

# 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**

**Sec. 5. 39-A MRSA §153-A, sub-§6**, as enacted by PL 1999, c. 410, §1, is amended to read:

**6. Case management authority of advocates and advocate attorneys.** An advocate or advocate attorney has the authority to:

A. Manage and prioritize the advocate's or advocate attorney's caseload to efficiently move cases through the board mediation and hearing process and to achieve resolution;

B. With the written approval of the staff attorney, decline cases or cease assistance to an employee when the advocate or advocate attorney after investigation finds:

(1) Timely notice of the injury was not given by the employee to the employer, pursuant to this Act;

(2) The statute of limitations has expired;

(3) The employee's case is based on an argument or issue adversely determined by the Supreme Judicial Court;

(4) The employee's case is based on a claim of discrimination governed by section 353;

(5) There is no record of medical assessment stating that the employee's injury was either caused by, aggravated by or precipitated by the employee's work or, when the issue is aggravation, there is no record of medical assessment stating that the employee's work aggravated a preexisting condition in a significant manner; or

(6) The employee has admitted to a fraudulent act, has been convicted of a fraudulent act by a court of competent jurisdiction or has been found to have committed a fraudulent act by the abuse investigation unit of the board; and

C. With the written approval of the staff attorney, present lump-sum settlements on cases pursuant to section 352.

A qualified employee whose case is declined or whose advocate or advocate attorney assistance ceases pursuant to this subsection may appeal the action to the executive director of the board, within 30 days of the action. The executive director's ruling on the appeal is final and is not subject to judicial review. If the executive director finds assistance by an advocate or advocate attorney should resume, the employee must be assigned to an advocate or advocate attorney other than the advocate or advocate attorney who declined the case or ceased assistance.

**Sec. 6. Appropriations and allocations.** The following appropriations and allocations are made.

## WORKERS' COMPENSATION BOARD

### Administration - Workers' Compensation Board 0183

Initiative: Allocates funds to implement a reorganization to enhance the Workers' Compensation Advocate Program by providing a range change from 86 to 89 for one Public Service Executive II (Workers' Compensation Board General Counsel) position, reclassifying one Public Service Manager II (Deputy Senior Staff Attorney) range 29 position to a Public Service Manager II (Senior Staff Attorney) range 33 position, reclassifying one Workers' Compensation Advocate range 24 position to a Public Service Manager II (Deputy Senior Staff Attorney) range 29 position, reclassifying eligible Workers' Compensation Advocate range 24 positions to Workers' Compensation Advocate Attorney range 27 positions, permitting a Workers' Compensation Advocate position that is vacant or may become vacant to be reclassified to a Workers' Compensation Advocate Attorney position, providing a range change from 24 to 27 for all Workers' Compensation Advocate positions and reclassifying 6 Paralegal Assistant range 18 positions to Paralegal range 20 positions.

OTHER SPECIAL REVENUE FUNDS	2007-08	2008-09
Personal Services	\$146,232	\$156,792
All Other	(\$146,232)	(\$156,792)
OTHER SPECIAL	\$0	\$0
REVENUE FUNDS TOTAL		

See title page for effective date.

## CHAPTER 313

### H.P. 887 - L.D. 1259

#### An Act To Use the Date of Injury To Calculate the Average Weekly Wage in Occupational Disease Cases

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

**Sec. 1. 39-A MRSA §606**, as amended by PL 1995, c. 462, Pt. A, §81, is further amended to read:

**§606. Date from which compensation is computed; employer liable**

The date when an employee becomes incapacitated by an occupational disease from performing the employee's work in the last occupation in which the employee was injuriously exposed to the hazards of the occupational disease is the date of the injury equivalent to the date of injury under the former

Workers' Compensation Act or the Maine Workers' Compensation Act of 1992. When compensation is payable for an occupational disease, the employer in whose employment the employee was last injuriously exposed to the hazards of the occupational disease and the insurance carrier, if any, on the risk when the employee was last exposed under that employer, are liable. The amount of the compensation must be based on the average wages of the employee ~~when last exposed under that employer and notice~~ on the date of injury. Notice of injury and claim for compensation must be given to ~~that the~~ the employer in whose employment the employee was last injuriously exposed to the hazards of the occupational disease. On the date of incapacity, if the employee is no longer working in the same occupation in which the employee incurred the last injurious exposure, then the average wages as of the date of injury of comparable employees employed full-time in the same occupation as the employee at the time of the employee's last injurious exposure must be used to determine the amount of compensation. The only employer and insurance carrier liable are the last employer in whose employment the employee was last injuriously exposed to the hazards of the disease during a period of 60 days or more and the insurance carrier, if any, on the risk when the employee was last so exposed, under that employer.

**Sec. 2. Prospective application.** The provisions of this Act have prospective effect only.

See title page for effective date.

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## CHAPTER 314

**H.P. 1243 - L.D. 1781**

### **An Act To Prevent Duplication in Certification of Hospitals**

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

**Sec. 1. 22 MRSA §1816**, as amended by PL 1997, c. 488, §2, is further amended by adding at the end a new paragraph to read:

A hospital licensed under this chapter is exempt from department inspection requirements under this chapter if the hospital is certified by the Centers for Medicare and Medicaid Services for participation in the federal Medicare program and holds full accreditation status by a health care facility accrediting organization recognized by the Centers for Medicare and Medicaid Services. If a hospital is certified to participate in the federal Medicare program and not accredited by a health care facility accrediting organization recognized by the Centers for Medicare and Medicaid Services, the department shall inspect the hospital every 3 years for compliance with the Centers for Medicare and Medicaid Services' conditions of par-

ticipation. The provisions of this paragraph do not exempt a hospital from an inspection by the department in response to a complaint or suspected violation of this chapter or of the Centers for Medicare and Medicaid Services' conditions of participation or an inspection by another state agency or municipality for building code, fire code, life safety code or other purposes unrelated to health care facility licensing or accreditation. For purposes of this paragraph, "Centers for Medicare and Medicaid Services" means the United States Department of Health and Human Services, Centers for Medicare and Medicaid Services.

**Sec. 2. Effective date.** This Act takes effect July 1, 2008.

Effective July 1, 2008.

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## CHAPTER 315

**H.P. 849 - L.D. 1156**

### **An Act To Protect Owners and Occupiers of Homes from Civil Liability**

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

**Sec. 1. 14 MRSA §171** is enacted to read:

#### **§171. Defense of premises**

It is a defense to a civil claim resulting from the use of force that the person was or would have been justified in using such force under Title 17-A, section 104.

See title page for effective date.

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## CHAPTER 316

**H.P. 1120 - L.D. 1598**

### **An Act To Grant Supervisory Privileges to Supervising Nurse Practitioners**

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

**Sec. 1. 32 MRSA §2102, sub-§2-A**, as amended by PL 2003, c. 510, Pt. B, §10, is further amended to read:

**2-A. Advanced practice registered nursing.** "Advanced practice registered nursing" means the delivery of expanded professional health care by an advanced practice registered nurse that is:

B. Within the advanced practice registered nurse's scope of practice as specified by the board