

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND THIRTIETH LEGISLATURE

FIRST REGULAR SESSION
December 2, 2020 to March 30, 2021

FIRST SPECIAL SESSION
April 28, 2021 to July 19, 2021

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
JUNE 29, 2021

THE GENERAL EFFECTIVE DATE FOR
FIRST SPECIAL SESSION
NON-EMERGENCY LAWS IS
OCTOBER 18, 2021

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

Augusta, Maine
2021

2. Rulemaking. The department shall adopt rules to implement this section. The rules must establish the process for reimbursement under subsection 1 and be consistent with federal law. Rules adopted pursuant to this subsection are routine technical rules pursuant to Title 5, chapter 375, subchapter 2-A.

Sec. 2. Initial rulemaking. The Department of Health and Human Services shall adopt a new rule to implement the requirements of the Maine Revised Statutes, Title 34-B, section 1227 in accordance with this section.

1. Major substantive rule. Notwithstanding Title 34-B, section 1227, subsection 2, rules adopted under this section are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A and must be provisionally adopted and submitted to the Legislature for review no later than January 13, 2023. After adoption of rules under this section, any rules subsequently adopted by the Department of Health and Human Services to implement the requirements of Title 34-B, section 1227 are routine technical rules as specified in section 1227.

2. Stakeholder groups. The Department of Health and Human Services shall convene stakeholder groups as necessary to discuss the proposed new major substantive rule under subsection 1 prior to any rule-making activity initiated pursuant to Title 5, chapter 375, subchapter 2-A. Stakeholder groups must include representatives of providers, advocates, parents of children receiving services, the Child Development Services System under Title 20-A, section 7209, school administrative units and the Department of Education. The Department of Health and Human Services shall also take into account the findings from the independent review of the State's early childhood special education services being carried out pursuant to Public Law 2019, chapter 343, Part VVVV.

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

Effective June 16, 2021.

CHAPTER 228

H.P. 867 - L.D. 1189

An Act To Amend the Teacher Certification Statutes

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

Whereas, revisions to the educator certification and reciprocal professional certification statutes neces-

sary for the adoption of any emergency rulemaking related to emergency teacher certification must be in place for the 2021-2022 school year; 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. 20-A MRSA §13001-A, sub-§7, as enacted by PL 2017, c. 235, §2 and affected by §41, is amended to read:

7. Educational specialist. "Educational specialist" means an individual who provides professional services to a school, including, but not limited to, an athletic director, school counselor, library-media specialist, literacy specialist, school psychologist, school nurse, ~~special education consultant, speech language clinician~~ or career and technical education evaluator.

Sec. 2. 20-A MRSA §13012-B is enacted to read:

§13012-B. Emergency teacher certificate and reciprocal professional certificate

Upon the identification of an educator staffing shortage in the State, the commissioner may issue emergency certificates to teachers, specialists and administrators in accordance with this section. The commissioner shall issue an emergency teacher certificate or reciprocal professional certificate to an applicant who meets the requirements of this section. The commissioner shall provide to an applicant who is not qualified information regarding any remaining requirements and other certification options available to the applicant. The commissioner may issue an emergency teacher certificate or reciprocal professional certificate under this section only to address the identified staffing shortage and only in a manner that ensures that the person issued an emergency teacher certificate or reciprocal professional certificate does not supplant an otherwise qualified and available teacher, specialist or administrator.

1. Emergency teacher certificate. The commissioner may issue an emergency teacher certificate under this section to an applicant who has submitted to a criminal history background check and who:

- A. Holds a 4-year postsecondary degree or the equivalent in work or academic experience;
- B. Is enrolled in an approved educator preparation program; or
- C. Holds a certification as an education technician III issued according to rules of the department pursuant to section 13019-H.

A teacher holding an emergency teacher certificate shall participate in a mentoring program provided by the department or a school administrative unit. A certificate issued pursuant to this subsection is issued for a one-year period and no more than 3 emergency teacher certificates may be issued per applicant.

2. Reciprocal professional certificate. The commissioner may issue a reciprocal professional certificate pursuant to this section to a teacher, specialist or administrator who has submitted to a criminal history background check and holds a comparable certificate in another state, the District of Columbia, a United States territory or another country. A certificate issued pursuant to this subsection is issued for a 5-year period.

Sec. 3. 20-A MRSA §13013, sub-§2-B, as amended by PL 2019, c. 518, §2, is repealed and the following enacted in its place:

2-B. Qualifications. State board rules governing the qualifications for a professional teacher certificate must require that the certificate may be issued only to an applicant who, at a minimum, meets one of the following criteria:

A. Has graduated from an educator preparation program;

B. Has met the criteria established by the state board by:

- (1) Passing a qualifying examination;
- (2) Meeting grade point average requirements in required course work; or
- (3) Successful completion of a portfolio review demonstrating competency through academic or work experience;

C. Has successfully completed a preparation program in another state, the District of Columbia, a United States territory or another country, subject to the completion of an approved preparation program for the endorsement or certificate being sought with a formal recommendation for certification from the institution that provided the program; or

D. Is otherwise qualified by having met the criteria established by the state board for teaching in a specified content area.

Sec. 4. 20-A MRSA §13019, sub-§1, as amended by PL 2017, c. 235, §18 and affected by §41, is further amended to read:

1. Clearance. A teacher from a country other than the United States who is participating in a visiting teacher program established and administered by the department or, a locally established sister-school exchange or a locally established language immersion program may teach in a school as long as the teacher is issued a clearance by the department. The teacher is

may be authorized to act as an adjunct to existing staff and may not be used to avoid the hiring of professional, certified teachers.

Sec. 5. 20-A MRSA §13019-H, sub-§4 is enacted to read:

4. Emergency educational technician certificate. The commissioner may issue an emergency certificate pursuant to this section to an applicant who has submitted to a criminal history background check and has successfully completed a program in this State approved for targeting essential skills and knowledge for performing permitted responsibilities. A certificate issued pursuant to this subsection is issued for a 5-year period.

Sec. 6. 20-A MRSA §13022, sub-§1, ¶A, as enacted by PL 2011, c. 386, §2, is amended to read:

A. "School psychologist" means a professional certified by the department as a school psychologist who provides school psychological services consistent with the national standards articulated by in current federal and state education regulations and rules and under the domains of practice in the most current Model for Comprehensive and Integrated School Psychological Services as developed and published by the National Association of School Psychologists. "School psychologist" includes a school psychologist - doctoral and a school psychologist - specialist.

Sec. 7. 20-A MRSA §13022, sub-§3, as amended by PL 2011, c. 386, §2, is further amended to read:

3. Qualifications. State board rules governing the qualifications for a school psychologist certificate must require that a certificate be issued only to an applicant who has met the academic and preprofessional requirements established by the state board for the provision of school psychological services and who, at a minimum:

A. Holds a graduate degree from an accredited program in school psychology that was approved by the National Association of School Psychologists/National Council for Accreditation of Teacher Education or, the American Psychological Association in School Psychology or the department at the time the degree was awarded;

B. Has completed graduate work that is determined by the commissioner to be substantially similar to the programs referred to in paragraph A; or

C. Holds a valid license from the State Board of Examiners of Psychologists with demonstrated competency in the area of school psychology as established by the state board through training and experience.

Sec. 8. 20-A MRSA §13022, sub-§4, as amended by PL 2011, c. 386, §2, is further amended to read:

4. Term of issuance. The commissioner shall issue a school psychologist certificate for a term of years consistent with rules adopted by the state board. ~~The length of the term may vary among certificate holders so as to be coterminous with any other professional license or certificate held by the school psychologist.~~ The school psychologist certificate may be renewed in accordance with academic and professional requirements established by the state board. A certificate holder must be supervised for the first year following initial certification at no additional cost to the school administrative unit or the department. ~~The state board shall require evidence of supervision prior to renewing a first-year certificate.~~ Supervision of the first-year school psychologist must be in accordance with supervision standards established by the National Association of School Psychologists or a successor organization and provided by a person who is certified as a school psychologist ~~under subsection 2 and is:~~

- ~~A. A member of the Maine Association of School Psychology or a successor organization; or~~
- ~~B. Employed by or under contract with a school administrative unit.~~

Sec. 9. 20-A MRSA §13022, sub-§8, as amended by PL 2011, c. 386, §2, is further amended to read:

8. Transition. Persons certified as school psychological service providers and school psychological examiners on or after October 13, 1993 may continue to provide the services authorized by their respective certificates until the scheduled expiration of those certificates. ~~The state board's rules must contain a schedule affording all certified school psychological service providers a reasonable amount of time to meet the requirements of the certificate authorized by subsection 2.~~

Sec. 10. 20-A MRSA §13031, as enacted by PL 1983, c. 859, Pt. I, §§2 and 3, is amended to read:

§13031. Purpose

The Legislature declares that the purpose of this chapter is to establish standardized qualifying examinations for those persons seeking provisional professional teacher certificates to teach in the State.

Sec. 11. 20-A MRSA §13032, first ¶, as amended by PL 2017, c. 235, §30 and affected by §41, is further amended to read:

A professional teacher certificate may be issued ~~only~~ to those applicants who have taken and passed the teacher qualifying examination. ~~This limitation does not apply to applicants seeking a certificate under section 13013, subsection 2-B, paragraph B, but such~~

~~applicants must meet any exam requirement necessary for the endorsement being sought.~~

Sec. 12. Rulemaking; applicability. The State Board of Education shall amend Department of Education rule Chapter 115 regarding the credentialing of education personnel in accordance with this Act. Notwithstanding the Maine Revised Statutes, Title 20-A, section 13006-A, subsection 3, a person who is subject to the provisions of Title 20-A, section 13006-A, subsection 3 on the effective date of this Act may choose to be certified either pursuant to the rules effective prior to the effective date of this Act or under the amended rules adopted by the State Board of Education pursuant to this Act.

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

Effective June 16, 2021.

CHAPTER 229

H.P. 1212 - L.D. 1629

An Act Regarding the Qualifications for Licensure as a Physician or Surgeon

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 sole reliance on completing 36 months of postgraduate training has created unnecessary barriers for otherwise qualified applicants who have completed certain oral and maxillofacial surgery training to obtain licensure in medicine; and

Whereas, immediate enactment of this legislation is necessary to give the Board of Licensure in Medicine statutory authority to consider on a case-by-case basis an applicant's postgraduate training equivalency in meeting the postgraduate training qualifications for licensure; 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. 32 MRSA §3271, sub-§2, as amended by PL 2017, c. 189, §2, is further amended to read:

2. Postgraduate training. Each applicant who has graduated from an accredited medical school on or after January 1, 1970 but before July 1, 2004 must have satisfactorily completed at least 24 months in a graduate