

# MAINE STATE LEGISLATURE

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

**AS PASSED BY THE**

**ONE HUNDRED AND TWENTY-FIFTH LEGISLATURE**

**FIRST REGULAR SESSION**  
**December 1, 2010 to June 29, 2011**

**THE GENERAL EFFECTIVE DATE FOR**  
**FIRST REGULAR SESSION**  
**NON-EMERGENCY LAWS IS**  
**SEPTEMBER 28, 2011**

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

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**Augusta, Maine**  
**2011**

decision whether to release or further detain the juvenile.

**Sec. 3. 15 MRSA §3305, first ¶**, as amended by PL 1989, c. 741, §14, is further amended to read:

An answer to a petition need not be entered by a juvenile or by the juvenile's parents, guardian or legal custodian. A juvenile may enter an answer admitting the allegations of the petition, in accordance with Rules 11 and 11A, Maine Rules of Criminal Procedure, except that, if the case has been continued for investigation and for a bind-over hearing pursuant to section 3101, subsection 4, paragraph A, the court may not accept an answer to the petition until the court has conducted a bind-over hearing and has decided to retain jurisdiction of the juvenile in the Juvenile Court or until the prosecuting attorney has withdrawn the request to have the juvenile tried as an adult.

**Sec. 4. 15 MRSA §3310, sub-§7** is enacted to read:

**7. Default judgment on certain juvenile crimes.** If a juvenile fails to appear in response to a juvenile summons served pursuant to section 3304 for a juvenile crime described in section 3103, subsection 1, paragraph B or C, the judge may enter the juvenile's default, adjudicate that the juvenile has committed the juvenile crime alleged and impose a fine pursuant to section 3314, subsection 1, paragraph G. For good cause shown, the court may set aside the default and adjudication.

See title page for effective date.

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**CHAPTER 337**

**H.P. 484 - L.D. 654**

**An Act To Amend the  
Occupational Disease  
Reporting Laws**

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

**Sec. 1. 22 MRSA §1493**, as enacted by PL 1985, c. 452, §1 and amended by PL 2003, c. 689, Pt. B, §6, is further amended to read:

**§1493. Duties of health care providers, health care facilities and medical laboratories**

All ~~physicians or hospitals~~ health care providers, health care facilities and medical laboratories shall report to the Department of Health and Human Services all persons diagnosed as having an occupational disease no later than 30 days from the date of diagnosis or from discharge from a hospital. The report ~~shall~~ must include any factor known to the physician ~~which~~ that is suspected of being a contributing factor to the disease, including, but not limited to, whether or not

the person smokes and, if so, the frequency of smoking.

~~A physician health care provider, health care facility or medical laboratory~~, upon notification by the Department of Health and Human Services, shall report to the department any further information requested by the department concerning any person now or formerly under ~~his~~ its care, diagnosed as having or having had an occupational disease.

~~No physician or hospital~~ A health care provider, health care facility or medical laboratory complying with the reporting requirements of this section ~~may be~~ is not liable for any civil damages as a result of those acts.

**Sec. 2. 22 MRSA §1494**, as enacted by PL 1985, c. 452, §1, is repealed and the following enacted in its place:

**§1494. Confidentiality**

Unless otherwise authorized by section 42, subsection 5, the department may not release any information described in section 1493 regarding reporting of occupational diseases if that information identifies persons with occupational diseases directly or indirectly. The department may disclose information that relates to the site of employment to the Department of Labor, Bureau of Labor Standards if the disclosure contains only the information necessary to advance the public health and does not directly identify an individual having an occupational disease.

All other information submitted pursuant to this chapter may be made available to the public.

See title page for effective date.

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**CHAPTER 338**

**S.P. 365 - L.D. 1244**

**An Act Regarding Payment of  
Medical Fees in the Workers'  
Compensation System**

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

**Sec. 1. 39-A MRSA §206, sub-§14**, as enacted by PL 1991, c. 885, Pt. A, §8 and affected by §§9 to 11, is amended to read:

**14. Employer not liable.** An employer is not liable under this Act for charges for health care services to an injured employee in excess of those established under section ~~209~~ 209-A, except upon petition as provided. The board shall allow charges in excess of those provided under section ~~209~~ 209-A against the employer if the provider satisfactorily demonstrates to the board that the services were extraordinary or that the

provider incurred extraordinary costs in treating the employee as compared to those reasonably contemplated for the services provided.

**Sec. 2. 39-A MRSA §208, sub-§2, ¶E**, as enacted by PL 1991, c. 885, Pt. A, §8 and affected by §§9 to 11, is amended to read:

E. A health care provider may not charge the insurer or self-insurer an amount in excess of the fees prescribed in section ~~209~~ 209-A for the submission of reports prescribed by this section and for the submission of any additional records.

**Sec. 3. 39-A MRSA §209**, as amended by PL 2007, c. 240, Pt. JJJ, §5 and c. 311, §2, is repealed.

**Sec. 4. 39-A MRSA §209-A** is enacted to read:

**§209-A. Medical fee schedule**

**1. Definitions.** As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Ancillary services and products" means those services and products that are necessary but peripheral to the medical procedure.

B. "Medical fee schedule" means a list of medical procedures and the medical codes used and fees charged for those medical procedures.

**2. Medical fee schedule.** In order to ensure appropriate limitations on the cost of health care services while maintaining broad access for employees to health care providers in the State, the board shall adopt rules that establish a medical fee schedule setting the fees for medical and ancillary services and products rendered by individual health care practitioners and health care facilities in accordance with the following:

A. The medical fee schedule for services rendered by individual health care practitioners must reflect the methodology underlying the federal Centers for Medicare and Medicaid Services resource-based relative value scale;

B. The medical fee schedule for services rendered by health care facilities must reflect the methodology and categories set forth in the federal Centers for Medicare and Medicaid Services severity-diagnosis related group system for inpatient services and the methodologies and categories set forth in the federal Centers for Medicare and Medicaid Services ambulatory payment classification system for outpatient services; and

C. The medical fee schedule must be consistent with the most current medical coding and billing systems, including the federal Centers for Medicare and Medicaid Services resource-based relative value scale, severity-diagnosis related group system, ambulatory payment classification system

and healthcare common procedure coding system; the International Statistical Classification of Diseases and Related Health Problems report issued by the World Health Organization and the current procedural terminology codes used by the American Medical Association.

**3. Annual updates.** Notwithstanding Title 5, chapter 375, subchapter 2, the executive director of the board shall annually update the medical fee schedule developed pursuant to subsection 2. In order to facilitate the update, the executive director annually shall obtain from the Maine Health Data Organization the average total payments, including professional, facility, ancillary and patient cost-sharing contribution, across all providers in the Maine Health Data Organization database for the medical and ancillary services and products most commonly rendered during the immediately preceding calendar year under this Part.

**4. Reimbursement rate if medical fee schedule not established or updated.** If the board fails to adopt rules that establish a medical fee schedule in accordance with subsection 2 by December 31, 2011 or the executive director fails to annually update the medical fee schedule in accordance with subsection 3, the reimbursement rate for medical services is 105% of the private 3rd-party payor average payment rate for the provider or the amount agreed to in writing by the provider and the insurance company or self-insured employer prior to the rendering of service by the provider. For purposes of this subsection, "reimbursement rate for medical services" means the total payment allowed for the medical and ancillary services and products, including any amount to be paid by a 3rd-party payor and the amount to be paid by the patient to satisfy a copayment, deductible or coinsurance obligation.

**5. Periodic updates to the medical fee schedule.** In addition to the annual updates to the medical fee schedule required by subsection 3, the board shall undertake a comprehensive review of the medical fee schedule once every 3 years beginning in 2014. The board shall consider the following factors in setting or revising the medical fee schedule as required by this section:

A. The private 3rd-party payor average payment rates obtained from the Maine Health Data Organization pursuant to subsection 3;

B. Any material administrative burden imposed on providers by the nature of the workers' compensation system; and

C. The goal of maintaining broad access for employees to all individual health care practitioners and health care facilities in the State.

**6. Associated services fee schedule.** The board shall adopt rules that establish a fee schedule or other standards of reimbursement for providers regarding

administrative, case management, medical and legal and other activities unique to the treatment of injured workers in the workers' compensation system.

7. **MaineCare reimbursement.** MaineCare must be paid 100% of any expenses incurred for the treatment of an injury of an employee under this Title.

**Sec. 5. Rulemaking; report to Legislature.** The Workers' Compensation Board shall adopt rules to establish a medical fee schedule addressing services provided by both individual health care practitioners and health care facilities no later than December 31, 2011. Rules adopted pursuant to this section are routine technical rules pursuant to the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A. The executive director of the board shall report to the Joint Standing Committee on Labor, Commerce, Research and Economic Development on the establishment of the medical fee schedule required by Title 39-A, section 209-A no later than February 15, 2012.

See title page for effective date.

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**CHAPTER 339**

**S.P. 441 - L.D. 1427**

**An Act To Amend Seasonal Licenses for the Operation of Beano or Bingo Games**

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

**Sec. 1. 17 MRSA §315**, as enacted by PL 1975, c. 307, §2, is repealed and the following enacted in its place:

**§315. Seasonal licenses**

Notwithstanding sections 314 and 319, the Chief of the State Police may issue up to 10 seasonal licenses to operate beano or bingo games in a calendar year, including those designed to attract players under 16 years of age, in bona fide resort hotels as long as the conditions prescribed by this section are met. For the purposes of this section, "resort hotel" means a full-service hotel facility that offers leisure or recreational activities such as golf, tennis, water sports or horseback riding.

**1. Operated on-site.** The beano or bingo games must be operated and conducted in those resort hotels by the management without profit and solely for the entertainment of registered guests or patrons of that resort hotel.

**2. Player fee prohibited.** A licensee under this section may not charge an entry fee or any fee to participate in a beano or bingo game.

**3. Minors.** Prizes awarded for the play of beano or bingo under this section must be nonmonetary and valued at less than \$10 and may be awarded to a single player no more than once every 24 hours. Notwithstanding section 319, a person under 16 years of age may be admitted to the playing area without an adult and may participate in the game as long as the game is not conducted in a room or area where alcoholic beverages are served. Beano or bingo games under this section may not be conducted with any other gambling activity, including games of chance under chapter 62. For purposes of this subsection, "nonmonetary prize" includes a credit for food served on the premises of the resort hotel.

The fee for a license issued pursuant to this section is \$10 and must be paid to the Treasurer of State to be credited to the General Fund. A hotel or liquor license of a resort hotel licensee may not be withheld because of the conducting by the resort hotel of beano or bingo games.

Nothing in this section permits the operation or conduct of beano or bingo games without a license.

See title page for effective date.

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**CHAPTER 340**

**H.P. 513 - L.D. 685**

**An Act To Support Farm Programs at Department of Corrections Facilities**

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

**Sec. 1. 34-A MRSA §1403, sub-§7**, as enacted by PL 1983, c. 724, is amended to read:

**7. Establishment of farm programs and gravel mining programs to support farm programs at correctional facilities.** The commissioner may establish a farm program at each correctional facility for the purposes of producing agricultural and farm products and teaching prisoners and juvenile clients cultivation and gardening techniques. The commissioner may also establish a gravel mining program at any correctional facility sited on land that contains sufficient gravel for the purpose of supporting the farm programs.

A. Products from ~~those~~ farm programs shall under this subsection must be used by correctional facilities. If a surplus exists, it may be:

- (1) Sold or distributed to other state, county or local governmental entities;
- (2) Exchanged with other state, county or local governmental entities for services or other goods; ~~or~~