

# MAINE STATE LEGISLATURE

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

**AS PASSED BY THE**

**ONE HUNDRED AND TWENTY-FOURTH LEGISLATURE**

**SECOND REGULAR SESSION**  
**January 6, 2010 to April 12, 2010**

**THE GENERAL EFFECTIVE DATE FOR**  
**SECOND REGULAR SESSION**  
**NON-EMERGENCY LAWS IS**  
**JULY 12, 2010**

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

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**Augusta, Maine**  
**2010**

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

**Sec. 1. 32 MRSA §1086**, as amended by PL 1997, c. 107, §7, is further amended by adding at the end a new paragraph to read:

The board has the authority, upon presentation of satisfactory credentials and fulfillment of other conditions set by rule adopted by the board, to issue a permit to a graduate of an approved dental school or college who has not been licensed to practice dentistry in this State, who has passed an examination for licensure in this State and who, in the board's judgment, has not violated a provision of this chapter or rules adopted by the board to serve as a dental resident in a board-approved dental setting within the State. The board must, prior to the issuance of a permit under this paragraph, determine that the supervision and control of the services to be performed by the dental resident are adequate and that the performance of these services by the dental resident are within the dental resident's dental knowledge and skill. The dental resident must function under the supervision and direction of a dentist licensed in this State. A permit under this paragraph may not be valid for more than one year. The board may charge a fee up to \$50 for a permit.

See title page for effective date.

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**CHAPTER 465**

**H.P. 1110 - L.D. 1572**

**An Act To Correct Errors in  
the Laws Relating to  
Unlicensed Practice and Other  
Provisions of the Professional  
and Occupational Licensing  
Laws**

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

**Sec. 1. 10 MRSA §8003-B, sub-§1**, as amended by PL 1999, c. 687, Pt. C, §10, is further amended to read:

**1. During investigation.** Unless otherwise provided by Title 24, chapter 21, all complaints and investigative records of the licensing boards ~~and~~ commissions and regulatory functions within or affiliated with the Department of Professional and Financial Regulation are confidential during the pendency of an investigation. Those records become public records upon the conclusion of an investigation unless confidentiality is required by some other provision of law. For purposes of this section, an investigation is concluded when:

A. A notice of an adjudicatory hearing under Title 5, chapter 375, subchapter ~~IV~~ 4 has been issued;

C. A consent agreement has been executed; or

D. A letter of dismissal has been issued or the investigation has otherwise been closed.

**Sec. 2. 10 MRSA §8003-B, sub-§2-A**, as amended by PL 2001, c. 345, §1, is further amended to read:

**2-A. Certain client records confidential.** Notwithstanding subsections 1 and 2, a treatment record provided to a licensing board or commission or in connection with a regulatory function within or affiliated with the department during investigation of a person licensed by the department in a medical, mental health, substance abuse, psychological or health field that contains information personally identifying a licensee's client or patient is confidential during the pendency of the investigation and remains confidential upon the conclusion of the investigation. A treatment record may be disclosed only if:

A. The client or patient executes a written release that states that:

(1) Unless the release provides for more limited disclosure, execution of the release may result in the record becoming a public record; or

(2) If the client or patient wishes, execution of the release allows disclosure to only the person or persons clearly identified in the release. The release must require the person or persons identified in the release not to make a disclosure to another person;

B. The disclosure is necessary under Title 22, chapter 857 concerning personnel and licensure actions;

C. The disclosure is necessary under Title 22, section 3474 concerning reports of suspected adult abuse or exploitation;

D. The disclosure is necessary under Title 22, section 4011-A concerning reports of suspected child abuse or neglect; or

E. The disclosure is necessary under Title 22, section 7703 concerning reports of suspected child or adult abuse or neglect.

A release executed by a client or patient does not operate to disclose a record otherwise made confidential by law.

This subsection does not prevent disclosure of records pursuant to an order of a court of competent jurisdiction upon good cause shown.

**Sec. 3. 10 MRSA §8003-C, sub-§1**, as enacted by PL 1999, c. 687, Pt. C, §12, is amended to read:

**1. Complaints of unlicensed practice.** A board or commission ~~listed~~ identified in section 8001, subsection 38 or section 8001-A or a regulatory function administered by the Office of Licensing and Registration identified in section 8001, subsection 38 may receive or initiate complaints of unlicensed practice.

**Sec. 4. 10 MRSA §8003-C, sub-§3**, as repealed and replaced by PL 2003, c. 452, Pt. E, §10 and affected by Pt. X, §2, is amended to read:

**3. Unlicensed practice; criminal penalties.** Notwithstanding any other provision of law:

A. A person who practices or represents to the public that the person is authorized to practice a profession or trade and intentionally, knowingly or recklessly fails to obtain a license as required by ~~this Title~~ the laws relating to a board, commission or regulatory function identified in section 8001, subsection 38 or section 8001-A or intentionally, knowingly or recklessly practices or represents to the public that the person is authorized to practice after the license required by ~~this Title~~ the laws relating to a board, commission or regulatory function identified in section 8001, subsection 38 or section 8001-A has expired or been suspended or revoked commits a Class E crime; and

B. A person who practices or represents to the public that the person is authorized to practice a profession or trade and intentionally, knowingly or recklessly fails to obtain a license as required by ~~this Title~~ the laws relating to a board, commission or regulatory function identified in section 8001, subsection 38 or section 8001-A or intentionally, knowingly or recklessly practices or represents to the public that the person is authorized to practice after the license required by ~~this Title~~ the laws relating to a board, commission or regulatory function identified in section 8001, subsection 38 or section 8001-A has expired or been suspended or revoked when the person has a prior conviction under this subsection commits a Class D crime. Title 17-A, section 9-A governs the use of prior convictions when determining a sentence, except that, for purposes of this paragraph, the date of the prior conviction must precede the commission of the offense being enhanced by no more than 3 years.

**Sec. 5. 10 MRSA §8003-C, sub-§4**, as amended by PL 2009, c. 44, §1, is further amended to read:

**4. Unlicensed practice; civil penalties.** Any person who practices or represents to the public that the person is authorized to practice a profession or

trade without first obtaining a license as required by ~~this Title~~ the laws relating to a board, commission or regulatory function identified in section 8001, subsection 38 or section 8001-A or after the license has expired or has been suspended or revoked commits a civil violation punishable by a fine of not less than \$1,000 but not more than \$5,000 for each violation. An action under this subsection may be brought in District Court or, in combination with an action under subsection 5, in Superior Court.

**Sec. 6. 10 MRSA §8003-D**, as enacted by PL 1999, c. 687, Pt. C, §12, is amended to read:

**§8003-D. Investigations; enforcement duties; assessments**

When there is a finding of a violation, a board or commission ~~listed~~ identified in section 8001, subsection 38 or section 8001-A or the Office of Licensing and Registration with regard to a regulatory function identified in section 8001, subsection 38 administered by the office may assess the licensed person or entity for all or part of the actual expenses incurred by the board, commission, Office of Licensing and Registration or ~~its~~ their agents for investigations and enforcement duties performed.

"Actual expenses" include, but are not limited to, travel expenses and the proportionate part of the salaries and other expenses of investigators or inspectors, hourly costs of hearing officers, costs associated with record retrieval and the costs of transcribing or reproducing the administrative record.

The board ~~or~~ commission or Office of Licensing and Registration, as soon as feasible after finding a violation, shall give the licensee notice of the assessment. The licensee shall pay the assessment in the time specified by the board ~~or~~ commission or Office of Licensing and Registration, which may not be less than 30 days.

**Sec. 7. 10 MRSA §8003-E**, as enacted by PL 1999, c. 687, Pt. C, §12, is amended to read:

**§8003-E. Citations and fines**

Any board or commission ~~listed~~ identified in section 8001, subsection 38 or section 8001-A or a regulatory function administered by the Office of Licensing and Registration identified in section 8001, subsection 38 may adopt by rule a list of violations for which citations may be issued by professional technical support staff. A violation may carry a fine not to exceed \$200. Citations issued by employees of the Office of Licensing and Registration or an affiliated board must expressly inform the licensee that the licensee may pay the fine or request a hearing before the board or commission or the Office of Licensing and Registration

with regard to a regulatory function identified in section 8001, subsection 38 administered by the office regarding the violation.

See title page for effective date.

## CHAPTER 466

### H.P. 1087 - L.D. 1543

#### An Act To Make Maine Laws Consistent with Recent Amendments to the United States Trade Act of 1974

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

**Sec. 1. 26 MRSA §1191, sub-§3**, as amended by PL 1991, c. 193, §3, is further amended to read:

**3. Weekly benefit for partial unemployment.** Each eligible individual who is partially unemployed in any week must be paid a partial benefit for that week. The partial benefit is equal to the weekly benefit amount less the individual's weekly earnings in excess of \$25. ~~Any amount received from the Federal Government by members of the National Guard and organized reserve, including base pay and allowances or any amounts received as a volunteer firefighter, as a volunteer emergency medical services person or as elected members of the Legislature, is not considered wages for the purpose of this subsection. The following amounts are not considered wages for purposes of this subsection:~~

A. Amounts received from the Federal Government by a member of the National Guard and organized reserve, including base pay and allowances;

B. Amounts received as a volunteer firefighter or as a volunteer emergency medical services person;

C. Amounts received as an elected member of the Legislature; and

D. Earnings for the week received as a result of participation in full-time training under the United States Trade Act of 1974 as amended by the United States Trade and Globalization Adjustment Assistance Act of 2009 up to an amount equal to the individual's most recent weekly benefit amount.

**Sec. 2. 26 MRSA §1192, sub-§6-A**, as enacted by PL 1981, c. 548, §2, is amended to read:

**6-A. Prohibition against disqualification of individuals in approved training under the United States Trade Act of 1974.** Notwithstanding any other provisions of this chapter, no otherwise eligible individual may be denied benefits for any week because

~~he the individual is in training approved under 19 United States Code, Section 2296(a) or under any amendment or addition to the United States Trade Act of 1974, Section 236 (a) (1), nor may that individual be denied benefits by reason of leaving work to enter that training, provided the work left is not suitable employment, or because of the application to any such week in training of provisions in this chapter, or any applicable federal unemployment compensation law, relating to availability for work, active search for work or refusal to accept work. Benefits paid to any eligible claimant while in such training for which, except for this subsection, the claimant could be disqualified under section 1193, subsection 1 or 3, shall may not be charged against the experience rating record of any employer but shall must be charged to the General Fund.~~

For purposes of this subsection, the term "suitable employment" means with respect to an individual, work of a substantially equal or higher skill level than the individual's past adversely affected employment, as defined for purposes of the United States Trade Act of 1974, and wages for such work at not less than 80% of the individual's average weekly wage as determined for the purposes of the United States Trade Act of 1974.

See title page for effective date.

## CHAPTER 467

### H.P. 1252 - L.D. 1758

#### An Act To Implement the Recommendations of the Task Force on the Sustainability of the Dairy Industry in Maine

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

**Whereas**, milk producers are receiving milk payments that are below the cost of production; and

**Whereas**, all sectors of the dairy industry and rural economies are in jeopardy; and

**Whereas**, it is in the State's economic interest to maintain a viable dairy industry and in the public interest to have a secure food supply; 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,