

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.

Penmor Lithographers
Lewiston, Maine
2007

the collision, in which case the person leaving the scene of the collision shall give that skier's name and current address after securing such aid. A ski area operator, or its agents, representatives or employees, is not liable for a skier's failure to provide that skier's name and address or for leaving the vicinity of an accident or collision.

8. Actions not prohibited. This section does not prevent the maintenance of an action against a ski area operator for:

- A. The negligent operation or maintenance of the ski area; or
- B. The negligent design, construction, operation or maintenance of a passenger tramway.

See title page for effective date.

CHAPTER 288

H.P. 1100 - L.D. 1575

**An Act To Authorize the
Maine Board of Pharmacy To
Establish a Pharmacist Health
Program**

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

Whereas, pursuant to the Maine Health Security Act and professional licensing laws, the Maine Medical Association operates a Physician Health Program that provides treatment, counseling and monitoring of physicians and dentists with substance use disorders or other mental health diagnoses to permit these professionals to continue serving the people of Maine while protecting public safety; and

Whereas, the Maine Board of Pharmacy wishes to have the Maine Medical Association Physician Health Program as a resource for pharmacists in Maine; and

Whereas, the Maine Medical Association must immediately convert the position of Clinical Director of the Physician Health Program from a part-time to a full-time position in order to accommodate the new group of professionals; 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 MRSA §2502, sub-§4-A, as amended by PL 1997, c. 107, §2, is further amended to read:

4-A. Professional review committee. "Professional review committee" means a committee of physicians, dentists, pharmacists or a combination of members of ~~both~~ all 3 professions formed by a professional society for the purpose of identifying and working with physicians, dentists and other licensees of the Board of Dental Examiners ~~and~~, physician assistants, pharmacists and pharmacy technicians who are disabled or impaired by virtue of physical or mental infirmity or by the misuse of alcohol or drugs, as long as the committee operates pursuant to protocols approved by the Board of Licensure in Medicine, the Board of Dental Examiners ~~or~~, the Board of Osteopathic Licensure and the Maine Board of Pharmacy.

Sec. 2. 32 MRSA §13721, sub-§3 is enacted to read:

3. Pharmacist health program. The board may establish protocols for the operation of a professional review committee as defined in Title 24, section 2502, subsection 4-A. The protocols must include the committee's reporting information the board considers appropriate regarding reports received, contracts or investigations made and the disposition of each report, as long as the committee is not required to disclose any personally identifiable information. The protocols may not prohibit an impaired pharmacist or pharmacy technician from seeking alternative forms of treatment.

The board has the power to contract with other agencies, individuals, firms or associations for the conduct and operation of a pharmacist health program operated by a professional review committee as that term is defined in Title 24, section 2502, subsection 4-A.

Sec. 3. Appropriations and allocations. The following appropriations and allocations are made.

**PROFESSIONAL AND FINANCIAL
REGULATION, DEPARTMENT OF
Licensing and Enforcement 0352**

Initiative: Allocates ongoing funds to the Office of Licensing and Registration for the Maine Board of Pharmacy to contract with an agency to operate the pharmacist health program beginning in September 2007.

OTHER SPECIAL REVENUE FUNDS	2007-08	2008-09
All Other	\$15,000	\$20,000
OTHER SPECIAL REVENUE FUNDS TOTAL	\$15,000	\$20,000

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

Effective June 12, 2007.

CHAPTER 289
S.P. 608 - L.D. 1741

**An Act To Update the Maine
Business Corporation Act**

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

Sec. 1. 13-C MRSA §102, sub-§11-A is enacted to read:

11-A. Expenses. "Expenses" means reasonable expenses of any kind that are incurred in connection with a matter, including, but not limited to, attorney's fees.

Sec. 2. 13-C MRSA §102, sub-§30-A is enacted to read:

30-A. Public corporation. "Public corporation" means a corporation that has a class or series of shares listed on a national securities exchange, a class or series of shares that is a covered security under the federal Securities Act of 1933, Section 18(b)(1)(A) or (B), as amended, or a class or series of equity securities registered under Section 12 of the federal Securities Exchange Act of 1934, as amended.

Sec. 3. 13-C MRSA §102, sub-§32-A is enacted to read:

32-A. Qualified director. "Qualified director" is defined in this subsection.

A. As used in this subsection, unless the context otherwise indicates, the following terms have the following meanings:

- (1) "Director's conflicting-interest transaction" has the same meaning as in section 871;
- (2) "Material interest" means an actual or potential benefit or detriment, other than one that would devolve on the corporation or the shareholders generally, that would reasonably be expected to impair the objectivity of the director's judgment when participating in the action to be taken; and
- (3) "Material relationship" means a familial, financial, professional, employment or other relationship that would reasonably be expected to impair the objectivity of the director's judgment when participating in the action to be taken.

B. "Qualified director" means a person who, at the time action is to be taken under:

- (1) Section 755, does not have:
 - (a) A material interest in the outcome of the proceeding; or
 - (b) A material relationship with a person who has such an interest;
- (2) Section 854 or 856:
 - (a) Is not a party to the proceeding;
 - (b) Is not a director as to whom a transaction is a director's conflicting-interest transaction or who sought a disclaimer of the corporation's interest in a business opportunity under section 881, which transaction or disclaimer is challenged in the proceeding; and
 - (c) Does not have a material relationship with a director described in division (a) or (b);
- (3) Section 873, is not a director:
 - (a) As to whom the transaction is a director's conflicting-interest transaction; or
 - (b) Who has a material relationship with another director as to whom the transaction is a director's conflicting-interest transaction; or
- (4) Section 881, would be a qualified director under subparagraph (3) if the business opportunity was a director's conflicting-interest transaction.

C. The presence of one or more of the following circumstances does not automatically prevent a director from being a qualified director:

- (1) Nomination or election of the director to the board by a director who is not a qualified director with respect to the matter, or by any person who has a material relationship with that director, acting alone or participating with others;
- (2) Service as a director of another corporation of which a director who is not a qualified director with respect to the matter or any individual who has a material relationship with that director is or was also a director; or
- (3) With respect to action to be taken under section 755, status as a named defendant, as a director against whom action is demanded or as a director who approved the conduct being challenged.