Disease Research Fund checkoff and report the remainder to the Treasurer of State, who shall forward that amount to the Maine Asthma and Lung Disease Research Fund.

**Sec. 4. Contributions to the Maine Asthma and Lung Disease Research Fund.** The Commissioner of Administrative and Financial Services shall seek outside funds to fully fund the fiscal year 2006-07 administrative costs associated with the Maine Asthma and Lung Disease Research Fund income tax checkoff under the Maine Revised Statutes, Title 36, section 5290. Any funds received must be deposited in Maine Revenue Services' Maine Asthma and Lung Disease Research Fund Other Special Revenue Funds account.

**Sec. 5. Certification of contributions to the Maine Asthma and Lung Disease Research Fund.** The Commissioner of Administrative and Financial Services shall account for all contributions to the Maine Asthma and Lung Disease Research Fund Other Special Revenue Funds account and