

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

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Penmor Lithographers
Lewiston, Maine
2007

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.

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Sec. 1. 17-A MRSA §1102, sub-§1, ¶I, as amended by PL 2001, c. 419, §3, is repealed and the following enacted in its place: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

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

prolong the dying process and does not include nutrition and hydration.

B. "Terminally ill patient" means a patient who has been diagnosed as having an incurable or irreversible condition that, without the administration of life-sustaining procedures, will, in the opinion of the attending health care provider, result in death within a short time.

C. "Health care provider" means a physician authorized to practice in this State ~~or~~, nurse practitioner or physician assistant.

D. "Nurse practitioner" means an advanced practice registered nurse who is a certified nurse practitioner authorized to practice without the supervision of a physician pursuant to Title 32, chapter 31.

E. "Physician assistant" means a person who has graduated from a physician assistant or surgeon assistant program accredited by the American Medical Association Committee on Allied Health Education and Accreditation or the Commission on Accreditation of Allied Health Education Programs or its successor and who has passed the certifying examination administered by the National Commission on Certification of Physician Assistants or its successor.

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

2-A. Medical certification. Notwithstanding subsection 2, with respect to a person who dies within the State naturally and for whom the physician ~~or~~, nurse practitioner or physician assistant was the attending health care provider, the medical certification of the cause of death may be completed and signed by a physician ~~or~~, nurse practitioner or physician assistant authorized to practice at the Veterans Administration Hospital at Togus or at another federal medical facility within the State or by a physician ~~or~~, an advanced practice registered nurse or physician assistant licensed to practice in New Hampshire, Vermont or Massachusetts; who, at the request of the Chief Medical Examiner, is willing to do so.

Sec. 3. 22 MRSA §2843, first ¶, as amended by PL 2005, c. 359, §3, is further amended to read:

Except as authorized by the department, ~~no~~ a dead human body may not be buried, cremated or otherwise disposed of or removed from the State until a funeral director or other authorized person in charge of the disposition of the dead human body or its removal from the State has obtained a permit from the clerk of the municipality where death occurred or where the establishment of a funeral director having custody of the dead human body is located. The permit is sufficient authority for final disposition in any place where

dead human bodies are disposed of in this State, ~~provided that as long as~~ the requirements of Title 32, section 1405 are met in appropriate cases. ~~No such~~ The permit may not be issued to anyone other than a funeral director until the clerk of the municipality receives a medical certificate that has been signed by a physician or a medical examiner that indicates that the physician or medical examiner has personally examined the body after death. A permit must also be issued if a nurse practitioner or physician assistant has signed the medical certificate indicating that the nurse practitioner or physician assistant has knowledge of the deceased's recent medical condition or was in charge of the deceased's care and that the nurse practitioner or physician assistant has personally examined the body after death. The authorized person may transport a dead human body only upon receipt of this permit.

Sec. 4. 22 MRSA §2843, 3rd ¶, as amended by PL 2005, c. 359, §4, is further amended to read:

A municipal clerk may issue a disposition of human remains permit to a funeral director who presents a report of death and states that the funeral director has been unable to obtain a medical certification of the cause of death. The funeral director shall name the attending physician, attending nurse practitioner, attending physician assistant or medical examiner who will certify to the cause of death and present assurances that ~~he or she~~ the attending physician, attending nurse practitioner, attending physician assistant or medical examiner has agreed to do so. The funeral director shall exercise due diligence to secure the medical certification and file the death certificate as soon as possible.

Sec. 5. 22 MRSA §2846, 3rd ¶, as enacted by PL 2005, c. 359, §5, is amended to read:

For the purposes of this chapter, "health care provider" means a physician ~~or~~, a nurse practitioner or a physician assistant.

Sec. 6. 22 MRSA §2846, as amended by PL 2005, c. 359, §5, is further amended by adding at the end a new paragraph to read:

For the purposes of this chapter, "physician assistant" means a person who has graduated from a physician assistant or surgeon assistant program accredited by the American Medical Association Committee on Allied Health Education and Accreditation or the Commission on Accreditation of Allied Health Education Programs or its successor and who has passed the certifying examination administered by the National Commission on Certification of Physician Assistants or its successor.

Sec. 7. 22 MRSA §2901, sub-§7-A is enacted to read:

7-A. Physician assistant. "Physician assistant" means a person who has graduated from a physician assistant or surgeon assistant program accredited by the American Medical Association Committee on Allied Health Education and Accreditation or the Commission on Accreditation of Allied Health Education Programs or its successor and who has passed the certifying examination administered by the National Commission on Certification of Physician Assistants or its successor.

Sec. 8. 22 MRSA §2907, sub-§2, as amended by PL 2005, c. 359, §7, is further amended to read:

2. Time of death. The time of death must be determined by a physician ~~or~~ nurse practitioner or physician assistant who attends the donor at the donor's death, or, if none, the physician ~~or~~ nurse practitioner or physician assistant who certifies the death. This physician ~~or~~ nurse practitioner or physician assistant may not participate in the procedures for removing or transplanting a part.

See title page for effective date.

CHAPTER 57

H.P. 674 - L.D. 889

An Act To Allow Apartment Building Owners To Prevent Damage to Property in the Installation of Over-the-air Reception Devices

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

Sec. 1. 14 MRSA §6041, as enacted by PL 1987, c. 294, is amended to read:

§6041. Installation; consent of building owner required

1. Installation. A tenant in a multiple dwelling unit may subscribe to cable television service or use an over-the-air reception device, subject to the following provisions.

A. ~~A cable~~ An operator who affixes or causes to be affixed cable television facilities or an over-the-air reception device to the dwelling of a tenant shall do so at no cost to the owner of the dwelling; shall indemnify the owner immediately for damages, if any, arising from the installation or the continued operation of the installation, or both; and ~~shall~~ may not interfere with the safety, functioning, appearance or use of the dwelling, nor interfere with the rules of the owner dealing with the day-to-day operations of the property, including the owner's reasonable access rules for soliciting business.

Nothing in this section may prohibit an owner from contracting with the ~~cable~~ operator for work in addition to standard installation.

B. ~~No cable~~ An operator may not enter into any agreement with persons owning, leasing, controlling or managing a building ~~served by a cable television system~~ or perform any act ~~which~~ that would directly or indirectly diminish or interfere with the rights of any tenant to use a master or individual antenna system.

C. ~~A cable~~ An operator must have the owner's written consent to affix cable television system facilities or an over-the-air reception device to a tenant's dwelling. The owner may refuse the installation of cable television facilities or an over-the-air reception device for good cause only. Good cause includes, but is not limited to:

- (1) Failure to honor previous written contractual commitments; or
- (2) Failure to repair damages caused by ~~a cable~~ an operator during prior installation.

D. In the absence of written consent, the consent required by paragraph C ~~shall be~~ is considered to have been granted to ~~a cable~~ an operator upon ~~his~~ the operator's delivery to the owner, in person or by certified mail, return receipt requested by the addressee, the following:

- (1) A copy of this section;
- (2) A signed statement that the ~~cable~~ operator will be bound by the terms of this section to the owner of the property upon which the cable television system facilities ~~are~~ or over-the-air reception device is to be affixed; and
- (3) Notice to the owner in clear, understandable language that describes the owner's rights and responsibilities.

E. If consent is obtained under paragraph D, the ~~cable~~ operator shall present and the owner and operator shall review, prior to any installation, plans and specifications for the installation, unless waived in writing by the owner. The operator shall abide by reasonable installation requests by the owner. In any legal action brought pursuant to this paragraph, the burden of proof relative to the reasonable nature of the owner's request ~~shall be~~ is on the ~~cable~~ operator. The ~~cable~~ operator shall inspect the premises with the owner after installations to ensure conformance with the plans and specifications. The ~~cable~~ operator ~~shall be~~ is responsible for maintenance of any equipment installed on the owner's premises and ~~shall be~~ is entitled to reasonable access for that maintenance. Unless waived in writing by the owner, the ~~cable~~ operator, prior to any installation, shall provide the owner with a certificate of insurance covering