

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTY-THIRD LEGISLATURE

SECOND REGULAR SESSION
January 2, 2008 to March 31, 2008

FIRST SPECIAL SESSION
April 1, 2008 to April 18, 2008

THE GENERAL EFFECTIVE DATE FOR
SECOND REGULAR SESSION
NON-EMERGENCY LAWS IS
JUNE 30, 2008

THE GENERAL EFFECTIVE DATE FOR
FIRST SPECIAL SESSION
NON-EMERGENCY LAWS IS
JULY 18, 2008

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

Penmor Lithographers
Lewiston, Maine
2008

actuarial standards board. The filing must also certify that the carrier has included in its experience any savings offset payments or recovery of those savings offset payments consistent with former section 6913. The filing also must state the number of policyholders, certificate holders and dependents, as of the close of the preceding calendar year, enrolled in large group health insurance plans offered by the carrier. A filing and supporting information are public records except as provided by Title 1, section 402, subsection 3.

Sec. M-12. 24-A MRSA §6908, sub-§1, ¶A, as enacted by PL 2003, c. 469, Pt. A, §8, is amended to read:

A. Take any legal actions necessary or proper to recover or collect ~~savings offset~~ payments due Dirigo Health or that are necessary for the proper administration of Dirigo Health;

See title page for effective date, unless otherwise indicated.

CHAPTER 630

H.P. 1452 - L.D. 2068

An Act To Amend the Laws Governing Lobbyist Disclosure

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

Sec. 1. 3 MRSA §312-A, sub-§4-A is enacted to read:

4-A. Covered official. "Covered official" means an official in the executive branch, an official in the legislative branch, a constitutional officer, the Governor and the Governor's cabinet and staff.

Sec. 2. 3 MRSA §312-A, sub-§4-B is enacted to read:

4-B. Domestic partner. "Domestic partner" means the partner of an individual who:

- A. Is a mentally competent adult as is the individual;
- B. Has been legally domiciled with the individual for at least 12 months;
- C. Is not legally married to or legally separated from another individual;
- D. Is the sole partner of the individual and expects to remain so; and
- E. Is jointly responsible with the individual for each other's common welfare as evidenced by joint living arrangements, joint financial arrangements or joint ownership of real or personal property.

Sec. 3. 3 MRSA §312-A, sub-§7, as amended by PL 1993, c. 691, §4, is further amended to read:

7. Expenditure. "Expenditure" means anything of value or any contract, promise or agreement to transfer anything of value, whether or not legally enforceable. ~~Expenditure includes:~~

~~B.—A payment of compensation to a lobbyist by a person employing, retaining or contracting for the services of the lobbyist separately or jointly with other persons;~~

~~C.—A payment for or in connection with soliciting or urging other persons to enter into direct communication with a public official.~~

Sec. 4. 3 MRSA §312-A, sub-§7-A, as enacted by PL 1993, c. 446, Pt. A, §10 and affected by §20, is amended to read:

7-A. Immediate family. "Immediate family" means a person's spouse or domestic partner and dependent children.

Sec. 5. 3 MRSA §312-A, sub-§8-A is enacted to read:

8-A. Legislative designee. "Legislative designee" means any employee of a state department or agency who is directed by the head of the department or agency to lobby or monitor legislation on behalf of the department or agency. "Legislative designee" includes an employee who is reasonably expected to lobby or monitor legislation on behalf of the department or agency for more than 20 hours during the session. For the purposes of this subsection, "monitoring legislation" means attending legislative hearings and sessions regarding a legislative action.

Sec. 6. 3 MRSA §312-A, sub-§9, as amended by PL 2007, c. 373, §1, is further amended to read:

9. Lobbying. "Lobbying" means to communicate directly with any official in the legislative branch or any official in the executive branch or with a constitutional officer for the purpose of influencing any legislative action or with the Governor or the Governor's cabinet and staff for the purpose of influencing the approval or veto of a legislative action when reimbursement for expenditures or compensation is made for those activities. "Lobbying" includes the time spent to prepare and submit to the Governor, an official in the legislative branch, an official in the executive branch, a constitutional officer or a legislative committee oral and written proposals for, or testimony or analyses concerning, a legislative action. "Lobbying" does not include time spent by any person providing information to or participating in a subcommittee, stakeholder group, task force or other work group regarding a legislative action by the appointment or at the request of the Governor, a Legislator or legislative committee, a constitutional officer, a state agency commissioner or the chair of a state board or commis-

sion as long as the person's regular employment does not otherwise include lobbying.

Sec. 7. 3 MRSA §312-A, sub-§10-C, as enacted by PL 2007, c. 373, §2, is amended to read:

10-C. Official in the executive branch. "Official in the executive branch" means an individual in a major policy-influencing position in a department or agency listed in section 959 or in Title 5, chapter 71, and the Governor's cabinet and staff and any individual in a major policy influencing position in any other agency or independent agency, as defined in section 953, who is not specifically named in Title 5, chapter 71. As used in this chapter, "major policy-influencing position" means those positions listed in Title 5, chapter 71 and officers or employees of departments and agencies listed in section 959 and in Title 5, chapter 71 who have policy development as a major function of their positions.

Sec. 8. 3 MRSA §312-A, sub-§11-A, as repealed and replaced by PL 1993, c. 691, §7, is amended to read:

11-A. Original source. "Original source" means any person who contributes \$500 or pays \$1,000 or more in any lobbying year directly or indirectly to any employer of a lobbyist for purposes of lobbying, except that contributions of membership dues to non-profit corporations formed under Title 13-B, under any equivalent state law or by legislative enactment are not considered contributions by an original source.

Sec. 9. 3 MRSA §313-A, as enacted by PL 1993, c. 691, §11, is amended to read:

§313-A. Registration of state employees or state agency employees

~~Within 5 days of the convening of a regular legislative session, a state employee or an independent agency employee must register at the office of the commission as described in section 316-A if: Within 15 business days of the convening of a regular legislative session, a department or agency shall register with the commission as described in section 316-A those officers or employees who will serve as the department's or agency's legislative designees for the session. The department or agency shall file an updated registration form later in the session containing any changes of its designees within 15 business days of the change.~~

~~**1. Legislative designee.** The employee is designated by the head of a department or agency to serve as the primary legislative designee for that department or agency; and~~

~~**2. Lobbying requirements.** The job description of the employee contains lobbying requirements.~~

An employee ~~registering~~ who is required to be registered under this section is exempt from all other requirements under the law regarding lobbyists.

Sec. 10. 3 MRSA §315, as amended by PL 1993, c. 691, §§14 and 15, is repealed.

Sec. 11. 3 MRSA §315-A, sub-§2, as enacted by PL 2005, c. 613, §1, is amended to read:

2. Disclosure website. The commission shall develop and maintain a publicly accessible website that displays:

- A. A list of all persons who have employed a lobbyist during the current year;
- B. A list of all lobbyists and lobbyist associates registered for the year;
- C. A profile of each registered lobbyist and lobbyist associate, including contact information, the name of the lobbyist's employer or employers and, if provided by the lobbyist or lobbyist associate, a photograph of the lobbyist or lobbyist associate;
- D. A profile of each person employing a lobbyist, including contact information for the employer, and a list of lobbyists and lobbyist associates engaged by the employer; ~~and~~
- E. For each employer, a list of all legislative actions that have been the subject of lobbying for the year, including hyperlinks to the summary page of the Legislature's publicly accessible website for each legislative document listed; and
- F. A list of officials in the executive branch as defined in section 312-A, subsection 10-C.

Sec. 12. 3 MRSA §316, as amended by PL 1993, c. 691, §16, is further amended to read:

§316. Registration forms

The commission shall prepare and make available registration forms for the registration of lobbyists and employers required to register pursuant to section 313. These forms must include the following information:

- 1. Names.** The name of the lobbyist, a list of the lobbyist associates, the name of the person authorized by the lobbyist to sign the registration and reports for the lobbyist and the name of the person employing the lobbyist;
- 2. Business addresses.** The business address ~~of both~~ and other contact information for the lobbyist, the lobbyist associates and the person employing the lobbyist;
- 3. Date.** The date upon which lobbying commenced or was expected to commence;
- 4. Nature of business.** A description of the ~~nature of the business of the person employing that lobbyist; and~~ employer's business activity or mission or a

description of the industry, trade or profession that the employer represents;

4-A. Legislative interests. The general areas of legislation that the employer is attempting to influence;

4-B. Legislative committees. The joint standing committees of the Legislature that the lobbyist expects to lobby during the year;

4-C. Website of employer. The address for the employer's publicly accessible website; and

5. Compensation. The amount of compensation that the lobbyist will receive for that lobbyist's services or, if an exact amount is unascertainable, the basis upon which the lobbyist will charge for those services.

~~These forms must be signed by both the lobbyist and the employer and the signatures serve as a certificate~~ The lobbyist must certify that the information on that form is true, correct and complete and that the employer has approved the information in the registration.

Sec. 13. 3 MRSA §316-A, as enacted by PL 1993, c. 691, §17, is amended to read:

§316-A. Registration forms for state employees or state agency employees

The commission shall prepare and make available registration forms for the registration of state employees or state agency employees required to register pursuant to section 313-A. These forms must include the following information:

1. Names. The name, business address and contact information of the employee and the department or agency the employee is representing and the address for the publicly accessible website of the department or agency the employee is representing; and

2. Position description. A position description;

3. Description of agency. A description of the department or agency the employee is representing, its jurisdiction and its activities; and

4. Legislative interests. The general subject areas of legislation that the department or agency is attempting to influence.

These forms must be signed by the employee and the signature serves as a certificate that the information on that form is true, correct and complete.

Sec. 14. 3 MRSA §317, sub-§1, as amended by PL 2007, c. 373, §§3 to 5, is further amended to read:

1. Monthly session reports. During the period in which the Legislature is in session, every registered lobbyist shall file with the commission, no later than ~~45~~ 11:59 p.m. on the 15th calendar days subsequent to the conclusion of the preceding day of each month, a

report concerning the lobbyist's activities for the previous month regarding each employer.

Every lobbyist shall report that lobbyist's lobbying activities for each month that the Legislature is in session, even if no lobbying has been performed or compensation or reimbursement for expenses received for the month. In the case of a lobbyist representing multiple employers, if no lobbying or services in support of lobbying were performed, one report listing each employer on whose behalf no lobbying was conducted may be submitted. The monthly report must contain the following information:

A. The month to which the report pertains;

B. The name and address of the lobbyist and employer;

C. The names of the individuals who lobbied during the month;

D. The specific dollar amount of compensation received ~~for the preparation of documents and research for the primary purpose of influencing legislative action and for lobbying activities, specifying the~~ as defined in section 312-A, subsection 9, during the month. The amount of compensation received for lobbying officials in the legislative branch, officials in the executive branch and constitutional officers must be reported separately.

In the case of a regular employee, the specific dollar amount must be computed by multiplying the number of hours devoted to the preparation of documents and research for the primary purpose of influencing legislative action and to lobbying by the employee's regular rate of pay based on a 40-hour week;

E. The specific dollar amount of expenditures made or incurred by the lobbyist during the month that is the subject of the report ~~with regard to the preparation of documents and research for the primary purpose of influencing legislative action and to~~ for purposes of lobbying as defined in section 312-A, subsection 9 for which the lobbyist has been or expects to be reimbursed, ~~specifying the~~ The amount of expenditures for lobbying officials in the legislative branch, officials in the executive branch and constitutional officers must be reported separately;

F. The total amount of ~~money expended~~ expenditures by the lobbyist or the employer directly to or on behalf of one or more covered officials of the ~~legislative branch,~~ including members of the official's immediate family, ~~and the amount, if any, for which the lobbyist has been or expects to be reimbursed;~~

G. ~~The name of an official in the legislative branch or a member of that official's immediate family on whose behalf an expenditure or expen-~~

ditures totaling \$25 or more were made in any one calendar month For any expenditure of money or anything of value made by the lobbyist or employer on behalf of a covered official or a member of the official's immediate family with a total retail value of \$25 or more, the name of the official or family member, the person making the expenditure and the date, amount and purpose of the expenditure or expenditures.

G-1. The date and a description of an event, a list of all officials in the legislative branch or executive branch or members of an official's immediate family in attendance and the total amount of expenditures for the event, if the total amount of the expenditures for officials and family members is \$250 or more;

H. A list of each legislative action by Legislative Document ~~or number, if unknown~~ specific issue, by Senate Paper or House Paper number or, if unknown, by topic or nomination or other matter in connection with which the lobbyist is engaged in lobbying;

I. A list specifically identifying each legislative action, ~~Legislative Document, Senate Paper, House Paper or nomination~~ for which the lobbyist was compensated or expects to be compensated, or expended in excess of \$1,000 for lobbying activities related to those actions and a statement of the amounts compensated or expended for each; and

J. ~~If the lobbyist is required to make a specific list of items under paragraph I, a~~ A list of all original sources of any money received from that employer must be included who have contributed or paid \$1,000 or more during the lobbying year directly or indirectly to the employer for purposes of lobbying. If the employer or person who contributes to an employer original source is a corporation formed under Title 13 or 13-C or former Title 13-A, nonprofit corporation formed under Title 13-B or limited partnership under Title 31, the corporation, nonprofit organization or limited partnership, not the individual members or contributors, is must be listed as the original source.

Sec. 15. 3 MRSA §317, sub-§2, as amended by PL 2001, c. 430, §6, is further amended to read:

2. Annual report. Thirty days following the end of the year in which any person lobbied pursuant to section 313, the lobbyist and the lobbyist's employer shall file with the commission a joint report that must contain the information required in subsection 1, ~~except that the report must summarize for all lobbying activities for the year and report in detail only those legislative actions not previously reported, as required by subsection 1, paragraphs H and I.~~

The report must include a separate listing of legislative actions ~~for the calendar year reported on pursuant to subsection 1, paragraphs H and I.~~ The reports required by subsection 1 must be signed by the person designated by the lobbyist in section 316, subsection 1. The reports required by this subsection must be signed by both the designated person and the employer.

If the date any report required by this section is due falls on a day other than a regular business day, the report is due on the first regular business day next following the due date.

In addition to the amounts identified in subsection 1 as compensation received or expenditure made for the primary purpose of lobbying, this annual report must include the total amount of compensation received by the lobbyist or the lobbying firm, or expended by the employer, except compensation received or expended for purposes not related to lobbying.

Sec. 16. 3 MRSA §321, sub-§8 is enacted to read:

8. Investigations. The commission may undertake investigations into the failure to file a registration or to determine the accuracy and completeness of the registration and reporting of lobbyists and their employers if the members of the commission have found cause to believe that a violation may have occurred based on a properly filed complaint or other information received by the commission.

Sec. 17. 3 MRSA §322, as repealed and replaced by PL 1993, c. 691, §26, is amended to read:

§322. Enforcement

1. Filing of a complaint. Any person may file a complaint with the commission specifying any alleged violation of this chapter. ~~The commission may notify any named party in the complaint to request that the party comply with the provisions of this chapter or may request that the Attorney General investigate the complaint~~ staff shall notify the party against whom the complaint has been filed and then may undertake the investigation of the alleged violation if directed by members of the commission.

2. Attorney General. The Attorney General may enforce the provisions of this chapter upon request by the commission.

3. Use of subpoena. In the conduct of an investigation under section 321, subsection 8, the commission may subpoena witnesses and take evidence under oath. The commission may also subpoena records when a lobbyist, employer or other person refuses to provide relevant records requested by the commission in the course of investigating a violation of the registration, reporting or other requirements in this chapter. All subpoenas must be approved by the members of the commission and signed by the chair or the chair's designee. Any record or information obtained by the

commission in the course of an investigation that is covered by a privilege against discovery or use as evidence is not a public record unless the privilege is waived.

See title page for effective date.

CHAPTER 631

H.P. 1491 - L.D. 2105

An Act To Change the Timing of the Health Care Occupations Report and To Add and Clarify Definitions Relating to Swimming Pools and Spas

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

Sec. 1. 22 MRSA §256-A, first ¶, as amended by PL 2007, c. 240, Pt. RR, §2, is further amended to read:

Beginning in 2006, the Department of Labor, in conjunction with the Office of Health Data and Program Management's Division of Data, Research and Vital Statistics, shall compile and annually update a health care occupations report to be completed and presented to the health workforce forum established in section 257 by September 15th. Beginning in 2009, the health care occupations report must be completed and presented to the health workforce forum established in section 257 by September 15th and presented every 4th year thereafter. The report must be posted on a publicly accessible site on the Internet maintained by the Department of Labor and provide the following information:

Sec. 2. 22 MRSA §257, as amended by PL 2005, c. 327, §3, is further amended to read:

§257. Health workforce forum

The department shall convene at least once annually a health workforce forum to review the latest report developed under section ~~256~~ 256-A and discuss current health care workforce issues. The forum must include representatives of health professionals, licensing boards, employers, health education programs and the Department of Labor.

The department shall use the information gathered through the forum to develop its health policy and planning decisions authorized under this Title and to make appropriate policy recommendations based on its analysis of the health care workforce. The department shall post ~~its annual~~ the report and recommendations on a publicly accessible site on the Internet maintained by the department by December 31st ~~of each year,~~ beginning in ~~2006~~ 2009.

Sec. 3. 22 MRSA §2661, as enacted by PL 1985, c. 150, is amended to read:

§2661. Purpose

The purpose of this chapter is to provide minimum requirements and standards for the protection of the public health, safety and welfare of persons using public ~~swimming~~ pools or spas.

Sec. 4. 22 MRSA §2662, as enacted by PL 1985, c. 150 and amended by PL 2003, c. 689, Pt. B, §6, is further amended to read:

§2662. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

1. Communicable disease. "Communicable disease" is a disease capable of being transmitted from one person to another.

2. Department. "Department" means the Department of Health and Human Services.

2-A. Medical facility pool or medical facility spa. "Medical facility pool" or "medical facility spa" means a pool or spa under the direct supervision and control of licensed medical personnel.

2-B. Pool. "Pool" means a basin, chamber or tank constructed of smooth, impervious and easily cleaned materials, located either indoors or outdoors, in-ground, aboveground or on-ground, provided with a controlled water supply and containing an artificial body of water used for swimming, recreational bathing or wading. "Pool" includes any related equipment, structures, areas and enclosures that are intended for the use of persons using or operating the pool, including equipment, dressing lockers, showers and toilet rooms.

3. Pool depth. "Pool depth" means the distance between the floor of the pool and the maximum operating water level.

4. Residential spa. "~~Private Residential~~ spa" means any constructed spa, permanently installed or portable, which that is used in connection with a single or multifamily residence, used by tenants of apartment buildings, owners of condominiums or members of property owners associations and available only to ~~the~~ these residents and their private guests.

5. Residential swimming pool. "~~Private Residential~~ swimming pool" means any constructed pool ~~which that~~ is used ~~as a for~~ swimming pool in connection with a single or multifamily residence, used by tenants of apartment buildings, owners of condominiums and members of property owners associations and available only to ~~the~~ these residents and their private guests. A pool on the premises of a family child care