

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

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FIRST REGULAR SESSION
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IN ACCORDANCE WITH THE MAINE REVISED STATUTES ANNOTATED,
TITLE 3, SECTION 163-A, SUBSECTION 4.

Augusta, Maine
2013

nancial interest the hospital or nursing facility has in the nursing facility or home health care provider.

2. Rulemaking. The department shall establish by rule guidelines necessary to carry out the purposes of this section, including but not limited to the standardized list referenced in subsection 1 and contact information for the long-term care ombudsman program under section 5107-A. Rules adopted under this section are routine technical rules pursuant to Title 5, chapter 375, subchapter ~~H-A~~ 2-A.

Sec. 2. Rules regarding the responsibilities of medical directors in nursing facilities. The Department of Health and Human Services shall amend its rules regarding licensure of nursing facilities, Rule Chapter 110, chapter 16, to require that the responsibilities of a facility's medical director include ongoing guidance in the development and implementation of resident care policies, including review and revision of existing policies as required in the guidelines for nursing facilities issued by the United States Department of Health and Human Services, Centers for Medicare and Medicaid Services. The rules must require all facilities, including those that are corporately owned, to be able to demonstrate that the development, review and approval of resident care policies or procedures provide opportunity for medical director input. Rules adopted pursuant to this section are routine technical rules as defined by the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A.

See title page for effective date.

CHAPTER 215

H.P. 359 - L.D. 540

An Act To Amend the Laws Governing the Discharge of a Firearm or Crossbow near a Dwelling or Building

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

Sec. 1. 12 MRSA §11209, as amended by PL 2009, c. 340, §14, is further amended to read:

§11209. Discharge of firearm or crossbow near dwelling or building

1. Prohibition. A person may not:

A. Unless a relevant municipal ordinance provides otherwise and except as provided in sections 12401 and 12402, discharge a firearm, including muzzle-loading firearms, ~~or~~ crossbow or bow and arrow or cause a projectile to pass as a result of that discharge within 100 yards of a building or residential dwelling without the permission of the

owner or, in the owner's absence, of an adult occupant of that building or dwelling authorized to act on behalf of the owner; or

B. Possess a wild animal or wild bird taken in violation of this subsection, except as otherwise provided in this Part.

This subsection may not be construed to prohibit a person from killing or taking a wild animal in accordance with sections 12401 and 12402.

For purposes of this subsection, "building" means any residential, commercial, retail, educational, religious or farm structure that is designed to be occupied by people or domesticated animals or is being used to shelter machines or harvested crops.

For purposes of this subsection, "projectile" means a bullet, pellet, shot, shell, ball, bolt or other object propelled or launched from a firearm, crossbow or bow and arrow.

2. Penalty. A person who violates subsection 1 commits a Class E crime.

See title page for effective date.

CHAPTER 216

S.P. 267 - L.D. 729

An Act To Allow Charter Schools To Request Waivers from Certain Requirements

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

Sec. 1. 20-A MRSA §2412, sub-§5, ¶I is enacted to read:

I. Except as provided in subparagraph (2), the commissioner may grant a public charter school a waiver of one or more requirements applicable to the public charter school upon receipt of an application from the public charter school that includes the basis for the waiver request and a plan to reduce reliance on waivers in subsequent years. A public charter school may submit an application for a waiver to the commissioner only upon receiving prior approval from the public charter school's authorizer of the same waiver request.

(1) Financial hardship is one criterion the commissioner must consider in determining whether to grant a waiver to the public charter school.

(2) A public charter school may not apply to the commissioner for a waiver of any of the following requirements:

(a) Civil rights and health and safety requirements as described in paragraph A;

(b) Student assessment and accountability requirements as described in paragraph B;

(c) Conflict of interest and public records and proceedings requirements as described in paragraph C;

(d) Criminal history record checks and fingerprinting requirements as described in paragraph F; and

(e) Special education requirements as described in paragraph G.

(3) By February 1st of each year, the commissioner shall report the number of waivers requested and the number granted and the reason for each waiver request for the prior year to the joint standing committee of the Legislature having jurisdiction over education matters and post the report on the department's publicly accessible website.

See title page for effective date.

CHAPTER 217

S.P. 292 - L.D. 867

An Act To Streamline, Amend and Clarify Certain Professional and Occupational Licensing Statutes

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

PART A

Sec. A-1. 10 MRSA §8003, sub-§5-A, ¶F, as enacted by PL 2007, c. 402, Pt. C, §3, is amended to read:

F. The office, board or commission may issue a letter of guidance or concern to a licensee as part of the dismissal of a complaint against the licensee. A letter of guidance or concern may be used to educate, reinforce knowledge regarding legal or professional obligations or express concern over action or inaction by the licensee that does not rise to the level of misconduct sufficient to merit disciplinary action. The issuance of a letter of guidance or concern is not a formal proceeding and does not constitute an adverse disciplinary action of any form. Notwithstanding any other provision of law, letters of guidance or concern are not confidential. The office, board or commission may place letters of guidance or concern, together with any underlying complaint, report and investiga-

tion materials, in a licensee's file for a specified period of time, not to exceed 10 years. Any letters, complaints and materials placed on file may be accessed and considered by the office, board or commission in any subsequent action commenced against the licensee within the specified time frame. Complaints, reports and investigation materials placed on file are confidential only to the extent that confidentiality is required pursuant to Title 24, chapter 21.

Sec. A-2. 10 MRSA §8009, as enacted by PL 2007, c. 402, Pt. C, §6, is amended to read:

§8009. Standardized terms

Notwithstanding any other provision of law, upon expiration of a professional or occupational licensing board member's term, that member serves until a successor is appointed and qualified. The successor's term commences at the expiration of the preceding term, regardless of the date of appointment. A vacancy occurring prior to the expiration of a specified term must be filled by appointment of a similarly qualified individual as a replacement. The replacement member serves for the remainder of the unexpired term, regardless of the date of appointment.

PART B

Sec. B-1. 10 MRSA §9003, sub-§2, ¶D, as repealed and replaced by PL 1995, c. 462, Pt. A, §26, is repealed and the following enacted in its place:

D. Two members who are dealers;

Sec. B-2. 10 MRSA §9003, sub-§2, ¶E, as repealed and replaced by PL 1995, c. 462, Pt. A, §26, is repealed.

Sec. B-3. 10 MRSA §9021, sub-§7, as enacted by PL 1993, c. 642, §25, is repealed.

PART C

Sec. C-1. 32 MRSA §220, sub-§1, ¶C, as enacted by PL 1991, c. 396, §11, is repealed.

Sec. C-2. 32 MRSA §220, sub-§2, ¶C, as repealed and replaced by PL 2007, c. 390, §1, is repealed.

Sec. C-3. 32 MRSA §220-C is enacted to read:

§220-C. License limited to individuals

A license under this subchapter may be issued only to an individual, and licensure must be determined on individual and personal qualifications. A firm, corporation, company, partnership or limited liability company may not be licensed under this chapter.

Sec. C-4. 32 MRSA §225, first ¶, as amended by PL 2007, c. 402, Pt. F, §21, is further amended to read: