

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTY-EIGHTH LEGISLATURE

SECOND SPECIAL SESSION
June 19, 2018 to September 13, 2018

THE GENERAL EFFECTIVE DATE FOR
SECOND SPECIAL SESSION
NON-EMERGENCY LAWS IS
DECEMBER 13, 2018

ONE HUNDRED AND TWENTY-NINTH LEGISLATURE

FIRST REGULAR SESSION
December 5, 2018 to June 20, 2019

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
SEPTEMBER 19, 2019

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

Augusta, Maine
2019

vers in violation of any law or rule regulating elvers under this Part.

Sec. 7. 12 MRSA §6865, sub-§5, as enacted by PL 2015, c. 45, §6, is amended to read:

5. Fees. The fee for an elver exporter's license is \$5,000. If the department requires inspection of elvers prior to export, the department may charge up to \$500 for each inspection.

Sec. 8. Appropriations and allocations. The following appropriations and allocations are made.

**MARINE RESOURCES, DEPARTMENT OF
Bureau of Marine Science 0027**

Initiative: Provides allocations to research and manage the State's eel and elver resources, to enforce the laws related to eels and elvers and to cover the costs associated with determining eligibility for elver fishing licenses.

OTHER SPECIAL REVENUE FUNDS	2019-20	2020-21
All Other	\$30,000	\$30,000
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OTHER SPECIAL REVENUE FUNDS TOTAL	\$30,000	\$30,000

See title page for effective date.

**CHAPTER 164
S.P. 502 - L.D. 1567**

**An Act To Change the
Deadline for Submission of the
Annual Report of the Public
Advocate**

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

Sec. 1. 35-A MRSA §1702, sub-§6, as enacted by PL 1987, c. 141, Pt. A, §6, is amended to read:

6. Annual report. The Public Advocate shall prepare and submit an annual report of activities of the Public Advocate to the Governor and to the joint standing committee of the Legislature having jurisdiction over public utilities matters by ~~August~~ September 1st of each year, with copies available to all legislators on request.

See title page for effective date.

**CHAPTER 165
H.P. 755 - L.D. 1025**

**An Act To Prohibit the
Provision of Conversion
Therapy to Minors by Certain
Licensed Professionals**

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

Sec. 1. 20-A MRSA §13020, sub-§2-A is enacted to read:

2-A. Grounds for discipline of a school psychologist or guidance counselor. Evidence that a person who is certified under this Title as a school psychologist or guidance counselor has advertised, offered or administered conversion therapy as defined in Title 32, section 59-C, subsection 1 to a child is grounds for discipline of that person.

Sec. 2. 20-A MRSA §13020, sub-§3, as enacted by PL 1983, c. 845, §4, is amended to read:

3. Denial of certificate for prior immoral or prohibited conduct. Evidence that an applicant for initial certification or renewal has injured the health or welfare of a child through physical or sexual abuse or exploitation is grounds for a denial of a certificate. Evidence that an applicant for initial certification or renewal as a school psychologist or guidance counselor has advertised, offered or administered conversion therapy as defined in Title 32, section 59-C, subsection 1 to a child is grounds for a denial of a certificate. Notwithstanding Title 5, chapter 341, every person, who, within 5 years of the application for initial certification or renewal, has been convicted in any state or federal court of a criminal offense involving the physical or sexual abuse or exploitation of a child, may be presumed by the commissioner to lack good moral character for the purposes of this chapter. This presumption ~~shall be~~ is a rebuttable presumption. Notwithstanding Title 5, chapter 341, the commissioner ~~shall be~~ is entitled to consider all records of prior criminal convictions involving child abuse or exploitation in determining an applicant's eligibility for a certificate.

Sec. 3. 22 MRSA §3174-BBB is enacted to read:

§3174-BBB. Coverage for conversion therapy

The department may not provide MaineCare reimbursement for conversion therapy as defined in Title 32, section 59-C, subsection 1 administered to a minor.

Sec. 4. 32 MRSA §59-C is enacted to read:

§59-C. Definitions

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

1. Conversion therapy. "Conversion therapy" means any practice or treatment that seeks or claims to change an individual's sexual orientation or gender identity, including, but not limited to, any effort to change gender expression or to eliminate or reduce sexual or romantic attractions, feelings or behavior toward others based on the individual's gender. "Conversion therapy" does not include the following:

A. Any practice or treatment that assists an individual undergoing a gender transition;

B. Any practice or treatment that provides acceptance, support and understanding to an individual as long as the practice or treatment does not seek or claim to change the individual's sexual orientation or gender identity; and

C. Any practice or treatment that facilitates an individual's coping, social support or identity exploration and development, including any therapeutic treatment such as talk therapy that is neutral with regard to sexual orientation and gender identity that does not seek or claim to change an individual's sexual orientation or gender identity and that seeks to prevent or address unlawful conduct or unsafe sexual practices, as long as the counseling does not seek or claim to change the individual's sexual orientation or gender identity.

2. Sexual orientation or gender identity. "Sexual orientation or gender identity" has the same meaning as "sexual orientation" in Title 5, section 4553, subsection 9-C.

Sec. 5. 32 MRSA §2105-A, sub-§2, ¶I, as amended by PL 2015, c. 488, §11, is further amended to read:

I. Engaging in false, misleading or deceptive advertising; ~~or~~

Sec. 6. 32 MRSA §2105-A, sub-§2, ¶J, as enacted by PL 2015, c. 488, §12, is amended to read:

J. Failure to comply with the requirements of Title 22, section 7253-; or

Sec. 7. 32 MRSA §2105-A, sub-§2, ¶K is enacted to read:

K. A violation of section 2112.

Sec. 8. 32 MRSA §2112 is enacted to read:

§2112. Prohibition on providing conversion therapy to minors

An individual licensed or certified under this chapter may not advertise, offer or administer conversion therapy to a minor.

Sec. 9. 32 MRSA §2591-A, sub-§2, ¶N, as amended by PL 2015, c. 488, §15, is further amended to read:

N. Revocation, suspension or restriction of a license to practice medicine or other disciplinary action; denial of an application for a license; or surrender of a license to practice medicine following the institution of disciplinary action by another state or a territory of the United States or a foreign country if the conduct resulting in the disciplinary or other action involving the license would, if committed in this State, constitute grounds for discipline under the laws or rules of this State; ~~or~~

Sec. 10. 32 MRSA §2591-A, sub-§2, ¶O, as enacted by PL 2015, c. 488, §16, is amended to read:

O. Failure to comply with the requirements of Title 22, section 7253-; or

Sec. 11. 32 MRSA §2591-A, sub-§2, ¶P is enacted to read:

P. A violation of section 2600-D.

Sec. 12. 32 MRSA §2600-D is enacted to read:

§2600-D. Prohibition on providing conversion therapy to minors

An individual licensed under this chapter may not advertise, offer or administer conversion therapy to a minor.

Sec. 13. 32 MRSA §3282-A, sub-§2, ¶R, as amended by PL 2015, c. 488, §18, is further amended to read:

R. Failure to timely respond to a complaint notification sent by the board; ~~or~~

Sec. 14. 32 MRSA §3282-A, sub-§2, ¶S, as enacted by PL 2015, c. 488, §19, is amended to read:

S. Failure to comply with the requirements of Title 22, section 7253-; or

Sec. 15. 32 MRSA §3282-A, sub-§2, ¶T is enacted to read:

T. A violation of section 3300-G.

Sec. 16. 32 MRSA §3300-G is enacted to read:

§3300-G. Prohibition on providing conversion therapy to minors

An individual licensed, registered or certified under this chapter may not advertise, offer or administer conversion therapy to a minor.

Sec. 17. 32 MRSA §3837-A, sub-§1, ¶¶E and F, as enacted by PL 2007, c. 402, Pt. Q, §14, are amended to read:

E. Practice by a licensed psychological examiner at a level requiring a psychologist's license or any representation by a psychological examiner that that psychological examiner is a psychologist; ~~or~~

F. Negligence in the performance of the licensee's duties; ~~or~~

Sec. 18. 32 MRSA §3837-A, sub-§1, ¶G is enacted to read:

G. A violation of section 3837-B.

Sec. 19. 32 MRSA §3837-B is enacted to read:

§3837-B. Prohibition on providing conversion therapy to minors

An individual licensed under this chapter may not advertise, offer or administer conversion therapy to a minor.

Sec. 20. 32 MRSA §6217-B, sub-§1, as amended by PL 2017, c. 407, Pt. A, §138, is further amended to read:

1. Active use. Active use of alcohol or any other drug that in the judgment of the board is detrimental to the performance or competency of a licensee of the board; ~~or~~

Sec. 21. 32 MRSA §6217-B, sub-§2, as enacted by PL 2007, c. 402, Pt. U, §12, is amended to read:

2. Mental incompetency. A legal finding of mental incompetency; ~~or~~

Sec. 22. 32 MRSA §6217-B, sub-§3 is enacted to read:

3. Prohibited conduct. A violation of section 6223.

Sec. 23. 32 MRSA §6223 is enacted to read:

§6223. Prohibition on providing conversion therapy to minors

An individual licensed, certified or registered under this chapter may not advertise, offer or administer conversion therapy to a minor.

Sec. 24. 32 MRSA §7006 is enacted to read:

§7006. Prohibition on providing conversion therapy to minors

An individual licensed under this chapter may not advertise, offer or administer conversion therapy to a minor.

Sec. 25. 32 MRSA §7059-A, sub-§§1 and 2, as enacted by PL 2007, c. 402, Pt. V, §14, are amended to read:

1. Addiction to the use of alcohol or other drugs. Addiction, as confirmed by medical findings,

to the use of alcohol or other drugs, that has resulted in the licensed clinical, licensed master or licensed social worker or certified social worker - independent practice being unable to perform duties or perform those duties in a manner that would not endanger the health or safety of the clients to be served; ~~or~~

2. Mental incompetency. A medical finding of mental incompetency; ~~or~~

Sec. 26. 32 MRSA §7059-A, sub-§3 is enacted to read:

3. Prohibited conduct. A violation of section 7006.

Sec. 27. 32 MRSA §13742-A, sub-§1, ¶D, as amended by PL 2017, c. 434, §2, is further amended to read:

D. Engaging in false, misleading or deceptive advertising; ~~or~~

Sec. 28. 32 MRSA §13742-A, sub-§1, ¶E, as enacted by PL 2017, c. 434, §3, is amended to read:

E. Failing to comply with section 13800; ~~or~~

Sec. 29. 32 MRSA §13742-A, sub-§1, ¶F is enacted to read:

F. A violation of section 13800-B.

Sec. 30. 32 MRSA §13800-B is enacted to read:

§13800-B. Prohibition on providing conversion therapy to minors

An individual licensed under this chapter may not advertise, offer or administer conversion therapy to a minor.

Sec. 31. 32 MRSA §13861-A, sub-§1, ¶¶B and C, as enacted by PL 2007, c. 402, Pt. EE, §9, are amended to read:

B. A medical finding of mental incompetency; ~~and~~

C. Having had any professional or occupational license revoked for disciplinary reasons or any application rejected for reasons relating to untrustworthiness, within 3 years of the date of application; ~~and~~

Sec. 32. 32 MRSA §13861-A, sub-§1, ¶D is enacted to read:

D. A violation of section 13866.

Sec. 33. 32 MRSA §13866 is enacted to read:

§13866. Prohibition on providing conversion therapy to minors

An individual licensed under this chapter may not advertise, offer or administer conversion therapy to a minor.

Sec. 34. 32 MRSA §17307, sub-§§1 and 2, as enacted by PL 2007, c. 369, Pt. C, §3 and affected by §5, are amended to read:

1. Unfair and deceptive practices. Engaging in unfair or deceptive practices as defined by the rules established by the board or violating the code of ethics adopted and published by the board, including selling or causing to be sold a hearing aid to a person who has not been given tests such as pure tone, air and bone audiometry or other hearing assessments as determined by the board. The results of these tests must be permanently filed; ~~or~~

2. Negligence. Incompetence, negligence or neglect in the conduct of the practice of dealing in and fitting of hearing aids, including, but not limited to, the improper fitting of a hearing aid, the sale of a hearing aid to a person with normal hearing, making an ear mold impression or fitting an ear mold without prior inspection of the external ear canal, making an ear mold impression or fitting an ear mold after prior inspection revealed the presence of, or impacted, cerumen in the ear canal, the failure to indicate the need for medical or audiological evaluation when the prospective purchaser's history reveals a probable risk of disease or progressive hearing impairment, the failure to make the required medical referrals, the incorrect reporting of hearing test results to a person, the failure to be present to fit the final hearing aid in the ear of the purchaser and the tampering with a satisfactorily performing hearing aid owned by a purchaser or potential purchaser to cause that hearing aid to no longer perform correctly; ~~or~~

Sec. 35. 32 MRSA §17307, sub-§3 is enacted to read:

3. Prohibited conduct. A violation of section 17311.

Sec. 36. 32 MRSA §17311 is enacted to read:

§17311. Prohibition on providing conversion therapy to minors

An individual licensed under this chapter may not advertise, offer or administer conversion therapy to a minor.

Sec. 37. Legislative findings; legislative intent.

1. Legislative findings. The Legislature finds that:

A. Conversion therapy is a practice or treatment, including but not limited to talk therapy, that seeks or claims to change a person's sexual orientation or gender identity. It is also referred to by other names, such as sexual orientation change efforts, gender identity change efforts, reparative therapy and reintegrative therapy;

B. A wide range of the major health and mental health associations in the United States recognize being lesbian, gay, bisexual or transgender and having same-sex sexual attractions as normal variants of human sexuality and gender identity, rather than an illness or developmental disorder;

C. The medical and social science consensus is that conversion therapy is a harmful and ineffective practice or treatment. Conversion therapy is based on the false premise that being lesbian, gay, bisexual or transgender is a mental illness or disorder and is caused by a developmental deficiency, trauma, abuse or unmet emotional needs and that conversion therapy can alter a person's sexual orientation or gender identity;

D. There is no competent and reliable scientific evidence supporting claims that conversion therapy can change an individual's sexual orientation; rather, there is substantial competent and reliable scientific evidence, including recently published research on young adults who experienced conversion therapy as children, that conversion therapy is ineffective and can and often does result in significant health and safety risks to consumers of those services, including suicidality, depression, guilt, helplessness, hopelessness, shame, social withdrawal and difficulties, substance use disorder and loss of religious faith as well as reduced educational and vocational development and economic losses;

E. In 2015, the United States Department of Health and Human Services, Substance Abuse and Mental Health Services Administration developed an expert consensus about how to address distress and conflicts about sexual orientation and gender identity in minors and concluded that conversion therapy for minors is not an appropriate treatment because it can be harmful and creates poor psychosocial outcomes, such as heightened psychological distress, compromised overall well-being and increased health disparities. Additionally, the Substance Abuse and Mental Health Services Administration concluded that conversion therapy is coercive in directing the child to conform to any gender expression or sexual orientation, or directing the parents to place pressure for specific gender expressions, gender identities and sexual orientations, and that doing so is inappropriate and reinforces harmful gender and sexual orientation stereotypes;

F. The nation's leading medical and mental health professional organizations, including the American School Counselor Association, the American Psychiatric Association, the American Psychological Association, the American Association of Child and Adolescent Psychiatry, the American Psychoanalytic Association, the American Coun-

seling Association Governing Council, the American Medical Association, the American Academy of Pediatrics, the American Academy of Family Physicians, the National Association of Social Workers, the Pan American Health Organization and the World Professional Association for Transgender Health, have concluded that conversion therapy is ineffective in changing sexual orientation or gender identity and poses safety and health risks; and

G. The State has a compelling interest in protecting the physical and psychological well-being of minors, including the State's lesbian, gay, bisexual and transgender youth and those youth seeking to examine or understand their sexual orientation or gender identity, from the advertising, offering and administering of conversion therapy and in protecting its minors from the serious health and safety harms that conversion therapy can cause.

2. Legislative intent. It is the intent of the Legislature to protect the public health and the safety of all youth of the State, including lesbian, gay, bisexual and transgender youth and those youth seeking to examine or understand their sexual orientation or gender identity, by prohibiting the advertising, offering and administering of therapy designed to change a person's sexual orientation or gender identity, also known as conversion therapy, to individuals under 18 years of age in the State.

See title page for effective date.

**CHAPTER 166
H.P. 849 - L.D. 1160**

An Act To Transfer the Kim Wallace Adaptive Equipment Loan Program Fund to the Office of the Treasurer of State

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

Whereas, the Legislature desires to minimize costs of programs; and

Whereas, currently, the Kim Wallace Adaptive Equipment Loan Program Fund Board pays monthly fees, which can be eliminated by this Act, for the placement of certain accounts; and

Whereas, files of the Kim Wallace Adaptive Equipment Loan Program Fund are in the process of transfer from the Finance Authority of Maine to the State; 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,

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

Sec. 1. 10 MRSA §372, sub-§1, as amended by PL 2015, c. 412, §1, is further amended to read:

1. Creation of fund. There is established the Kim Wallace Adaptive Equipment Loan Program Fund, which must be used to provide funding for loans to qualified borrowers within the State in order to acquire adaptive equipment designed to assist the borrower in becoming independent and for other purposes as allowed under section 376. The fund must be deposited with and maintained by the ~~Finance Authority of Maine~~ Treasurer of State or other state agency and contain appropriations provided for that purpose, interest accrued on the fund balance, funds received by the board to be applied to the fund and funds received in repayment of loans. The Treasurer of State may make disbursements only upon written direction from the board. This fund is a nonlapsing revolving fund. All money in the fund must be continuously applied to carry out the purposes of this chapter.

Sec. 2. Appropriations and allocations. The following appropriations and allocations are made.

**TREASURER OF STATE, OFFICE OF
Kim Wallace Adaptive Equipment Loan Program
N315**

Initiative: Provides allocation to establish the Kim Wallace Adaptive Equipment Loan Program in the Office of the Treasurer of State to provide loans to qualified borrowers to acquire adaptive equipment.

OTHER SPECIAL REVENUE FUNDS	2019-20	2020-21
All Other	\$500	\$500
OTHER SPECIAL REVENUE FUNDS TOTAL	\$500	\$500

Emergency clause. In view of the emergency cited in the preamble, this legislation takes effect when approved.

Effective May 30, 2019.