

# MAINE STATE LEGISLATURE

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

**AS PASSED BY THE**

**ONE HUNDRED AND TWENTY-THIRD LEGISLATURE**

**FIRST REGULAR SESSION**  
**December 6, 2006 to June 21, 2007**

**THE GENERAL EFFECTIVE DATE FOR**  
**FIRST REGULAR SESSION**  
**NON-EMERGENCY LAWS IS**  
**SEPTEMBER 20, 2007**

**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**  
**2007**

**CHAPTER 53**  
**H.P. 332 - L.D. 416**

**An Act To Protect Seniors and  
the Public from Unfair Health  
Insurance Sales Practices**

**Emergency preamble.** Whereas, acts and resolves of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

**Whereas,** the Department of Professional and Financial Regulation, Bureau of Insurance has received complaints from consumers about misleading sales practices used by certain insurance producers; and

**Whereas,** many of these complaints have been associated with the sale of Medicare Part D products and other Medicare products marketed to the elderly; and

**Whereas,** elderly consumers may be especially vulnerable to potentially misleading sales practices related to appointments made to discuss Medicare benefits; and

**Whereas,** this legislation prohibits unfair and misleading methods used to solicit the sale of life, health and annuity products, including Medicare products; and

**Whereas,** in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

**Sec. 1. 24-A MRSA §2152-B** is enacted to read:

**§2152-B. Unfair solicitation methods**

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

A. "Cold lead advertising" means making use directly or indirectly of a method of marketing that fails to disclose in a conspicuous manner that a purpose of the marketing is insurance sales solicitation and that contact will be made by an insurance producer or insurance company.

B. "Medicare products" includes Medicare Part A, Medicare Part B, Medicare Part C, Medicare Part D, Medicare Advantage and Medicare supplement plans.

**2. Unfair solicitation methods.** It is an unfair trade practice under this chapter for an insurer or producer to:

A. Sell, solicit or negotiate the purchase of health insurance in this State through the use of cold lead advertising;

B. Use an appointment that was made to discuss Medicare products or to solicit the sale of Medicare products in order to solicit sales of life insurance, health insurance or annuity products unless the consumer requests such solicitation and the products to be discussed are clearly identified to the consumer in writing at least 48 hours in advance of the appointment; and

C. Solicit the sale of Medicare products door-to-door prior to receiving an invitation from a consumer.

**Emergency clause.** In view of the emergency cited in the preamble, this legislation takes effect October 1, 2007.

Effective October 1, 2007.

**CHAPTER 54**  
**H.P. 432 - L.D. 554**

**An Act To Amend the Shellfish  
Laws**

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

**Sec. 1. 12 MRSA §6601, sub-§4,** as amended by PL 2005, c. 434, §4, is further amended to read:

**4. Personal use exception.** A person may take or possess no more than ~~1/2 bushel~~ one peck of shellstock or 3 bushels of "hen" or "surf" clams for personal use in one day without a license, unless municipal ordinances further limit the taking of shellfish. This subsection does not apply to individuals whose ability to obtain a shellfish license has been suspended by the commissioner.

**Sec. 2. 12 MRSA §6602** is enacted to read:

**§6602. Surf clam boat license**

**1. License required.** A person may not use a boat for dragging for the harvesting of surf clams unless that boat carries a current surf clam boat license issued by the commissioner.

**2. Licensed activity.** A surf clam boat license issued under this section may be used for harvesting surf clams. The holder of a surf clam boat license may also possess or transport surf clams within state limits or sell surf clams the holder has taken to a wholesale

seafood license holder certified under section 6856. The license also authorizes the captain and crew members aboard the licensed boat when engaged in harvesting surf clams to undertake these activities.

**3. Eligibility.** A surf clam boat license may be issued only to an individual who is a resident of this State.

**4. Exception.** In any one day, a person may take or possess not more than 3 bushels of surf clams for personal use without a surf clam boat license.

**5. Fee.** The fee for a surf clam boat license is \$230.

**6. Violation.** A person who violates this section commits a civil violation for which a fine of not less than \$100 nor more than \$500 may be adjudged.

See title page for effective date.

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**CHAPTER 55**

**H.P. 541 - L.D. 720**

**An Act To Clarify What Constitutes a Schedule W Drug**

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

**Sec. 1. 17-A MRSA §1102, sub-§1, ¶I,** as amended by PL 2001, c. 419, §3, is repealed and the following enacted in its place:

I. Unless listed or described in another schedule, any compound, mixture or preparation containing narcotic drugs, including, but not limited to, the following narcotic drugs or their salts, isomers or salts of isomers: heroin (diacetylmorphine), methadone, methadone hydrochloride, levo-alpha-acetyl-methadol, or LAAM, pethidine, morphine, oxycodone, hydrocodone, hydromorphone, fentanyl and opium;

**Sec. 2. 17-A MRSA §1107-A, sub-§1, ¶B,** as amended by PL 2005, c. 442, §1, is further amended to read:

- B.** A schedule W drug that ~~is~~ contains:
- (1) Heroin (diacetylmorphine);
  - (2) Cocaine in the form of cocaine base and at the time of the offense the person has been convicted of any offense under this chapter or under any law of the United States, another state or a foreign country relating to scheduled drugs, as defined in this chapter. For the purposes of this paragraph, a person has been convicted of an offense on the date the judgment of conviction was entered by the court;
  - (3) Methamphetamine;

- (4) Oxycodone;
- (5) Hydrocodone; or
- (6) Hydromorphone.

Violation of this paragraph is a Class C crime;

See title page for effective date.

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**CHAPTER 56**

**H.P. 575 - L.D. 754**

**An Act To Allow Physician Assistants To Sign Death Certificates**

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

**Sec. 1. 22 MRSA §2842, sub-§2,** as amended by PL 2005, c. 359, §1, is further amended to read:

**2. Medical certificate by physician, nurse practitioner or physician assistant.** The medical certification of the cause of death must be completed in typewritten or legibly hand-printed style and signed in a timely fashion by a physician or nurse practitioner or physician assistant authorized to practice in the State who has knowledge of the patient's recent medical condition, in accordance with department regulations and other laws detailing who can certify and in what time frame, except when the death falls under the jurisdiction of the medical examiner as provided in section 3025. If the patient was a resident of a nursing home licensed under section 1817 at the time of death and if the health care provider in charge of the patient's care or another health care provider designated by the health care provider in charge had not examined the patient within 48 hours prior to death, or within 2 weeks prior to death in the case of a terminally ill patient, the health care provider in charge or another health care provider designated by the health care provider in charge shall examine the body prior to completing the certification of death process. Any health care provider who fails to complete the medical certification of the cause of death fully, in typewritten or legibly hand-printed style and in a timely manner, or who fails to examine the body of a nursing home resident prior to certifying cause of death as required by this section must be reported to the Board of Licensure in Medicine, the Board of Osteopathic Licensure or the State Board of Nursing, whichever is appropriate, by the State Registrar of Vital Statistics of the Department of Health and Human Services.

For the purposes of this subsection, the following terms have the following meanings.

**A.** "Life-sustaining procedure" means any medical procedure or intervention that, when administered to a qualified patient, will serve only to