

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTY-SIXTH LEGISLATURE

FIRST REGULAR SESSION
December 5, 2012 to July 10, 2013

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
OCTOBER 9, 2013

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

Augusta, Maine
2013

1. Entitlement. Each client who receives services under sections 5467 to ~~5474~~ 5471 is entitled to have access to an advocate.

Sec. 10. 34-B MRSA §5467, sub-§2, ¶D, as amended by PL 2011, c. 542, Pt. A, §110, is further amended to read:

D. Ensure the client's access to an advocate throughout the process of adult developmental services under sections 5467 to ~~5474~~ 5471;

Sec. 11. 34-B MRSA §5471, sub-§2, ¶D, as amended by PL 2003, c. 389, §15, is further amended to read:

D. The individual support coordinator of the planning team that developed the personal plan or service plan for the client; and

Sec. 12. 34-B MRSA §5471, sub-§2, ¶E, as amended by PL 1995, c. 560, Pt. K, §58, is repealed.

Sec. 13. 34-B MRSA §5471, sub-§2, ¶F, as amended by PL 2003, c. 389, §15, is repealed.

Sec. 14. 34-B MRSA §5471, sub-§3, ¶A, as amended by PL 2003, c. 389, §15, is further amended to read:

A. It must specify the respective responsibilities, where applicable, of the client, the family or guardian of the client, the regional office, ~~the facility~~ and each public and private agency that intends to provide services to the client.

Sec. 15. 34-B MRSA §5471, sub-§4, ¶A, as amended by PL 2003, c. 389, §15, is further amended to read:

A. No part of a service plan or personal plan may be implemented until each person required to sign the service agreement under subsection 2 has signed it, ~~except that if a client is to be admitted to a facility, the service agreement need not be completed until 5 days after the date of admission.~~

Sec. 16. 34-B MRSA §5472, as enacted by PL 1983, c. 459, §7, is repealed.

Sec. 17. 34-B MRSA §5473, as amended by PL 2003, c. 389, §§16 and 17, is repealed.

Sec. 18. 34-B MRSA §5474, amended by PL 2011, c. 542, Pt. A, §115, is repealed.

Sec. 19. 34-B MRSA §5475, as amended by PL 2011, c. 542, Pt. A, §116, is repealed.

Sec. 20. 34-B MRSA §5476, as amended by PL 2011, c. 542, Pt. A, §117, is repealed.

Sec. 21. 34-B MRSA §5477, as amended by PL 2011, c. 542, Pt. A, §§118 and 119, is repealed.

Sec. 22. 34-B MRSA §5478, as amended by PL 2011, c. 542, Pt. A, §120, is repealed.

Sec. 23. 34-B MRSA §5479, as amended by PL 2003, c. 389, §21, is repealed.

Sec. 24. 34-B MRSA §5480, as amended by PL 2003, c. 389, §22, is repealed.

See title page for effective date.

CHAPTER 22

H.P. 132 - L.D. 157

An Act To Modify Administration of the Fund Insurance Review Board

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

Sec. 1. 38 MRSA §568-B, sub-§2, ¶C, as amended by PL 2011, c. 243, §3, is further amended to read:

C. To contract with the ~~Finance Authority of Maine~~ department for such assistance in fulfilling the review board's duties as the review board may require;

Sec. 2. 38 MRSA §568-B, sub-§2, ¶E, as repealed and replaced by PL 2011, c. 691, Pt. A, §41 and affected by §42, is amended to read:

E. To, at such times and in such amounts as it determines necessary, and in consultation with the ~~Finance Authority of Maine~~ department, direct the transfer of funds from the Underground Oil Storage Replacement Fund to the Ground Water Oil Clean-up Fund; and

See title page for effective date.

CHAPTER 23

S.P. 158 - L.D. 416

An Act To Allow Complainants in Disciplinary Actions To Attend Informal Conferences Held by the State Board of Nursing in Executive Session

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

Sec. 1. 32 MRSA §2105-A, sub-§1-A, as amended by PL 2001, c. 260, Pt. D, §2, is further amended to read:

1-A. Disciplinary proceedings and sanctions.
The board shall investigate a complaint, on its own motion or upon receipt of a written complaint filed

with the board, regarding noncompliance with or violation of this chapter or of rules adopted by the board. Investigation may include a hearing before the board to determine whether grounds exist for suspension, revocation or denial of a license, or as otherwise considered necessary to the fulfillment of its responsibilities under this chapter. The board may subpoena witnesses, records and documents, including records and documents maintained by a health care facility, in an investigation or hearing it conducts.

The board shall notify the licensee of the content of a complaint filed against the licensee as soon as possible, but, absent unusual circumstances justifying the delay, not later than 60 days from receipt of this information. The licensee shall respond within 30 days. The board shall share the licensee's response with the complainant, unless the board determines that it would be detrimental to the health of the complainant to obtain the response. If the licensee's response to the complaint satisfies the board that the complaint does not merit further investigation or action, the matter may be dismissed, with notice of the dismissal to the complainant, if any.

If, in the opinion of the board, the factual basis of the complaint is or may be true, and ~~the complaint~~ is of sufficient gravity to warrant further action, the board may request an informal conference with the licensee. The board shall provide the licensee with adequate notice of the conference and of the issues to be discussed. The complainant may attend the conference and may be accompanied by up to 2 individuals, including legal counsel. The conference must be conducted in executive session of the board, or its subcommittee, pursuant to Title 1, section 405, unless otherwise requested by the licensee. Before the board or its subcommittee decides what action to take at the conference or as a result of the conference, the board or its subcommittee shall give the complainant a reasonable opportunity to speak. Statements made at the conference may not be introduced at a subsequent formal hearing unless all parties consent.

When a complaint has been filed against a licensee and the licensee moves or has moved to another state, the board may report to the appropriate licensing board in that state the complaint that has been filed, other complaints in the licensee's record on which action was taken and disciplinary actions of the board with respect to that licensee.

When an individual applies for a license under this chapter, the board may investigate the professional record of that individual, including professional records that the individual may have as a licensee in other states. The board may deny a license or authorize a restricted license based on the record of the applicant in other states.

If the board or its subcommittee finds that the factual basis of the complaint is true and is of sufficient grav-

ity to warrant further action, ~~the board or its subcommittee~~ may take any of the following actions ~~the board or its subcommittee~~ considers appropriate:

- A. Warn, censure or reprimand;
- B. With the consent of the licensee, enter into a consent agreement that fixes the period and terms of probation best adapted to protect the public health and safety and to rehabilitate or educate the licensee. A consent agreement may be used to terminate a complaint investigation, if entered into by the board, the licensee and the Attorney General's office;
- C. In consideration for acceptance of a voluntary surrender of the license, negotiate stipulations, including terms and conditions for reinstatement that ensure protection of the public health and safety and serve to rehabilitate or educate the licensee. These stipulations may be set forth only in a consent agreement signed by the board, the licensee and the Attorney General's office;
- D. If the board or its subcommittee concludes that modification or nonrenewal of the license is in order, hold an adjudicatory hearing in accordance with the provisions of Title 5, chapter 375, subchapter ~~4~~; or
- E. If the board or its subcommittee concludes that suspension or revocation of the license is in order, file a complaint in the District Court in accordance with Title 4, chapter 5.

Sec. 2. Rulemaking. The Department of Professional and Financial Regulation, State Board of Nursing shall amend its rules to implement the provisions of this Act. Rules adopted pursuant to this Act are routine technical rules as defined in the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A.

See title page for effective date.

CHAPTER 24

H.P. 148 - L.D. 187

An Act To Permit Temporary Operation of a Motor Vehicle with an Expired Operator's License Solely for the Purpose of Traveling Home or Renewing the License

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

Sec. 1. 29-A MRSA §1251, sub-§1, ¶E, as enacted by PL 2005, c. 314, §6, is amended to read:

- E. ~~With~~ Unless a permit is issued pursuant to subsection 7, with a license issued by this State