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**Public Law**  
123rd Legislature  
First Regular Session

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**Chapter 402**  
**S.P. 659 - L.D. 1842**

**An Act To Update Professional and Occupational Licensing Laws**

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

**PART A**

**Sec. A-1. 9 MRSA §5002**, as amended by PL 2005, c. 497, §1, is further amended to read:

**§ 5002. Intent**

It is the intent of the Legislature to require the ~~registration~~license and financial reporting of charitable organizations, professional solicitors, professional fund-raising counsel and commercial co-venturers and the bonding of professional solicitors and commercial co-venturers.

**Sec. A-2. 9 MRSA §5003, sub-§3**, as amended by PL 2005, c. 497, §2, is further amended to read:

**3. Commercial co-venturer.** "Commercial co-venturer" means any person who, for profit, is regularly and primarily engaged in trade or commerce in this State, other than in connection with the raising of funds for charitable organizations or purposes, and who conducts a sale, performance, event or collection and sale of donated goods that is advertised in conjunction with the name of any charitable organization. Any such person who will benefit in good will only may not be considered a commercial co-venturer if the collection and distribution of the proceeds of the sale, performance or event, or the collection and sale of donated goods, are supervised and controlled by the benefiting charitable organization. Any such person whose annual contributions to charitable organizations do not exceed \$10,000 is exempt from the ~~registration~~license requirement under section 5002.

**Sec. A-3. 9 MRSA §5004**, as amended by PL 2005, c. 497, §§6 to 8, is further amended to read:

**§ 5004. Licensure of charitable organizations**

Charitable organizations ~~shall register~~must be licensed as follows.

**1. License applications by charitable organizations.** The following provisions govern ~~registration statements~~license applications by charitable organizations.

A. Unless exempt pursuant to section 5006, a charitable organization that intends to solicit, accept or obtain contributions in this State or to have contributions solicited, accepted or obtained on its behalf within this State shall file a registration statement license application with the office at least 30 days before soliciting, accepting or obtaining contributions in each year in which the organization is engaged in soliciting, accepting or obtaining contributions. The charitable organization shall identify any affiliate organizations or chapters on its registration statement license application.

B. A parent organization may file a consolidated registration statement license application for its affiliates, chapters and branches in this State and shall pay a single fee for such a consolidated registration statement license application.

C. Before approval of its statement issuance of a license by the office in accordance with section 5008, a charitable organization that is required to file an initial registration statement license application or annual renewal statement application may not solicit, accept or obtain contributions or have contributions solicited, accepted or obtained on its behalf by any other person, charitable organization, commercial co-venturer or professional solicitor, or participate in charitable sales promotion.

**2-A. Fee for license application.** Charitable organizations shall pay the required application fee and the required, initial fee and the required renewal fee as set under section 5015-A. The application fee is nonrefundable.

**3. Content of license application.** ~~The commissioner shall prescribe the form of registration statements. These statements~~ A license application must be sworn to or affirmed by the principal officer of any charitable organization and must contain the following information, which must be updated within 10 days when any change occurs in the information filed:

- A. The name of the organization and the purpose for which it was organized;
- B. The principal address of the organization and the address of any offices in this State, or, if the organization does not maintain an office, the name and address of the person having custody of its financial records;
- C. The names and addresses of any chapters, branches or affiliates in this State;
- D. The place where and the date when the organization was legally established, the form of its organization and a reference to any determination of its tax-exempt status under the United States Internal Revenue Code;
- E. The names and addresses of the officers, directors or trustees and the principal salaried executive staff officer;
- F. A statement as to whether the organization intends to solicit contributions from the public directly or have such done on its behalf by others;
- G. The name and address of any professional fund-raising counsel, professional solicitor or commercial co-venturer who acts or will act on behalf of the charitable organization and terms of remuneration of the counsel, solicitor or co-venturer;

H. A statement as to whether the organization is authorized by any other governmental authority to solicit contributions and whether it is or has ever been enjoined by any court from soliciting contributions;

I. The purpose or purposes for which the contributions to be solicited ~~shall~~will be used;

K. The name or names under which it intends to solicit contributions;

L. The names of the individuals or officers of the organizations who will have final responsibility for the custody of the contributions;

M. The names of the individuals or officers of the organization responsible for the final distribution of the contributions;

N. The total amount of money received as contributions during the organization's preceding fiscal year and the dates of the fiscal year; and

~~O. The estimated percentage of each dollar contribution that will be expended in Maine; and~~

P. A determination letter from the federal Internal Revenue Service, confirming the tax-exempt status of the charitable organization.

**4. Renewal of licensure as charitable organization.** The following provisions govern the application and qualifications for renewal of a ~~registration~~license as a charitable organization.

A. A person or entity that holds a valid ~~registration~~license must submit to the office a completed application for renewal prior to the date of expiration of the ~~registration~~license. ~~A registration expires on the stated date of expiration. The department shall mail an application form to the registrant's last known address not less than 30 days prior to the expiration date of the current registration.~~

B. An application for license renewal may not be considered ~~for approval~~ until it is complete. If the application is incomplete, the applicant must include a letter documenting the specific reasons the application is incomplete. If that letter is not included, the incomplete application must be returned for completion.

C. A charitable organization that submits an application for renewal after the expiration date must include with the application:

(1) A financial report covering the most recently audited fiscal year;

(2) ~~The required filing fee and the required fee for~~license renewal of registration~~fee as set under section 5015-A; and~~

(3) A completed application.

D. The complete packet for renewal of ~~registration~~license application must include all the requirements identified in subsection 3 as well as the following:

(1) An audited financial statement, including federal Internal Revenue Service 990 and Schedule A forms or a 990 EZ form. Failure to file an audited financial statement of the organization's most recent audited fiscal year may be grounds for disciplinary action as provided under Title 10, section 8003, subsection 5. The office shall adopt rules governing the content of the audited financial statement. Rules adopted pursuant to this subparagraph are routine technical rules pursuant to Title 5, chapter 375, subchapter 2-A; and.

~~(2) The nonrefundable fee for renewal of registration.~~

**Sec. A-4. 9 MRSA §5005-B**, as enacted by PL 2003, c. 541, §10, is amended to read:

**§ 5005-B. Annual fund-raising activity reports to be filed by charitable organizations**

**1. Content of report.** A charitable organization shall submit to the office an annual fund-raising activity report that reflects data from the preceding calendar year, on a form prescribed by the office, at least 60 days prior to the registrationlicense expiration date. The report must state, at a minimum, the following:

- A. The charitable organization's name, mailing address, telephone number and registrationlicense number;
- B. The name, mailing address, telephone number and registrationlicense number of each professional solicitor, professional fund-raising counsel and commercial co-venturer with which the charitable organization contracts;
- C. The date of each fund-raising campaign;
- D. The total dollar amount raised during each fund-raising campaign;
- E. The total dollar amount received by the charitable organization from each fund-raising campaign and for the year;
- F. The total dollar amount retained by any professional solicitor from each fund-raising campaign and for the year;
- G. The total amount paid to any professional fund-raising counsel from each fund-raising campaign and for the year; and
- H. The total amount received from any commercial co-venturer from each fund-raising campaign and for the year.

**2. Failure to file; discrepancies.** Failure to file the annual fund-raising activity report required under this section or disagreement between the report filed by the charitable organization and that submitted by the professional solicitor, professional fund-raising counsel or commercial co-venturer with which the charitable organization has contracted may result in disciplinary action as provided under Title 10, section 8003, subsection 55-A.

**3. Contracting with unlicensed entities prohibited.** A charitable organization may not contract with an ~~unregistered~~unlicensed professional solicitor, professional fund-raising counsel or commercial co-venturer. A violation of this subsection may result in disciplinary action as provided under Title 10, section 8003, subsection 55-A.

**Sec. A-5. 9 MRSA §5006**, as amended by PL 2001, c. 323, §5, is further amended to read:

**§ 5006. Exemptions from license requirements**

**1. Exemption.** The following charitable organizations, persons and institutions are exempt from the ~~filing~~license requirements of section 5004:

A. Organizations that solicit primarily within their membership and where solicitation activities are conducted by members. For purposes of this paragraph, the term "membership" does not include those persons who are granted a membership upon making a contribution as a result of a solicitation;

C. Persons soliciting contributions for the relief of any individual specified by name at the time of the solicitation, when all of the contributions collected, without any deductions whatsoever, are turned over to the named beneficiary for that individual's use;

D. Charitable organizations that do not intend to solicit and receive and do not actually solicit or receive contributions from the public in excess of \$10,000 during a calendar year or do not receive contributions from more than 10 persons during a calendar year, if all fund-raising activities are carried on by persons who are unpaid for their services and if no part of the assets or income inures to the benefit of or is paid to any officer or member. If a charitable organization that does not intend to solicit or receive contributions from the public in excess of \$10,000 during a calendar year does actually solicit or receive contributions in excess of that amount, whether or not all such contributions are received during a calendar year, the charitable organization ~~shall~~, within 30 days after the date contributions reach \$10,000, register~~must be licensed~~ with and report to the Office of Licensing and Registration as required by this Act;

E. Educational institutions, the curriculums of which in whole or in part are registered or approved by the Department of Education, either directly or by acceptance of accreditation by an accrediting body recognized by the Department of Education, and organizations operated by the student bodies of such institutions; and

F. Hospitals that are nonprofit and charitable.

**3. Procedures for claiming exemption from licensure.** A charitable organization claiming to be exempt under subsection 1 must submit to the office annually on forms prescribed by that office and accompanied by the required fee as set under section 5015-A, a sworn statement setting forth the name and address of the organization and its principal executive personnel, the purpose of the organization and the factual basis for the exemption. The organization claiming exemption must include a copy of any financial statement, report or return filed with the federal Internal Revenue Service. The office shall issue annually a ~~letter of~~an exemption to those organizations considered exempt under subsection 1.

**Sec. A-6. 9 MRSA §5008**, as amended by PL 2005, c. 497, §§9 to 12, is further amended to read:

**§ 5008. License renewal, records and reporting by professional solicitors, professional fund-raising counsel and commercial co-venturers**

**1. Licensure.** A person or entity may not act as a professional solicitor, a professional fund-raising counsel or a commercial co-venturer before that person or entity has ~~registered with~~received a license from the office. Applications for ~~registration or reregistration~~initial or renewal licensure must be in writing, under oath, in the form prescribed by the office and accompanied by an application fee and a ~~registration~~license fee ~~as set under section 5015-A~~. ~~The application fee is nonrefundable.~~ The applicant, except for applicants that are ~~registering~~licensed as professional fund-raising counsel, shall, at the time of making application for ~~registration or reregistration~~initial or renewal licensure, file with and must have approved by the office a bond, in which the applicant must be the principal obligor and the State the obligee, in the sum of \$25,000, with one or more responsible sureties whose liability in the aggregate as such sureties at least equals that sum. The bond runs to any person or entity who may have a cause of action against the principal obligor of the bond for any malfeasance or misfeasance in the conduct of charitable solicitation in this State. Registration Licensure is for a period of one year.

**1-A. Renewal of license as professional solicitor, professional fund-raising counsel or commercial co-venturer.** The following provisions govern application and qualification for renewal ~~registration~~licensure as a professional solicitor, professional fund-raising counsel or commercial co-venturer.

A. An entity that holds a valid ~~registration~~license must submit a completed application for renewal before the date of expiration of the ~~registration~~license. ~~A registration expires on the stated date of expiration. The office shall mail an application form to the registrant's last known address.~~

B. An application may not be considered for approval until complete. If the application is incomplete, the applicant must include a letter documenting the specific reasons the application is incomplete. If no such letter is included, the incomplete application ~~must~~may be returned for completion.

C. The complete application packet must include:

(1) All forms required in this section;

(2) Except for professional fund-raising counsel, a bond approved by the department in the sum of \$25,000 with one or more responsible sureties whose liability in the aggregate as such sureties at least equals that sum. The bond must expire on the stated date of expiration and be kept on file in the office for 3 years; and

(3) A ~~\$200~~license renewal of registration fee ~~as set under section 5015-A~~.

D. A professional solicitor or commercial co-venturer who submits an ~~application for a~~license renewal of registration application must submit:

(1) A bond in the sum of \$25,000 that expires on the stated date of expiration;

(2) A license renewal of registration fee ~~as set under section 5015-A~~; and

(3) The completed application.

G. A professional fund-raising counsel who is applying for alicense renewal ~~of registration~~ must submit:

(1) A license renewal ~~of registration~~ fee as set under section 5015-A; and

(2) A completed renewal application.

**2. Records.** A professional solicitor, professional fund-raising counsel or commercial co-venturer shall maintain accurate and complete books and records of fund-raising activities and telephone solicitation scripts and shall keep those books and records available for inspection by the Attorney General or the office for a period of 3 years after the conclusion of each specific instance in which that person acts as a professional solicitor, professional fund-raising counsel or commercial co-venturer.

**3-A. Annual fund-raising activity reports to be filed by professional solicitors, professional fund-raising counsel and commercial co-venturers.** Filing of annual fund-raising activity reports by professional solicitors, professional fund-raisers and commercial co-venturers is governed by this subsection.

A. Each professional solicitor, professional fund-raising counsel or commercial co-venturer shall file with the office an annual fund-raising activity report on a form prescribed by the office at least 60 days prior to the ~~registration~~license expiration date that reflects data from the preceding calendar year. The report must state, at a minimum, the following:

(1) The name, mailing address, telephone number and ~~registration~~license number of the professional solicitor, professional fund-raising counsel or commercial co-venturer making the report;

(2) The name, mailing address, telephone number and ~~registration~~license number of each charitable organization with which the professional solicitor, professional fund-raising counsel or commercial co-venturer has contracted;

(3) The date of any fund-raising campaign in which the professional solicitor, professional fund-raising counsel or commercial co-venturer was involved;

(4) The total dollar amount raised during each fund-raising campaign;

(5) The total dollar amount remitted to the charitable organization from each fund-raising campaign and for the year;

(6) The total dollar amount retained by the professional solicitor from each fund-raising campaign and for the year;

(7) The total dollar amount received by the professional fund-raising counsel from each fund-raising campaign and for the year; and

(8) The total dollar amount remitted by the commercial co-venturer from each fund-raising campaign and for the year.

B. Failure to file the annual fund-raising activity report or disagreement between that report and the report submitted by the charitable organization with which the professional solicitor, professional fund-raising counsel or commercial co-venturer has contracted may result in disciplinary action as provided under Title 10, section 8003, subsection 55-A.

C. Contracting with an ~~unregistered~~unlicensed entity is prohibited and may result in disciplinary action as provided under Title 10, section 8003, subsection 55-A.

**4. Exemption.** This section does not apply to a national bank, a federal savings bank, a subsidiary of a national bank or federal savings bank or any other financial institution or credit union chartered under the laws of the United States or any state and subject to supervision and regulation by a federal financial regulatory agency.

**Sec. A-7. 9 MRSA §5009, sub-§1,** as amended by PL 2003, c. 541, §13, is further amended to read:

**1. Contracts to be filed.** All contracts entered into between a professional solicitor, a professional fund-raising counsel or a commercial co-venturer and any charitable organization, whether or not the organization is exempted under section 5006, must be in writing, and a true and correct copy of each contract must be filed by the professional solicitor, professional fund-raising counsel or commercial co-venturer who is a party to the contract with the office before services are performed under the contract. The contract must contain the following:

- A. A statement of the charitable purpose for which a solicitation campaign is being conducted;
- B. In the case of a professional solicitor, a statement of the percentage of gross proceeds collected to be paid to the charitable organization; and
- C. The signatures and legibly printed or typed names of individuals representing the contracting parties.

~~True and correct copies of contracts~~Contracts must be kept on file in the offices of the charitable organization and the professional solicitor, professional fund-raising counsel or commercial co-venturer during the term of the contract and for 3 years after the date of solicitation of contributions provided for in the contract.

**Sec. A-8. 9 MRSA §5009, sub-§2,** as enacted by PL 1999, c. 386, Pt. A, §17, is repealed.

**Sec. A-9. 9 MRSA §5016,** as amended by PL 1999, c. 386, Pt. A, §19, is repealed.



**Sec. A-10. 9 MRSA §5017**, as amended by PL 2005, c. 497, §13, is repealed and the following enacted in its place:

**§ 5017. Denial or refusal to renew license; disciplinary action**

The commissioner may deny, refuse to renew a license or impose the disciplinary sanctions authorized under Title 10, section 8003, subsection 5-A for any of the reasons enumerated in Title 10, section 8003, subsection 5-A, paragraph A.

**PART B**

**Sec. B-1. 10 MRSA §1404, sub-§2**, as enacted by PL 1973, c. 435, is amended to read:

**2. Corrective action.** That the manufacturer or dealer or both shall take appropriate corrective action at the site of the ~~mobile~~manufactured home in instances of substantial defects in materials or workmanship, which become evident within one year from the date of the delivery of the ~~mobile~~manufactured home to the consumer, provided the consumer or ~~his~~the consumer's transferee gives written notice of such defects to the manufacturer or dealer at ~~their~~the manufacturer's or dealer's business address not later than one year and 10 days after date of delivery.;

**PART C**

**Sec. C-1. 10 MRSA §8001, sub-§38**, as amended by PL 1999, c. 399, §2 and affected by §20 and amended by PL 2001, c. 261, §5, is further amended to read:

**38. Office of Licensing and Registration.** Office of Licensing and Registration. The Office of Licensing and Registration is composed of the following:

- A. Board of Accountancy;
- D. Maine State Board for Licensure of Architects, Landscape Architects and Interior Designers;
- E. Maine Athletic Commission;
- F. Board of Licensing of Auctioneers;
- G. Board of Barbering and Cosmetology;
- H. Board of Chiropractic Licensure;
- H-1. Board of Complementary Health Care Providers;
- I. Board of Driver Education;
- J. Board of Counseling Professionals Licensure;
- K. Board of Licensing of Dietetic Practice;
- L. Electricians' Examining Board;
- M. Board of Licensure of Foresters;

- N. State Board of Funeral Service;
- O. State Board of Certification for Geologists and Soil Scientists;
- P. Board of Hearing Aid Dealers and Fitters;
- Q. Board of Licensure for Professional Land Surveyors;
- R. Manufactured Housing Board;
- S. Nursing Home Administrators Licensing Board;
- T. Board of Occupational Therapy Practice;
- U. Oil and Solid Fuel Board;
- V. Maine Board of Pharmacy;
- W. Board of Examiners in Physical Therapy;
- Y. Plumbers' Examining Board;
- Z. Board of Licensure of Podiatric Medicine;
- AA. State Board of Examiners of Psychologists;
- BB. Radiologic Technology Board of Examiners;
- CC. Board of Real Estate Appraisers;
- DD. Board of Respiratory Care Practitioners;
- EE. State Board of Social Worker Licensure;
- FF. Board of Examiners on Speech Pathology and Audiology;
- GG. State Board of Alcohol and Drug Counselors;
- HH. State Board of Veterinary Medicine;
- II. Propane and Natural Gas Board;
- JJ. Real Estate Commission;
- KK. Board of Boiler Rules; and
- LL. Board of Elevator and Tramway Safety.

The Office of Licensing and Registration also administers the following regulatory functions: licensure of athletic trainers; ~~registration~~licensure of massage therapists; licensure of interpreters for the deaf and hard-of-hearing; ~~registration~~licensure of persons pursuant to the Charitable Solicitations Act; and ~~registration~~licensure of transient sellers, including door-to-door home repair transient sellers.

**Sec. C-2. 10 MRSA §8003, sub-§5**, as amended by PL 2005, c. 474, §1, is further amended to read:

**5. Authority of bureaus, offices, boards or commissions.** In addition to authority otherwise conferred, unless expressly precluded by language of denial in its own governing law, each bureau, office, licensing board and commission within or affiliated with the department may take one or more of the following actions, except that this subsection does not apply to the Bureau of Financial Institutions or the Office of Licensing and Registration, including the licensing boards and commissions and regulatory functions within the Office of Licensing and Registration.

A-1. For each violation of applicable laws, rules or conditions of licensure or registration, the bureau, office, board or commission may take one or more of the following actions:

(1) Issue warnings, censures or reprimands to a licensee or registrant. Each warning, censure and reprimand issued must be based upon violations of different applicable laws, rules or conditions of licensure or must be based upon separate instances of actionable conduct or activity;

(2) Suspend a license or registration for up to 90 days for each violation of applicable laws, rules and conditions of licensure or registration or for instance of actionable conduct or activity. Suspensions may be set to run concurrently or consecutively. Execution of all or any portion of a term of suspension may be stayed pending successful completion of conditions of probation, although the suspension remains part of the licensee's or registrant's record;

(2-A) Revoke a license or registration;

(3) Impose civil penalties of up to \$1,500 for each violation of applicable laws, rules and conditions of licensure or registration or for instances of actionable conduct or activity; and

(4) Impose conditions of probation upon an applicant, licensee or registrant. Probation may run for such time period as the bureau, office, board or commission determines appropriate. Probation may include conditions such as: additional continuing education; medical, psychiatric or mental health consultations or evaluations; mandatory professional or occupational supervision of the applicant, licensee or registrant; and other conditions as the bureau, office, board or commission determines appropriate. Costs incurred in the performance of terms of probation are borne by the applicant, licensee or registrant. Failure to comply with the conditions of probation is a ground for disciplinary action against a licensee or registrant.

B. The bureau, office, board or commission may execute a consent agreement that resolves a complaint or investigation without further proceedings. Consent agreements may be entered into only with the consent of: the applicant, licensee or registrant; the bureau, office, board or commission; and the Department of the Attorney General. Any remedy, penalty or fine that is otherwise available by law, even if only in the jurisdiction of the Superior Court, may be achieved by consent agreement, including long-term suspension and permanent revocation of a professional or occupational license or registration. A consent agreement is not subject to review or appeal, and may be modified only by a writing executed by all parties to the original consent agreement. A consent agreement is enforceable by an action in Superior Court.

C. The bureau, office, board or commission may:

(1) Require all applicants for license or registration renewal to have responded under oath to all inquiries set forth on renewal forms;

(2) Except as provided in Title 37-B, section 390-A, require applicants for license or registration renewal to present proof of satisfactory completion of continuing professional or occupational education in accordance with each bureau's, office's, board's or commission's rules. Failure to comply with the continuing education rules may, in the bureau's, office's, board's or commission's discretion, result in a decision to deny license or registration renewal or may result in a decision to enter into a consent agreement and probation setting forth terms and conditions to correct the licensee's or registrant's failure to complete continuing education. Terms and conditions of a consent agreement may include requiring completion of increased hours of continuing education, civil penalties, suspension and other terms as the bureau, office, board, commission, the licensee or registrant and the Department of the Attorney General determine appropriate. Notwithstanding any contrary provision set forth in a bureau's, office's, board's or commission's governing law, continuing education requirements may coincide with the license or registration renewal period;

(3) Refuse to renew a license or registration or deny a license when the bureau, office, board or commission finds a licensee or registrant to be in noncompliance with a bureau, office, board or commission order or consent agreement;

(4) Allow licensees or registrants to hold inactive status licenses or registrations in accordance with each bureau's, office's, board's or commission's rules. The fee for an inactive license or registration may not exceed the statutory fee cap established for the bureau's, office's, board's or commission's license or registration renewal set forth in its governing law; or

(5) Delegate to staff the authority to review and approve applications for licensure pursuant to procedures and criteria established by rule. Rules developed pursuant to this subparagraph are routine technical rules as described in Title 5, chapter 375, subchapter 2-A.

D. The bureau, office, board or commission may require surrender of licenses and registrations. In order for a licensee's or registrant's surrender of a license or registration to be effective, a surrender must first be accepted by vote of the bureau, office, board or commission. Bureaus, offices, boards and commissions may refuse to accept surrender of licenses and registrations if the licensee or registrant is under investigation or is the subject of a pending complaint or proceeding, unless a consent agreement is first entered into pursuant to this chapter.

E. The bureau, office, board or commission may issue letters of guidance or concern to a licensee or registrant. Letters of guidance or concern may be used to educate, reinforce knowledge regarding legal or professional obligations and express concern over action or inaction by the licensee or registrant 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 bureau, office, board or commission may place letters of guidance or concern, together with any underlying complaint, report and investigation materials, in a licensee's or registrant's file for a specified amount of time, not to exceed 10 years. Any letters, complaints and materials placed on file may be accessed and considered by the bureau, office, board or commission in any subsequent action commenced against the licensee or registrant within the specified time frame. Complaints, reports and investigation materials placed on file are only confidential to the extent that confidentiality is required pursuant to Title 24, chapter 21, the Maine Health Security Act.

F. A bureau, office, board or commission may establish, by rule, procedures for licensees in another state to be licensed in this State by written agreement with another state, by entering into written licensing compacts with other states or by any other method of license recognition considered appropriate that ensures the health, safety and welfare of the public. Rules adopted pursuant to this paragraph are routine technical rules pursuant to Title 5, chapter 375, subchapter H-A2-A.

G. Notwithstanding any other provision of law, any bureau, office, board or commission within or affiliated with the department may issue a temporary license for a period of 6 months and waive all licensing requirements, except for fees, to any applicant upon a showing of current, valid licensure in that profession in another state.

The jurisdiction to suspend and revoke occupational and professional licenses conferred by this subsection is concurrent with that of the District Court. Civil penalties must be paid to the Treasurer of State.

Any nonconsensual disciplinary action taken under authority of this subsection may be imposed only after a hearing conforming to the requirements of Title 5, chapter 375, subchapter IV4, and, except for revocation actions, is subject to judicial review exclusively in the Superior Court in accordance with Title 5, chapter 375, subchapter VH7.

Any nonconsensual revocation of an occupational or professional license taken under authority of this subsection is subject to, upon appeal within the time frames provided in Title 5, section 11002, subsection 3, de novo judicial review exclusively in District Court. Rules adopted to govern judicial appeals from agency action apply to cases brought under this section.

**Sec. C-3. 10 MRSA §8003, sub-§5-A** is enacted to read:

**5-A. Authority of Office of Licensing and Registration.** In addition to authority otherwise conferred, unless expressly precluded by language of denial in its own governing law, the Office of Licensing and Registration, referred to in this subsection as "the office," including the licensing boards and commissions and regulatory functions within the office, have the following authority.

A. The office, board or commission may deny or refuse to renew a license, may suspend or revoke a license and may impose other discipline as authorized in this subsection for any of the following reasons:

(1) The practice of fraud, deceit or misrepresentation in obtaining a license from a bureau, office, board or commission, or in connection with services rendered while engaged in the occupation or profession for which the person is licensed;

(2) Any gross negligence, incompetence, misconduct or violation of an applicable code of ethics or standard of practice while engaged in the occupation or profession for which the person is licensed;

(3) Subject to the limitations of Title 5, chapter 341, conviction of a Class A, B or C crime or of a crime that bears directly on the licensed profession or occupation;

(4) Any violation of the governing law of an office, board or commission;

(5) Any violation of the rules of an office, board or commission;

(6) Engaging in any activity requiring a license under the governing law of an office, board or commission that is beyond the scope of acts authorized by the license held;

(7) Continuing to act in a capacity requiring a license under the governing law of an office, board or commission after expiration, suspension or revocation of that license;

(8) Aiding or abetting unlicensed practice by a person who is not licensed as required by the governing law of an office, board or commission;

(9) Noncompliance with an order or consent agreement of an office, board or commission;

(10) Failure to produce any requested documents in the licensee's possession or under the licensee's control concerning a pending complaint or proceeding or any matter under investigation; or

(11) Any violation of a requirement imposed pursuant to paragraph D, subparagraph (1) or (2).

B. The office, board or commission may impose the following forms of discipline upon a licensee or applicant for licensure:

(1) Denial or refusal to renew a license, or issuance of a license in conjunction with the imposition of other discipline;

(2) Issuance of warning, censure or reprimand. Each warning, censure or reprimand issued must be based upon violation of a single applicable law, rules or condition of licensure or must be based upon a single instance of actionable conduct or activity;

(3) Suspension of a license for up to 90 days for each violation of applicable laws, rules or conditions of licensure or for each instance of actionable conduct or activity. Suspensions may be set to run concurrently or consecutively. Execution of all or any portion of a term of suspension may be stayed pending successful completion of conditions of probation, although the suspension remains part of the licensee's record;

(4) Revocation of a license;

(5) Imposition of civil penalties of up to \$1,500, or such greater amount as may be authorized by statute, for each violation of applicable laws, rules or conditions of licensure or for each instance of actionable conduct or activity;

(6) Imposition of conditions of probation upon an applicant or licensee. Probation may run for such time period as the office, board or commission determines appropriate. Probation may include conditions such as: additional continuing education; medical, psychiatric or mental health consultations or evaluations; mandatory professional or occupational supervision of the applicant or licensee; practice restrictions; and other conditions as the office, board or commission determines appropriate. Costs incurred in the performance of terms of probation are borne by the applicant or licensee. Failure to comply with the conditions of probation is a ground for disciplinary action against a licensee.

C. The office, board or commission may execute a consent agreement that resolves a complaint or investigation without further proceedings. Consent agreements may be entered into only with the consent of the applicant or licensee; the office, board or commission; and the Department of the Attorney General. Any remedy, penalty or fine that is otherwise available by law, even if only in the jurisdiction of the Superior Court, may be achieved by consent agreement, including long-term suspension and permanent revocation of a professional or occupational license. A consent agreement is not subject to review or appeal and may be modified only by a writing executed by all parties to the original consent agreement. A consent agreement is enforceable by an action in Superior Court.

D. The office, board or commission may:

(1) Require all applicants for license renewal to respond to all inquiries set forth on renewal forms;

(2) Require all licensees and applicants for licensure to report in writing any of the following to the office, board or commission no later than 10 days after the change or event, as the case may be:

(a) Change of name or address;

(b) Criminal conviction;

(c) Revocation, suspension or other disciplinary action taken in this or any other jurisdiction against any occupational or professional license held by the applicant or licensee; or

(d) Any material change in the conditions or qualifications set forth in the original application for licensure submitted to the office, board or commission.

(3) Except as provided in Title 37-B, section 390-A, adopt rules requiring continuing professional or occupational education and require applicants for license renewal to present proof of satisfactory completion of continuing professional or occupational education in accordance with such rules. Failure to comply with the continuing education rules is punishable by nonrenewal of the license and other discipline authorized by this subsection. Notwithstanding any contrary provision set forth in the governing law of an office, board or commission, continuing education requirements may coincide with the license renewal period. Rules adopted pursuant to this subparagraph are routine technical rules as described in Title 5, chapter 375, subchapter 2-A;

(4) Issue continuing education deferments in cases of undue hardship;

(5) Grant inactive status licenses to licensees in accordance with rules that may be adopted by each office, board or commission. The fee for an inactive status license may not exceed the statutory fee cap for license renewal set forth in the governing law of the office, board or commission. Licensees in inactive status are required to pay license renewal fees for renewal of an inactive status license and may be required to pay a reinstatement fee as set by the Director of the Office of Licensing and Registration if the license is reactivated on a date other than the ordinary renewal date of the license. Any rules of an office, board or commission regulating inactive status licensure must describe the obligations of an inactive status licensee with respect to any ongoing continuing education requirement in effect for licensees of the office, board or commission and must set forth any requirements for reinstatement to active status, which requirements may include continuing education. Rules adopted pursuant to this subparagraph are routine technical rules as described in Title 5, chapter 375, subchapter 2-A; and

(6) Delegate to staff the authority to review and approve applications for licensure pursuant to procedures and criteria established by rule. Rules adopted pursuant to this subparagraph are routine technical rules as described in Title 5, chapter 375, subchapter 2-A.

E. The office, board or commission may require surrender of licenses. In order for a licensee's surrender of a license to be effective, a surrender must first be accepted by vote of the office, board or commission. The office, board or commission may refuse to accept surrender of a license if the licensee is under investigation or is the subject of a pending complaint or proceeding, unless a consent agreement is first entered into pursuant to this subsection. The consent agreement may include terms and conditions for reinstatement.



F. The office, board or commission may issue a letter of guidance or concern to a 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 investigation 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.

G. The office, board or commission may establish, by rule, procedures for licensees in another state to be licensed in this State by written agreement with another state, by entering into written licensing compacts with other states or by any other method of license recognition considered appropriate that ensures the health, safety and welfare of the public. Rules adopted pursuant to this paragraph are routine technical rules pursuant to Title 5, chapter 375, subchapter 2-A.

The jurisdiction to suspend and revoke occupational and professional licenses conferred by this subsection is concurrent with that of the District Court. Civil penalties must be paid to the Treasurer of State.

Any nonconsensual disciplinary action taken under authority of this subsection other than denial or nonrenewal of a license may be imposed only after a hearing conforming to the requirements of Title 5, chapter 375, subchapter 4, and, except for revocation actions, is subject to judicial review exclusively in the Superior Court in accordance with Title 5, chapter 375, subchapter 7.

The office, board or commission shall hold a hearing conforming to the requirements of Title 5, chapter 375, subchapter 4 at the written request of any person who is denied an initial or renewal license without a hearing for any reason other than failure to pay a fee, provided that the request for hearing is received by the office, board or commission within 30 days of the applicant's receipt of written notice of the denial of the application, the reasons for the denial and the applicant's right to request a hearing.

The office, board or commission may subpoena witnesses, records and documents in any adjudicatory hearing it conducts.

Any nonconsensual revocation of a professional or occupational license taken under authority of this subsection is subject to, upon appeal within the time frames provided in Title 5, section 11002, subsection 3, de novo judicial review exclusively in District Court. Rules adopted to govern judicial appeals from agency action apply to cases brought under this subsection.

**Sec. C-4. 10 MRSA §8003-A,** as amended by PL 1995, c. 502, Pt. H, §11, is repealed and the following enacted in its place:

**§ 8003-A. Complaint investigation**

**1. Affiliated boards.** In aid of their investigative authority, the licensing boards and commissions affiliated with the department pursuant to section 8001-A may issue subpoenas in the name of the relevant licensing board or commission, in accordance with the terms of Title 5, section 9060, except that the authority applies to any stage of an investigation and is not limited to an adjudicatory proceeding.

**2. Office of Licensing and Registration.** The Office of Licensing and Registration, including the licensing boards and commissions and regulatory functions within the office, may receive, initiate and investigate complaints alleging any ground for disciplinary action set forth in section 8003, subsection 5-A. To assist with complaint or other investigations, or as otherwise considered necessary for the fulfillment of their responsibilities, the office, boards and commissions may hold hearings and may issue subpoenas for witnesses, records and documents in the name of the office, board or commission, as the case may be, in accordance with the terms of Title 5, section 9060, except that the subpoena authority applies to any stage or type of an investigation and is not limited to an adjudicatory hearing held pursuant to section 8003, subsection 5-A.

Investigative personnel of the Office of Licensing and Registration, during the normal conduct of their work for boards, commissions and regulatory functions within the office, may conduct investigations, issue citations, serve summonses and order corrections of violations in accordance with specific statutory authority. When specific authority does not exist to appeal an order to correct, that process must be established by rule by the respective board.

**3. Dispositions available to the public.** Upon disposition of each complaint and investigation, the office and all boards and commissions shall make such disposition available to the public.

**Sec. C-5. 10 MRSA §8003-C, sub-§5,** as enacted by PL 1999, c. 687, Pt. C, §12, is amended to read:

**5. Unlicensed practice; injunctions.** The Attorney General may bring an action in Superior Court to enjoin any person from violating subsection 4, whether or not proceedings have been or may be instituted in District Court or whether criminal proceedings have been or may be instituted, and to restore to any person who has suffered any ascertainable loss by reason of that violation any money or personal or real property that may have been acquired by means of that violation and to compel the return of compensation received for engaging in that unlawful conduct.

A person who violates the terms of an injunction issued under this subsection shall pay to the State a fine of not more than \$10,000 for each violation. In any action under this subsection, when a permanent injunction has been issued, the court may order the person against whom the permanent injunction is issued to pay to the General Fund the costs of the investigation of that person by the Attorney General and the costs of suit, including attorney's fees. In any action by the Attorney General brought against a person for violating the terms of an injunction issued under this subsection, the court may make the necessary orders or judgments to restore to any person who has suffered any ascertainable loss of money or personal or real property or to compel the return of compensation received by reason of such conduct found to be in violation of an injunction.

**Sec. C-6. 10 MRSA §8009** is enacted 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. 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.

**Sec. C-7. 32 MRSA §59-B**, as enacted by PL 2001, c. 285, §1, is repealed.

**Sec. C-8. 32 MRSA §60**, as amended by PL 1999, c. 687, Pt. D, §§1 and 2, is repealed.

**PART D**

**Sec. D-1. 10 MRSA §9003**, as amended by PL 1999, c. 687, Pt. F, §1, is further amended to read:

**§ 9003. Manufactured Housing Board**

**1. Established.** ~~The Manufactured Housing Board, established by Title 5, section 12004-A, subsection 22 and located within the Department of Professional and Financial Regulation, has the responsibility of administering and enforcing this chapter. The board, consists of 9 members appointed by the Governor.~~

**2. Composition of board; terms of members.** The members of the board must include:

- B. Three public members, as defined in Title 5, section 12004-A, at least one of whom lives in manufactured housing;
- C. One member who is a professional engineer with demonstrated experience in construction and building technology;
- D. One member who is a dealer;
- E. One member who is an owner or operator of a mobile home park with 15 or fewer lots;
- F. One member who is an owner or operator of a mobile home park with more than 15 lots;
- G. One member who is a builder of manufactured housing; and
- H. One member with a minimum of 2 years of practical experience in building code administration and enforcement and with current employment as a code enforcement officer.

The term of office of the members is 4 years. Appointment of a member must comply with Title 32, section ~~608009~~. A member of the board may be removed for cause by the Governor.

**4. Duties.** ~~The board shall administer and enforce this chapter.~~

**6. Organization.** ~~The board shall annually, in the month of January, elect one of its members as chair and one of its members as vice-chair. The chair, or in the chair's absence the vice-chair, shall call and preside at all meetings and hearings.~~

**7. Meetings; chair; quorum.** The board shall meet at least once a year to conduct its business and to elect a chair. Additional meetings must be held as necessary to conduct the business of the board and may be convened at the call of the chair or a majority of the board members. Five members of the board constitute a quorum. The board shall meet at the written request of the director or of a majority of the members of the board. The board shall determine the time and place of meetings. At least 6 meetings per calendar year must be held.

**8. Administration.** ~~Not later than August 1st of each year, the board shall submit to the Commissioner of Professional and Financial Regulation for the preceding fiscal year ending June 30th an annual report of its operations and financial position, together with comments and recommendations the board considers essential.~~

**9. Federal funds and other funding sources.** ~~The board may seek and receive funds from the Federal Government and other public or private sources to further its activities under this chapter, subject to the approval of the commissioner.~~

**10. Manufactured housing account.** ~~All funds received by the board must be paid to the Treasurer of State and must be credited to the books to the board's manufactured housing account in accordance with section 8003-F.~~

**Sec. D-2. 10 MRSA §9004, sub-§1,** as amended by PL 1993, c. 642, §11, is further amended to read:

**1. Executive director.** ~~The commissioner~~Commissioner of Professional and Financial Regulation may appoint or remove for cause, with the advice of the board, an executive director who is the principal administrative and supervisory employee of the Department of Professional and Financial Regulation for the board. The executive director shall attend meetings of the board, keep records of the proceedings of the board and direct and supervise the personnel employed to carry out the purposes of this chapter.

**Sec. D-3. 10 MRSA §9005,** as amended by PL 1999, c. 687, Pt. E, §1, is repealed.

**Sec. D-4. 10 MRSA §9005-A** is enacted to read:

**§ 9005-A. Powers and duties**

The board shall administer and enforce the provisions of this chapter.

The board shall propose, revise, adopt and enforce rules necessary to carry out this chapter in accordance with the provisions of Title 5, chapter 375, subchapter 2. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A. The board may delegate the enforcement authority to employees.

**Sec. D-5. 10 MRSA §9009,** as amended by PL 2005, c. 344, §§8 to 10, is further amended to read:

**§ 9009. Investigations; suspensions; revocations**

**1. Investigations.** The board is authorized to conduct any inspections and investigations as may be necessary to carry out responsibilities under this chapter. The board is authorized to contract with local governments and private inspection organizations to carry out such inspection functions to the extent not prohibited by federal law, rule or regulation.

**2. Investigation of complaints; revocation or suspension of licenses.** ~~The board shall investigate or cause to be investigated all complaints made to the board and all cases of noncompliance with or violation of this chapter or of a warranty applicable to the manufacture or installation of manufactured housing. Notwithstanding Title 5, section 10051, if the board after notice and a hearing finds that the manufacturer, dealer, developer dealer, installer or mechanic has violated this chapter, the rules adopted pursuant to this chapter or an applicable warranty, the board may file a complaint with the District Court to revoke or suspend the license or approval of the manufacturer, dealer, developer dealer, installer or mechanic. If the board does not find reasonable grounds to believe that a violation of this chapter or breach of an applicable warranty has occurred, the board shall enter an order so finding and dismiss the proceeding. The board, for reasons it considers sufficient, may reissue a license to any person whose license has been revoked if 3 or more members of the board vote in favor of this reissuance.~~

**3. Remedies for manufacturing defects.** The board staff ~~shall~~may investigate all complaints made to the board of noncompliance with or violation of chapter 213 or a warranty applicable to the sale of manufactured housing. If the board finds, after hearing, that a manufacturer, dealer or developer dealer has sold, or is making available for sale, manufactured housing that poses a threat to public health or safety or has failed to comply with chapter 213 or an applicable warranty, express or implied, the board may order the manufacturer, dealer or developer dealer or any combination thereof to take appropriate corrective action. Corrective action may include, but is not limited to, reimbursing consumers for repairs that are covered by warranty and made by the consumer if the consumer notifies the dealer, developer dealer or manufacturer in writing of the defect within a reasonable time prior to undertaking the repairs and the board finds that the repairs are or were necessary to correct or prevent an imminent threat to health or safety or to the structure of the manufactured housing. ~~Notwithstanding Title 5, section 10051, the~~The board may also revoke or suspend the license of the manufacturer, dealer, developer dealer or any combination thereof to prevent any future threat to public health or safety. Notwithstanding the provisions of Title 10, section 8003, subsection 5-A, revocations ordered by the board are subject to judicial review exclusively in the Superior Court in accordance with Title 5, chapter 375, subchapter 7. This subsection applies to any new manufactured housing that is sold to a consumer after January 1, 1993.

**4. Remedies for installation defects.** The board staff ~~shall~~may investigate all complaints made to the board of noncompliance with or violation of chapter 213 or a warranty applicable to the installation of manufactured housing. If the board finds, after hearing, that the installation of manufactured housing poses a threat to public health or safety or does not comply with the board's installation standards, chapter 213 or any applicable warranty, the board may order the installer to take appropriate corrective action. Corrective action may include, but is not limited to, reimbursing consumers for repairs that are covered by warranty and made by the consumer if the consumer notifies the installer or mechanic in writing of the defect within a reasonable time prior to undertaking the repairs and the board finds that the repairs are or were necessary to correct or prevent an imminent threat to health or safety or to the structure of manufactured housing. ~~Notwithstanding Title 5, section 10051, the~~The board may also revoke or suspend the installer's or mechanic's license to install manufactured housing to prevent any future threat to the public health or safety. Notwithstanding the provisions of Title 10, section 8003, subsection

5-A, revocations ordered by the board are subject to judicial review exclusively in the Superior Court in accordance with Title 5, chapter 375, subchapter 7. This subsection applies to any new manufactured housing that is sold to a consumer after January 1, 1993.

**Sec. D-6. 10 MRSA §9010,** as amended by PL 1993, c. 642, §20, is repealed.

**Sec. D-7. 10 MRSA §9021,** as amended by PL 2005, c. 344, §§12 to 17, is further amended to read:

## **§ 9021. Licenses**

The board shall adopt rules governing qualifications for each category of license under its jurisdiction.

**1. Licenses required.** Any person who engages in the business of manufacturing, brokering, distributing, selling, installing or servicing manufactured housing ~~shall~~must first obtain a license issued by the board. The board shall, within a reasonable time, issue a license to any person who intends to manufacture, sell, install or service manufactured housing in this State subject to filing and approval of an application ~~provided by the board.~~ Any person who is licensed to conduct these activities by other state or federal law is exempt from this requirement when the law provides for specific authority to provide a particular service or preempts the requirement for such a license. Active licensees of the Real Estate Commission are exempt from the licensing requirement for selling or brokering used manufactured housing and new manufactured housing if such housing is sold or offered for sale by a licensee of the board.

**1-A. Initial training.** ~~Beginning July 1, 2000, all~~All licensees and applicants for licensure must obtain initial training, including, but not limited to, the servicing and installation of manufactured housing. Applicants for initial licensure must complete the training before the board approves the application for licensure. ~~All persons holding licenses on July 1, 2000 have 2 years from the time the training requirements are established by the board in which to complete the training. The cost for the training must be set by the board in an amount not to exceed \$25.~~

**2. License fees.** ~~The board may establish and collect the following fees. All fees collected must be paid to the Treasurer of State for deposit in the Manufactured Housing Fund.~~

A. ~~The license fee for manufacturers of manufactured housing who deliver or sell manufactured housing may not exceed \$200 annually. Each manufacturing plant that delivers or sells manufactured housing in the State must obtain a separate license.~~

B. ~~The license fee for dealers or developer dealers who are engaged in the retail selling, offering for sale, brokering or distribution of manufactured housing may not exceed \$200 annually.~~

C. ~~The license fee for mechanics who service or install manufactured housing, as defined in section 9002, subsection 7, paragraphs A and C, may not exceed \$200 annually.~~

D. ~~The additional license fee for dealers, developer dealers, installers or mechanics who have more than one business location may not exceed \$50 annually per additional location.~~

E. ~~The license fee for an installer, as defined in section 9002, subsection 6-A, who installs manufactured housing, as defined in section 9002, subsection 7, may not exceed \$200.~~

**2-A. Fees.** The Director of the Office of Licensing and Registration within the Department of Professional and Financial Regulation may establish by rule fees for purposes authorized under this chapter in amounts that are reasonable and necessary for their respective purposes. The license fee to operate a mobile home park pursuant to subchapter 6 may not exceed a base fee of \$40 plus an additional amount of up to \$4 per mobile home site. This fee must accompany each license application, including applications for mobile home park expansion and license renewal. The review and evaluation fees authorized by section 9083 may not exceed the actual cost of the review or evaluation. The fee for any inspection authorized by this chapter may not exceed the actual cost of the inspection. The fee for any other purpose authorized by this chapter may not exceed \$200. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

**3. License term.** Licenses expire February 28th or at such other times as the Commissioner of Professional and Financial Regulation may designate and are issued on a biennial basis upon payment of ~~a~~ the license fee as set under subsection 2-A. An additional license fee for each additional business location may be set under subsection 2-A for dealers, developer dealers, installers or mechanics who have more than one business location.

**4. Renewals.** ~~The board shall notify each licensee of the expiration date of that licensee's license and indicate the amount of fee required for biennial renewal. Notice must be mailed to each licensee's last known address at least 30 days in advance of the expiration date of the license. A license may be renewed up to 90 days after the date of its expiration upon payment of a late fee of \$50 in addition to the renewal fee as set under subsection 2-A. If any licensee fails to renew within 90 days after expiration, that licensee is required to make a new application.~~

**6. Financial responsibility.** The board may require bonding or other reasonable methods to ensure that manufacturers, dealers, developer dealers and others licensed under this chapter are financially responsible to fully comply with this chapter.

**7. Service of process.** In order to obtain a license under this chapter, a person who is not a resident of this State shall designate the executive director of the board as the person's agent for service of process in this State. The following provisions govern this requirement.

A. A person who applies for a license shall file with the executive director, in a form prescribed by rule, an irrevocable consent appointing the executive director to be that person's agent to receive service of any lawful process in any civil proceeding against that person, a successor or a personal representative that arises under this chapter or any rule or order of the board after consent has been filed, and that service of process has the same force and validity as if served on the person who filed the consent.

B. If a person engages in conduct prohibited by this chapter or any rule or order of the board and that person has not filed a consent to service of process under paragraph A, the executive director is automatically appointed as the person's agent to receive service of any lawful process in a civil proceeding against that person, a successor or a personal representative that results because of the person's conduct under this chapter or any rule or order of the board, and that service of process has the same force and validity as if served on the person.

C. Service under paragraphs A and B may be made by leaving a copy of the process in the office of the executive director but is not effective unless:

(1) The plaintiff, who may be the executive director or the board, immediately sends notice of the service and a copy of the process by registered or certified mail, return receipt requested, to the defendant or the respondent at the address last known to the executive director; and

(2) The plaintiff files an affidavit of compliance with this paragraph in the proceeding on or before the return date of the process, if any, or within any further time the court, or the board in a proceeding before the board, allows.

D. Service as provided in paragraph C may be used in any proceeding before the board or by the executive director in any proceeding in which the executive director is the moving party.

E. When the process is served under paragraph C, the court or the board shall order continuances as necessary to afford the defendant or the respondent reasonable opportunity to defend.

**8. Licensing penalties.** ~~The board may suspend, revoke or refuse to renew the license under this chapter of any person who is found to have:~~

~~A. Committed fraud, misrepresentation or deception in obtaining a license;~~

~~B. Accepted manufactured housing, directly or indirectly, from a manufacturer not licensed by the State pursuant to this chapter;~~

~~C. Sold or delivered, directly or indirectly, manufactured housing to a dealer or developer dealer not licensed by the State pursuant to this chapter; or~~

~~D. Violated any provision of or rules adopted under this chapter or any other applicable warranties.~~

**8-A. Denial or refusal to renew license; disciplinary action.** In addition to the grounds enumerated in Title 10, section 8003, subsection 5-A, paragraph A, the board may deny a license, refuse to renew a license or impose the disciplinary sanctions authorized by Title 10, section 8003, subsection 5-A for any of the following reasons:

A. Accepting manufactured housing, directly or indirectly, from a manufacturer not licensed by the State pursuant to this chapter;

B. Selling or delivering, directly or indirectly, manufactured housing to a dealer or developer dealer not licensed by the State pursuant to this chapter; or

C. Violation of any of the provisions of chapter 213.

**9. Proof of sales tax registration.** The board shall require that an applicant for a manufacturer, dealer or developer dealer license under this subchapter demonstrate that the applicant is registered with the State Tax Assessor for the collection of sales and use tax under Title 36, chapter 211 or that the applicant is not required to register under that chapter.

**Sec. D-8. 10 MRSA §9043, sub-§2,** as repealed and replaced by PL 1981, c. 152, §14, is further amended to read:



**2. Local option.** The provisions of this subchapter ~~shall~~must be ~~waivered~~waived by the board with respect to manufactured housing ~~which~~that is installed in a municipality ~~which~~that has adopted a building code and has a local building code enforcement agency if:

- A. The manufactured housing is found by the local enforcement agency to comply with the applicable local building code; and
- B. The local enforcement agency so reports to the board in such form and detail as the board may reasonably require.

**Sec. D-9. 10 MRSA §9045**, as amended by PL 2005, c. 344, §20, is repealed and the following enacted in its place:

**§ 9045. New unit and inspection fees**

A fee for each new dwelling unit that is installed in the State and fees for inspection of manufactured housing that must be paid by the manufacturer, dealer, developer dealer, installer or mechanic whose actions or failure to act gave rise to the necessity of the inspection are set under section 9021, subsection 2-A.

**Sec. D-10. 10 MRSA §9048, sub-§5**, as enacted by PL 1981, c. 152, §14, is amended to read:

**5. Formal agreements.** The board, subject to the approval of the Commissioner of ~~Business Regulation~~Professional and Financial Regulation, may enter into formal agreements with the agencies or authorities of other states, or other governmental agencies, or their agents, to carry out the purpose of this chapter.

**Sec. D-11. 10 MRSA §9071**, as amended by PL 1995, c. 353, §7, is repealed.

**Sec. D-12. 10 MRSA §9072**, as amended by PL 1987, c. 395, Pt. A, §41 and PL 1999, c. 547, Pt. B, §78 and affected by §80, is repealed.

**Sec. D-13. 10 MRSA §9083**, as amended by PL 1991, c. 714, §5, is repealed and the following enacted in its place:

**§ 9083. Fees**

Application and license fees for mobile home parks may be set under section 9021, subsection 2-A, including applications for mobile home park expansion and license renewal. Fees may also be set under section 9021, subsection 2-A for mobile home park inspections; for the cost of reviewing engineering and site plans; for costs incurred in evaluating an applicant's eligibility for licensure as a mobile home park; and for costs incurred in evaluating a licensee's ongoing compliance with the requirements of this subchapter and the rules of the board. Failure to pay costs billed to an applicant or licensee within 90 days of the billing date constitutes grounds for license revocation, unless an extension for an additional period not to exceed 90 days is granted in writing by the board.

**Sec. D-14. 10 MRSA §9084**, as amended by PL 1999, c. 386, Pt. C, §4 and PL 2003, c. 689, Pt. B, §6, is further amended to read:

**§ 9084. Issuance of licenses**

The board shall, within 30 days following receipt of application, issue an annual license to operate any mobile home park ~~which~~that is found to comply with this subchapter and the rules adopted by the board.

When any applicant is found, based upon an inspection by the board or by municipal inspection made according to section 9088, not in compliance with the requirements of this subchapter or rules adopted and approved pursuant to section 9085 or section 9088, subsection 1, the board may refuse issuance of the initial license but shall issue a conditional license except when conditions are found that present a danger to the health and safety of the public. A conditional license may not exceed 90 days. Failure by the conditional licensee to meet the conditions specified permits the board to void the conditional license.

The conditional license ~~shall be~~is void when the board has delivered in hand or by certified mail a written notice to the conditional licensee or, if the licensee cannot be reached for service in hand or by certified mail, has left notice thereof at the facility.

Upon the written request of the board, the Department of Health and Human Services, ~~Division of Health Engineering~~Maine Center for Disease Control and Prevention shall provide such technical services as may be required by the board to assist with inspections and licensing of new mobile home parks. The department may assess the mobile home park owner a reasonable fee for these services.

All mobile home park licenses expire annually on a date established by the Commissioner of Professional and Financial Regulation. Licenses may be renewed upon application and upon payment of the ~~prescribed~~renewal fee as set under section 9021, subsection 2-A, subject to compliance with rules of the board and with this subchapter. ~~The board shall notify each licensee of the expiration date of that licensee's license and indicate the fee required for annual renewal. Notice must be mailed to each licensee's last known address at least 30 days in advance of the expiration of the license. A license may be renewed up to 90 days after the date of its expiration upon payment of a late fee of \$50 in addition to the renewal fee as set under section 9021, subsection 2-A. If any licensee fails to renew within 90 days after expiration, that licensee is required to make a new application.~~

The issuance of the license provided for in this subchapter does not provide exemption from other state or local laws, ordinances or regulations, notwithstanding any other provision of law.

A license issued under this subchapter may not be assigned or transferred.

~~Licenses erroneously issued by the board are void and shall be returned to the board on demand as stated in a notice delivered by hand or by certified mail to the licensee. For cause, the board may revoke or suspend any license pursuant to section 9089.~~

**Sec. D-15. 10 MRSA §9088, sub-§6**, as enacted by PL 1983, c. 553, §17, is amended to read:

**6. License fee.** When a license is issued on the basis of a municipal inspection, as specified in this section, the requirement for payment of a license fee to the board, as set forth in section 9083, ~~shall be~~9021, subsection 2-A, is waived. The licensee shall be required to pay the board a sum not to exceed \$10 to support the costs of mailing and handling.

**Sec. D-16. 10 MRSA §9089**, as enacted by PL 1983, c. 553, §17 and amended by PL 1999, c. 547, Pt. B, §78 and affected by §80, is repealed and the following enacted in its place:

**§ 9089. Denial or refusal to renew license; disciplinary action**

The board may deny a license, refuse to renew a license or impose the disciplinary sanctions authorized by Title 10, section 8003, subsection 5-A for any of the reasons enumerated in Title 10, section 8003, subsection 5-A, paragraph A.

## PART E

**Sec. E-1. 32 MRSA §63-A**, as amended by PL 1999, c. 790, Pt. A, §35, is further amended to read:

### **§ 63-A. Board established; membership and organization**

**1. Membership.** The Nursing Home Administrators Licensing Board, as established by Title 5, section 12004-A, subsection 23, and referred to in this section as the "board," consists of 7 members appointed by the Governor. The members must be ~~citizens of the United States and~~ residents of this State. One member must be a registered nurse with not less than 5 years of active practice in nursing homes in the State. Two members must be ~~representatives of the public~~ members as defined in Title 5, section 12004-A. Three members must be administrators of nursing homes with not less than 5 years of active experience in the State. One member must be an administrator of an intermediate care facility for the mentally retarded with not less than 5 years of active practice in that capacity.

**2. Terms.** Appointments are for 3-year terms. Appointments of members must comply with Title 10, section 608009. A member may be removed by the Governor for cause.

**3. Meetings; chair; quorum.** The board shall meet at least once a year to conduct its business and to elect a chair. Additional meetings must be held as necessary to conduct the business of the board and may be convened at the call of the chair or a majority of the board members. ~~A majority~~ Four members of the board ~~constitutes~~ constitute a quorum for all purposes.

**7. Reports; budget.** ~~No later than August 1st of each year, the board shall submit to the commissioner a report of its transactions of the preceding fiscal year ending June 30th and shall transmit to the commissioner a complete statement of all receipts and expenditures of the board, attested by affidavit of its chair.~~

**Sec. E-2. 32 MRSA §63-B**, as amended by PL 2001, c. 323, §§11 and 12, is further amended to read:

### **§ 63-B. Board powers and duties**

The board shall ~~have~~ has the powers and duties set forth in this section.

**1. Board to administer and enforce.** The board shall administer and enforce this chapter; and shall evaluate the qualifications of and supervise ~~approve~~ the examination of ~~to be taken by~~ applicants for licensure under this chapter and it shall investigate written allegations of violations of or noncompliance with this chapter. The board shall keep such records and minutes as are necessary to the ordinary dispatch of its functions.

**2. Rules.** The board may, in accordance with the Maine Administrative Procedure Act, Title 5, chapter 375, subchapter H~~2~~, adopt rules commensurate with the authority vested in it by this chapter, including, but not limited to, standards for courses of study for administrators, requirements for the training, experience and qualifications for the licensure of administrators and administrators-in-training, continuing educational requirements, standards and procedures for examination for the licensure of administrators, standards and procedures for the issuance, revocation and suspension of licenses of administrators and for the investigation of written charges and complaints filed with the board. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

**3. Temporary licenses.** The board may by rule determine conditions and procedures by which it may issue temporary licenses. Temporary licenses may be issued for periods of up to one year. The total length of multiple temporary licenses may not extend beyond one year.

**4. Examinations.** ~~The board shall conduct written~~ Written examinations for licensure must be held one or more times each year, at such times and places as ~~it~~ the board may determine.

**5. Application and license fees.** Fees for applications, and initial licenses ~~and annual license renewals~~ for nursing home administrators and administrators-in-training may be established as provided in section 67.

**6. Hearings.** ~~Hearings may be conducted by the board to assist with investigations, to determine whether grounds exist for suspension, revocation or denial of a license, or as otherwise determined necessary to the fulfillment of its responsibilities under this chapter. The board may not refuse to renew a license for any reason other than failure to pay a required fee, unless it has afforded the licensee an opportunity for an adjudicatory hearing. The board shall hold an adjudicatory hearing at the written request of an individual who is denied a license without a hearing for any reason other than failure to pay a required fee, provided that the request for hearing is received by the board within 30 days of the applicant's receipt of written notice of the denial of the application, the reason for the denial and the applicant's right to request a hearing. Hearings must be conducted in conformity with the Maine Administrative Procedure Act, Title 5, chapter 375, subchapter IV, to the extent applicable. The board may subpoena witnesses, records and documents in any hearing it conducts.~~

**8. Exception.** This chapter or the rules under this chapter may not be construed to require an applicant for a license as a nursing home administrator who is certified by a recognized church or religious denomination that teaches reliance on spiritual means alone for healing as having been approved to administer institutions certified by that church or denomination for the care and treatment of the sick in accordance with its teachings to demonstrate proficiency in medical techniques or to meet medical educational qualifications or medical standards not in accord with the remedial care and treatment provided in those institutions. An individual licensed under this exception may act as an administrator only in those institutions described in this subsection.

**Sec. E-3. 32 MRSA §64-A,** as amended by PL 1993, c. 600, Pt. A, §32 and PL 1999, c. 547, Pt. B, §57 and affected by §80, is repealed.

**Sec. E-4. 32 MRSA §64-B** is enacted to read:

**§ 64-B. Denial or refusal to renew license; disciplinary action; informal conference**

In addition to the grounds enumerated in Title 10, section 8003, subsection 5-A, paragraph A, the board may deny a license, refuse to renew a license or impose the disciplinary sanctions authorized by Title 10, section 8003, subsection 5-A for:

**1. Habitual substance abuse.** Habitual substance abuse that has resulted or is foreseeably likely to result in the licensee performing assigned services in a manner that endangers the health or safety of patients;

**2. Mental or physical condition.** A professional diagnosis of a mental or physical condition that has resulted or may result in the licensee performing assigned services in a manner that endangers the health or safety of patients; or

**3. False advertising.** Engaging in false, misleading or deceptive advertising.

If 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 conference must be conducted in executive session of the board, pursuant to Title 1, section 405, unless otherwise requested by the licensee. Statements made at the conference may not be introduced at a subsequent formal hearing unless all parties consent.

**Sec. E-5. 32 MRSA §65,** as amended by PL 2001, c. 323, §13, is further amended to read:

### **§ 65. License renewal**

All licenses issued under this chapter, except temporary licenses, expire annually on a date established by the commissioner and become invalid if not renewed. Every individual licensed under this chapter shall pay, on or before the expiration date, a fee for renewal of the license to the board renewal fee as set under section 67. ~~The board shall notify each individual licensed under this chapter of the date of expiration of that individual's license and the amount of fee required for its renewal for a one-year period. The notice must be mailed to the individual's last known address at least 30 days before the expiration of the license. Renewals are contingent upon evidence of participation in continuing professional education. A license may be renewed up to 90 days after the date of its expiration upon payment of a late fee in addition to the renewal fee. An individual who submits an application for renewal more than 90 days after the license expiration date is subject to all requirements governing new applicants under this chapter, except that the board may, in its discretion and giving due consideration to the protection of the public, waive examination if that renewal application is made received, together with the late fee and renewal fee,~~ within 2 years from the date of the expiration.

**Sec. E-6. 32 MRSA §66,** as amended by PL 1993, c. 600, Pt. A, §34 and PL 1999, c. 547, Pt. B, §78 and affected by §80, is repealed.

**Sec. E-7. 32 MRSA §68** is enacted to read:

### **§ 68. Unlicensed practice**

An individual who violates section 61 is subject to the provisions of Title 10, section 8003-C.

## **PART F**

**Sec. F-1. 32 MRSA §210** is enacted to read:

**§ 210. Definitions**

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

**1. Board.** "Board" means the Maine State Board for Licensure of Architects, Landscape Architects and Interior Designers.

**2. Department.** "Department" means the Department of Professional and Financial Regulation.

**3. Office.** "Office" means the Office of Licensing and Registration within the department.

**Sec. F-2. 32 MRSA §211**, as amended by PL 1999, c. 687, Pt. E, §2, is further amended to read:

**§ 211. Membership; term**

The Maine State Board for Licensure of Architects, Landscape Architects and Interior Designers, established by Title 5, section 12004-A, subsection 4, ~~referred to in this chapter as the "board,"~~ shall administer this chapter. The board consists of 9 members appointed by the Governor: Five must be licensed and practicing architects, one of whom may be a professor of architecture; one must be a licensed and practicing landscape architect; one must be a certified and practicing interior designer and 2 must be ~~representatives of the public~~ members as defined by Title 5, section 12004-A.

Appointments are for 3-year terms. Appointments of members must comply with the provisions of Title 10, section 608009. A member may be removed by the Governor for cause.

**Sec. F-3. 32 MRSA §212**, as amended by PL 1993, c. 389, §6, is further amended to read:

**§ 212. Qualifications for members**

Each member of the board must be ~~a citizen of the United States;~~ a resident of this State and in the case of architect, landscape architect or interior designer members must be currently licensed or certified by the State and have engaged in the independent practice of architecture, landscape architecture or interior design in the State for at least 5 years immediately prior to appointment. The member who may be a professor of architecture in a college or university of this State must have combined experience in practice and teaching of not less than 5 years, at least 2 of which must have been in the active practice of architecture as a profession.

**Sec. F-4. 32 MRSA §213**, as amended by PL 1999, c. 687, Pt. E, §3, is further amended to read:

**§ 213. Meetings; chair; quorum**

The board shall meet at least once a year to conduct its business and to elect ~~its officers~~ a chair. Additional meetings ~~may~~ must be held as necessary to conduct the business of the board and may be convened at the call of the chair or a majority of the board members. Five members of the board constitute a quorum.

~~The board shall annually elect a chair and a secretary. Five members of the board constitute a quorum for all purposes.~~

**Sec. F-5. 32 MRSA §214, sub-§2**, as amended by PL 1993, c. 389, §8, is repealed.

**Sec. F-6. 32 MRSA §214, sub-§4**, as enacted by PL 1983, c. 413, §6, is repealed.

**Sec. F-7. 32 MRSA §216**, as amended by PL 1993, c. 389, §9, is repealed.

**Sec. F-8. 32 MRSA §217**, as amended by PL 1987, c. 395, Pt. A, §112, is repealed.

**Sec. F-9. 32 MRSA §218**, as amended by PL 1993, c. 389, §10 and PL 1999, c. 547, Pt. B, §78 and affected by §80, is repealed and the following enacted in its place:

**§ 218. Denial or refusal to renew license; disciplinary action**

The board may deny a license, refuse to renew a license or impose the disciplinary sanctions authorized by Title 10, section 8003, subsection 5-A for any of the reasons enumerated in Title 10, section 8003, subsection 5-A, paragraph A.

**Sec. F-10. 32 MRSA §220, sub-§1, ¶A**, as amended by PL 1991, c. 396, §11, is further amended to read:

A. A person may not practice architecture or profess to practice architecture inside the State or use the title or profess to be an "architect" or "registered licensed architect" or display or use any words, letters, figures, titles, sign, card advertisement or other symbol or device indicating or tending to indicate that the person is an architect or is practicing architecture, or sign technical submissions unless the person is duly licensed by the board.

As used in this chapter, the practice of architecture consists of rendering or offering to render service to clients by consultations, investigations, technical submissions and a coordination of structural factors concerning the aesthetic or structural design and administration of construction contracts or any other service in connection with the designing or administration of construction contracts for buildings located inside the State that have as their principal purpose human occupancy or habitation, regardless of whether the persons are performing one or all of these duties, or whether they are performed in person or as the directing head of an office or organization performing them.

As used in this chapter, the term "technical submissions" includes the preliminary studies, plans, designs, drawings, specifications and contract documents, as well as other documents, prepared in the course of practicing architecture or landscape architecture.

The practice of architecture does not include the practice of landscape architecture as defined in this chapter. A licensed architect may do landscape architectural work as is incidental to the architect's work.

**Sec. F-11. 32 MRSA §220, sub-§1, ¶B**, as amended by PL 1991, c. 824, Pt. A, §63, is further amended to read:

B. Qualifications.

(1) To be qualified for admission to the examination to practice architecture in this State an applicant must submit evidence to the board that:

(a) The applicant has completed a course of study in a school or college of architecture approved by the board, with graduation evidenced by a diploma setting forth a satisfactory degree, and 3 years of practical experience ~~in the office~~under the supervision of an experienced architect or architects engaged in the practice of architecture as a profession; or

(b) The applicant has training or practical experience, or a combination of both, that in the opinion of the board is fully equivalent to that required in division (a).

(2) An applicant for licensure as an architect in this State who has a current and valid license from another jurisdiction and a certificate from the National Council of Architectural Registration Boards or its successor or other organization approved by the board may offer to render architectural services in this State prior to licensure by the board if the applicant first notifies the board in writing that the applicant will be present in this State to offer to render architectural services. The applicant may not render architectural services until duly licensed by the board.

**Sec. F-12. 32 MRSA §220, sub-§2, ¶B**, as amended by PL 1991, c. 824, Pt. A, §64, is further amended to read:

B. Qualifications.

(1) To be qualified for admission to the examination to practice landscape architecture in this State an applicant must submit evidence that:

(a) The applicant has completed a course of study in a school or college of landscape architecture approved by the board, with graduation evidenced by a diploma setting a satisfactory degree and 2 years of practical experience in landscape architectural work of a grade and character satisfactory to the board; or

(b) The applicant has training or practical experience, or a combination of both, that in the opinion of the board is fully equivalent to that required in division (a).

(2) An applicant for licensure as a landscape architect in this State who has a current and valid license from another jurisdiction and a certificate from the Council of Landscape Architectural Registration Boards~~' certificate~~Boards or its successor or other organization approved by the board may offer to render landscape architectural services in the State prior to licensure by the board provided the applicant first notifies the board in writing that the applicant will be present in the State to offer to render landscape architectural services. The applicant may not render landscape architectural services until duly licensed by the board.

**Sec. F-13. 32 MRSA §220-A**, as amended by PL 1989, c. 857, §73, is repealed.

**Sec. F-14. 32 MRSA §220-B**, as enacted by PL 1993, c. 389, §12, is amended to read:

**§ 220-B. Use of the title "interior designer"; qualifications; grandfathering**



**1. Use of title.** A person may not use the title "certified interior designer" unless ~~certified~~licensed under this chapter. This chapter does not prohibit a person from providing interior design services or from using the title "interior designer."

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

A. "Certified interior designer" means an interior designer who has been ~~certified~~licensed by the board in accordance with this chapter.

B. "Interior designer" means an individual who provides or offers to provide interior design services.

C. "Interior design services" means services that do not require the services of a licensed architect or engineer and that involve the preparation of working drawings, plans and specifications relative to building elements that are not necessary for the structural stability and mechanical and electrical integrity of the construction.

**2. Qualifications.** The following are the qualifications for ~~certification~~licensure as an interior designer.

A. Except as otherwise provided in this chapter, each applicant for ~~registration~~licensure must provide to the board proof of passage of the examination administered by the National Council for Interior Design Qualification or its successor organization or an equivalent examination as specified by the board.

B. In addition to proof of passage of the examination, the applicant must provide substantial evidence to the board that the applicant:

(1) Is a graduate of a 5-year interior design program from an accredited institution and has completed at least one year of diversified and appropriate interior design experience;

(2) Is a graduate of a 4-year interior design program from an accredited institution and has completed at least 2 years of diversified and appropriate interior design experience;

**3. Accreditation.** All interior design programs must be accredited by the Foundation of Interior Design Education Research, or its successor organization, or be determined by the board to be substantially equivalent to the accredited program.

**4. Grandfathering.** ~~A person who applies for certification and remits the application and appropriate fees within 1 1/2 years after the effective date of this section must be certified by the board without taking the written examination if:~~

A. ~~The applicant has previously passed the examination of the National Council for Interior Design Qualification, or its successor organization, or an equivalent examination approved by the board; or~~

~~B. The applicant has satisfactory evidence of having used or been identified by the title "interior designer" and has a combination of interior design education and diversified and appropriate experience totaling 6 years; except that if the interior designer has one year or less of interior design education, then 2 years of interior design experience acceptable to the board may be substituted for each year of interior design education required. A person is considered to have used or been identified by the title "interior designer" if the person demonstrates to the satisfaction of the board that the person was either self-employed as an interior designer or, in the course of regular employment, rendered or offered to render to another person interior design services. In addition, the applicant must have passed the codes portion of the examination of the National Council for Interior Design Qualification, or its successor organization, or an equivalent examination approved by the board.~~

**5. Repeal.** ~~Subsection 2, paragraph B, subparagraphs (3) and (4) are repealed 6 years after the effective date of this section.~~

**Sec. F-15. 32 MRSA §221,** as amended by PL 1993, c. 389, §13, is further amended to read:

### **§ 221. Examinations**

~~Examinations for licensure as an architect or landscape architect and for certification as a certified interior designer must be held by the board at least once each year if applications have been received during the time announced. The board shall make all necessary rules, in accordance with the Maine Administrative Procedure Act, Title 5, section 8051, et seq., governing the time, place and method of giving and grading examinations, shall publish appropriate announcements and shall conduct examinations at the time designated for all applicants who desire to be licensed as an "architect" or "landscape architect" or to be certified as a "certified interior designer" and to engage in performing the functions of an architect, landscape architect or certified interior designer. The board has the power to provide a reasonable division into classes of the various applicants and the examination to be taken in each class. Examinations must consist of such technical and professional subjects and oral questioning as the board may from time to time prescribe. The rules for the manner in which examinations are conducted and the content of the examination must be adopted in accordance with the Maine Administrative Procedure Act, Title 5, section 8051, et seq.~~

**Sec. F-16. 32 MRSA §222,** as amended by PL 1993, c. 389, §14, is repealed and the following enacted in its place:

### **§ 222. Fees**

The director of the office may establish by rule fees for purposes authorized under this chapter in amounts that are reasonable and necessary for their respective purposes, except that the fee for any one purpose may not exceed \$200. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

**Sec. F-17. 32 MRSA §223-A, sub-§1,** as enacted by PL 1991, c. 396, §18, is amended to read:

**1. Certification by National Council of Architectural Registration Boards.** An architect license may be issued without examination to an applicant who has a current and valid certificate of licensure from another state and a current and valid certificate from the National Council of Architectural Registration Boards' certificate Boards or its successor or other organization approved by

~~the board.~~ The applicant must file an application for licensure with the ~~Maine State Board for Licensure of Architects and Landscape Architects on a form prescribed by the board containing such information as the board considers pertinent.~~

**Sec. F-18. 32 MRSA §223-B,** as enacted by PL 1993, c. 389, §15, is amended to read:

### **§ 223-B. Certification by reciprocity**

A ~~certificate~~license may be issued by the board without further examination requirements for an individual who provides proof of passage of the examination administered by the National Council for Interior Design Qualification, or its successor organization, or an equivalent exam as determined by the board or who is licensed or certified as an interior designer in another state if that state's requirements are substantially equivalent to those required for a ~~certificate~~license in the State.

**Sec. F-19. 32 MRSA §224,** as amended by PL 1991, c. 396, §19, is further amended to read:

### **§ 224. License**

The board shall issue a license upon payment of the fee ~~provided for in this chapter~~as set under section 222 to any applicant who, ~~in the opinion of the board,~~ has satisfactorily met all the requirements of this chapter. ~~Licenses must bear a serial number and the full name of the licensee.~~

Issuance of a license by the board ~~shall be~~is evidence that the person named therein is entitled to all the rights and privileges of a licensed architect ~~or, licensed landscape architect or certified interior designer~~ while the license remains unexpired and unrevoked. ~~The license shall be synonymous with licensure, with the full meaning and effect of a license to practice architecture or landscape architecture.~~

Licenses expire on the last day of June of each year or any other time the Commissioner of Professional and Financial Regulation ~~designates~~may designate. ~~Renewal may be effected at any time during the renewal month by payment of the renewal fee.~~ A license may be renewed up to 90 days after the date of its expiration upon payment of a late fee of \$10 in addition to the renewal fee as set under section 222. Any person who submits an application for renewal more than 90 days after the license expiration date is subject to all requirements governing new applicants under this chapter, except that the board may in its discretion, giving due consideration to the protection of the public, waive examination if the renewal application is ~~made~~received, together with the late fee, renewal fee and additional late fee as set under section 222, within 2 years from the date of the expiration.

**Sec. F-20. 32 MRSA §224-A,** as enacted by PL 1993, c. 389, §15, is repealed.

**Sec. F-21. 32 MRSA §225, first ¶,** as amended by PL 1991, c. 396, §20, is further amended to read:

Each ~~licensee~~licensed architect or landscape architect shall upon licensure obtain a seal of such design as the board authorizes and directs and shall submit an impression of the seal to the board. Technical submissions prepared by or under the direct supervision of a licensed architect or under the direct supervision of a licensed landscape architect must be stamped with the seal during the life of the licensee's license. It is unlawful for anyone to stamp or seal any documents with the seal after the license named on the seal has expired or has been revoked, unless the license has been renewed or reissued.

**Sec. F-22. 32 MRSA §225-A, sub-§1,** as enacted by PL 1993, c. 389, §15, is amended to read:

**1. Signature required.** A drawing plan, specification or report prepared or issued by a certified interior designer and being filed for public record must bear the signature of the interior designer who prepared or approved the document, accompanied by a certification that the signer is certified licensed under this chapter, by the person's certification license number and by the date on which the signature was affixed.

**Sec. F-23. 32 MRSA §225-A, sub-§2,** as enacted by PL 1993, c. 389, §15, is amended to read:

**2. Competency.** A certified interior designer may not sign a plan, specification, drawing or other document that depicts work that the person is not competent or certified licensed to perform.

**Sec. F-24. 32 MRSA §227,** as enacted by PL 1977, c. 463, §3, is repealed.

**Sec. F-25. 32 MRSA §228,** as amended by PL 2001, c. 421, Pt. B, §93 and affected by Pt. C, §1, is further amended to read:

### **§ 228. Penalties**

~~A person who violates any provision of this chapter for which a penalty has not been prescribed commits a civil violation for which a forfeiture of not more than \$1,000 may be adjudged section 220, subsection 1 or 2 or section 220-B, subsection 1 is subject to the provisions of Title 10, section 8003-C.~~

~~The State may bring an action in Superior Court to enjoin any person from violating this chapter, regardless of whether other administrative, civil or criminal proceedings have been or may be instituted.~~

## **PART G**

**Sec. G-1. 32 MRSA §287,** as enacted by PL 1999, c. 146, §5 and amended by PL 1999, c. 547, Pt. B, §78 and affected by §80, is further amended to read:

### **§ 287. Penalties**

~~Any person who purports to be or operates as a licensed auctioneer without first obtaining a license commits a Class E crime violates section 285 is subject to the provisions of Title 10, section 8003-C.~~

~~The State may bring an action in Superior Court to enjoin any person from violating this chapter, regardless of whether proceedings have been or may be instituted in the District Court or whether criminal proceedings have been or may be instituted.~~

**Sec. G-2. 32 MRSA §288,** as enacted by PL 1999, c. 146, §5, is amended to read:

### **§ 288. Board of Licensing of Auctioneers; organization**

**1. Board composition.** The Board of Licensing of Auctioneers, as established by Title 5, section 12004-A, subsection 5, is composed of 5 members, 3 of whom must be auctioneers and 2 of whom must be public members as defined in Title 5, section 12004-A.

**2. Terms; removal.** The terms of the members of the board are for 3 years. Members may be removed by the Governor for cause.

**3. Appointments.** The members of the board are appointed by the Governor. Appointments of members must comply with Title 10, section 608009.

**4. Meetings; quorum.** The board shall meet at least once a year and at such other times as the board determines necessary. ~~A majority of the~~Three members of the board ~~constitutes~~constitute a quorum for the transaction of business under this chapter.

**Sec. G-3. 32 MRSA §289, sub-§1,** as enacted by PL 1999, c. 146, §5, is repealed.

**Sec. G-4. 32 MRSA §289, sub-§2,** as amended by PL 1999, c. 687, Pt. F, §3, is repealed.

**Sec. G-5. 32 MRSA §290,** as amended by PL 1999, c. 687, Pt. F, §4, is repealed and the following enacted in its place:

**§ 290. Powers**

The board shall administer and enforce this chapter and evaluate the qualifications of applicants for licensure.

**Sec. G-6. 32 MRSA §291,** as amended by PL 2003, c. 582, §3, is repealed.

**Sec. G-7. 32 MRSA §291-A** is enacted to read:

**§ 291-A. Denial or refusal to renew license; disciplinary action**

In addition to the grounds enumerated in Title 10, section 8003, subsection 5-A, paragraph A, the board may deny a license, refuse to renew a license or impose the disciplinary sanctions authorized by Title 10, section 8003, subsection 5-A for any of the following reasons:

**1. Failure to account or remit.** Failure, within a reasonable time, to account for or remit any money or property coming into the licensee's possession that belongs to others;

**2. Record-keeping violations.** Failure to comply with or properly maintain records required by Title 30-A, section 3971; or

**3. Improper advertising.** Advertising an auction without including the name and license number of the auctioneer.

**Sec. G-8. 32 MRSA §292,** as enacted by PL 1999, c. 146, §5, is amended to read:

**§ 292. License qualifications**

**1. Application.** ~~Applicants~~An applicant shall submit a ~~properly completed~~an application ~~on forms furnished by the board,~~ together with the ~~prescribed fee~~ as set under section 287-A.

**2. Residence.** The applicant shall provide evidence of the applicant's legal residence.

**3. Reputation.** The applicant must have a good reputation for honesty, fair dealing and competency. ~~Recommendations~~The applicant shall furnish recommendations from at least 2 references who have acknowledged before a notary public that they have known the applicant for at least one year and by their signature attest that the applicant has such a reputation ~~create a rebuttable presumption that the applicant meets that qualification.~~

**4. Examination.** Each applicant shall satisfactorily pass the examination, the content of which is determined by the board. Examination results remain valid for issuance of a license for 90 days ~~from notification of a passing score~~ after the exam is passed.

**5. Surety bond.** Each applicant for licensure shall file a surety bond in an amount set by the board by rule.

**6. Criminal history information.** ~~Subject to Title 5, chapter 341, the applicant shall provide criminal history record information.~~

**Sec. G-9. 32 MRSA §295,** as enacted by PL 1999, c. 146, §5, is amended to read:

### **§ 295. Renewal**

Licenses expire annually on March 31st or at a time the Commissioner of Professional and Financial Regulation designates. The board may issue a renewal license in the absence of any reason or condition that might warrant the refusal of granting a license upon receipt of the written request of the applicant and the renewal fee as set under section 287-A and upon the applicant presenting evidence of compliance with the requirements of section 292, ~~subsections~~ subsection 5 and 6. A license may be renewed up to 90 calendar days after the date of its expiration upon payment of a late fee in addition to the renewal fee. Any applicant who submits an application for renewal more than 90 calendar days after the expiration date is subject to all requirements governing new applicants under this chapter.

## **PART H**

**Sec. H-1. 32 MRSA §451, sub-§6** is enacted to read:

**6. Board.** "Board" means the Board of Chiropractic Licensure.

**Sec. H-2. 32 MRSA §454,** as amended by PL 1993, c. 600, Pt. A, §41, is further amended to read:

### **§ 454. Practicing without license; fraudulent licenses**

An individual who practices or attempts to practice or use the science or system of chiropractic in treating diseases of the human body; an individual who buys, sells or fraudulently obtains a diploma, license or record to practice chiropractic, or who aids or abets in that selling or fraudulent obtaining; ~~;~~ an individual who practices chiropractic, under cover of a diploma, license or record to practice chiropractic, illegally obtained, or signed or issued unlawfully or under fraudulent representations; or an individual who, after conviction of felony, practices chiropractic, or who uses any of the forms of letters, "Chiropractic," "Chiropractor," "Chiropractic Practitioner," "Doctor of Chiropractic," "D.C." or any other titles or letters, either alone or with qualifying words or phrases, under circumstances that induce the belief that the individual who uses those terms is engaged in the practice of chiropractic, without having complied with this chapter, ~~commits a Class E crime~~ is subject to the provisions of Title 10, section 8003-C. This section may not be construed to prohibit a lawfully qualified chiropractor in any other state meeting with a licensed chiropractic practitioner in this State for consultation.

**Sec. H-3. 32 MRSA §501,** as amended by PL 1995, c. 397, §26, is further amended to read:

### **§ 501. Membership; qualifications; term; removal**

The Board of Chiropractic Licensure, as established by Title 5, section 12004-A, subsection 8, and in this chapter called the "board," consists of 7 individuals appointed by the Governor. These individuals must be residents of this State, 5 of whom must be graduates of a legally chartered chiropractic school, college or university having the power to confer degrees in chiropractic licensed chiropractors and must be, at the time of their appointment, actively engaged in the practice of their profession for a period of at least 3 years in this State. Two members must be representatives of the public members as defined in Title 5, section 12004-A. Each appointment is for a period of 3 years. Appointments of members must comply with Title 10, section 608009. A member of the board may be removed from office for cause by the Governor.

**Sec. H-4. 32 MRSA §502,** as amended by PL 2005, c. 262, Pt. A, §1, is repealed and the following enacted in its place:

**§ 502. Meetings; chair; quorum; powers and duties**

The board shall meet at least once a year to conduct its business and to elect a chair. Additional meetings must be held as necessary to conduct the business of the board and may be convened at the call of the chair or a majority of the board members. Four members of the board constitute a quorum for the transaction of business. The board has the power to make and adopt rules and a code of ethics consistent with law necessary for the enforcement of its authority, the performance of its duties and the governing of the practice of chiropractic, but a rule or code of ethics may not be made that is unreasonable or contravenes this chapter.

**Sec. H-5. 32 MRSA §502-A** is enacted to read:

**§ 502-A. Chiropractic acupuncture certification**

The board shall adopt rules, which are routine technical rules pursuant to Title 5, chapter 375, subchapter 2-A, authorizing and governing the use of chiropractic acupuncture by certified licensees. The rules must set forth the requirements for chiropractic acupuncture certification, which must include, but are not limited to, a minimum number of classroom hours of education in acupuncture theory and techniques; a component of supervised clinical acupuncture training or documented clinical acupuncture experience for licensees practicing chiropractic acupuncture prior to April 30, 1999; and instruction in exposure control for blood-borne pathogens and registration as a biomedical waste generator pursuant to Title 38, section 1319-O, subsection 3. A person applying for a chiropractic acupuncture certificate shall file an application together with the fee as set under section 558.

**Sec. H-6. 32 MRSA §503-A,** as amended by PL 1999, c. 547, Pt. B, §59 and affected by §80, is repealed.

**Sec. H-7. 32 MRSA §503-B** is enacted to read:

**§ 503-B. Denial or refusal to renew license; disciplinary action; informal conference**

In addition to the grounds enumerated in Title 10, section 8003, subsection 5-A, paragraph A, the board may deny a license, refuse to renew a license or impose the disciplinary sanctions authorized by Title 10, section 8003, subsection 5-A for:

**1. Habitual substance abuse.** Habitual substance abuse that has resulted or is foreseeably likely to result in the applicant or licensee performing services in a manner that endangers the health or safety of patients;

**2. Mental or physical condition.** A professional diagnosis of a mental or physical condition that has resulted or may result in the applicant or licensee performing services in a manner that endangers the health or safety of patients;

**3. False advertising.** Engaging in false, misleading or deceptive advertising;

**4. Nonchiropractic practice.** Offering health services outside the field of chiropractic; or

**5. Fee-splitting.** Splitting or dividing a fee with an individual who is not an associate licensed as a chiropractor.

If the factual basis of a complaint that has been filed 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 applicant or licensee with adequate notice of the conference and of the issues to be discussed. The conference must be conducted in executive session of the board, pursuant to Title 1, section 405, unless otherwise requested by the applicant or licensee. Statements made at the conference may not be introduced at a subsequent formal hearing unless all parties consent.

**Sec. H-8. 32 MRSA §504,** as amended by PL 1985, c. 748, §42, is repealed.

**Sec. H-9. 32 MRSA §505,** as enacted by PL 1977, c. 604, §12, is repealed.

**Sec. H-10. 32 MRSA §551,** as amended by PL 2005, c. 262, Pt. A, §3, is further amended to read:

## **§ 551. Examination and licensure**

An individual, before engaging in the practice of chiropractic in this State, shall submit an application for a license to practice chiropractic together with the required license fee as set under section 558. Each applicant must be at least 18 years of age and present proof of 2 years' satisfactory attendance at a college of liberal arts. A candidate for licensure shall present a transcript from an accredited college or university certifying that the candidate has completed 2 years of preprofessional work, 2 subjects of which must be English and biology, or otherwise satisfy the members of the board that the candidate has acquired sufficient prior academic education. The applicant shall present a diploma granted by a legally chartered chiropractic college, school or university in good standing and having the power to confer degrees in chiropractic, which diploma must show that it was granted on personal attendance of the applicant and completion of a course of 4 school years of not less than 8 months each and of a total of 4,400 60-minute school hours. If an applicant matriculated in a chiropractic college on or after January 1, 1984, the diploma must show that it was granted by a chiropractic college accredited by a chiropractic educational accrediting agency approved by the United States Department of Education or its successor agency or, if no accrediting agency exists, approved by the board, or the applicant must have evidence of having successfully passed a licensing procedure from another state having similar requirements. If an applicant matriculated in a chiropractic college before January 1, 1984, the diploma must show that it was granted by a chiropractic college accredited as set out in this section, or the applicant must present evidence of having become a diplomat of the National Board of Chiropractic Examiners or of having successfully passed a licensing procedure from another state having similar requirements. Each applicant shall present a certificate of good moral character signed by a reputable individual and ~~any other reasonable and proper facts demonstrate trustworthiness and competence by such means as the board may require in its application form.~~



**Sec. H-11. 32 MRSA §553-A, sub-§1**, as amended by PL 2005, c. 262, Pt. A, §5, is further amended to read:

**1. Renewal procedure.** A license expires on the date set by the ~~Commissioner of Professional and Financial Regulation~~ commissioner pursuant to Title 10, section 8003, subsection 4 for the licensing period for which the license was issued. A renewal license must be issued for each ensuing licensing period in the absence of any reason or condition that might warrant the refusal to grant a license, upon receipt by the board of the written request of the applicant and the ~~required~~ fee for the license as set under section 558 and upon the applicant's presenting evidence of compliance with the requirements of subsection 2. An expired license may be reissued up to 90 days after the date of expiration upon payment of a late fee as set under section 558 in addition to a renewal fee as set under section 558. An individual who submits an application for renewal more than 90 days after the license expiration date is subject to all requirements governing new applicants under this chapter, including a renewal fee, late fee and ~~filing~~ additional late fee as set under section 558, except that the board may, in its discretion and giving due consideration to the protection of the public, waive examination if that renewal application is made within 2 years from the date of that expiration.

**Sec. H-12. 32 MRSA §554**, as amended by PL 1993, c. 600, Pt. A, §51, is further amended to read:

### **§ 554. Display of license; rights**

When the board grants to an individual the license mentioned in section 552, the license must designate the holder as a doctor of chiropractic or a chiropractor and must be publicly displayed at the individual's principal place of business so long as that individual continues to practice chiropractic for gain or hire. The license entitles the individual to whom it is granted to practice chiropractic in this State in all of its branches of discipline, except obstetrics, so far as the same relates to parturition,; the administering of drugs and the performance of surgical operations with the use of instruments, except as allowed by law. This section may not be construed to prohibit a legally licensed doctor of chiropractic in this State from practicing surgery after having passed a satisfactory examination before the State Board of Licensure in Medicine.

**Sec. H-13. 32 MRSA §556**, as amended by PL 2005, c. 262, Pt. A, §6, is further amended to read:

### **§ 556. License**

An individual may not render ancillary services under section 555 until that individual has been ~~approved and issued a certificate of qualification~~ received a chiropractic assistant license or a temporary ~~certificate~~ license issued by the board, either of which is renewable. The applicant must pay a ~~required certification~~ license fee as set under section 558. The board shall adopt rules regarding the training and ~~certification~~ licensure of individuals permitted to render ancillary services under section 555.

**Sec. H-14. 32 MRSA §557**, as enacted by PL 1991, c. 884, §1, is amended to read:

### **§ 557. Termination of license**

The sanctions of ~~section~~ sections 454 and 503-B apply to individuals who render any ancillary services under section 555 and who:

**1. Misrepresentation.** Profess to be or permit themselves to be represented as licensed chiropractors;

**2. Nonsupervision.** Perform other than at the direction and under the supervision of a chiropractor licensed by the board; or

**3. Inadequate training.** Perform a task that they have not been trained or are not clinically competent to perform.

**Sec. H-15. 32 MRSA §558,** as repealed and replaced by PL 2005, c. 262, Pt. A, §7, is amended to read:

**§ 558. Fees**

The Director of the Office of Licensing and Registration within the ~~Department of Professional and Financial Regulation~~ department may establish by rule fees for purposes authorized under this chapter in amounts that are reasonable and necessary for their respective purposes, except that the fee for any one purpose may not exceed \$300. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A. ~~All fees received by the board must be paid to the Treasurer of State and used to carry out this chapter. Any balance of these fees may not lapse but must be carried forward as a continuing account to be expended for the same purposes in the following years.~~

**PART I**

**Sec. I-1. 32 MRSA §1101, sub-§1-B** is enacted to read:

**1-B. Board.** "Board" means the Electricians' Examining Board.

**Sec. I-2. 32 MRSA §1101, sub-§4-A,** as amended by PL 2005, c. 347, Pt. B, §§1 and 2, is further amended to read:

**4-A. Supervision.** One apprentice electrician or one helper electrician may work with and under the supervision of each master electrician, limited electrician or journeyman electrician. A master electrician who teaches an electrical course at a Maine career and technical education center, a Maine ~~career~~ career and technical education region, a Maine community college or an apprenticeship program registered by the Department of Labor may have a maximum of 12 helper or apprentice electricians under direct supervision while making electrical installations that are a part of the instructional program of the school or apprenticeship program, as long as the total value of each installation does not exceed \$5,000. An electrical installation may not be commenced pursuant to this subsection without the prior approval of the director or president of the school or apprenticeship program at which the master electrician is an instructor. These installations are limited to those done in buildings or facilities owned or controlled by:

- A. School administrative units; and
- B. Nonprofit organizations.

The Electricians' Examining Board and the municipal electrical inspector of the municipality in which the installation is to be made, if the municipality has an inspector, must be notified of all installation projects entered into pursuant to this subsection prior to the commencement of the project. There must

be an inspection by a state electrical inspector or by the municipal electrical inspector of the municipality in which the installation has been made, if the municipality has an inspector, before any wiring on the project is concealed.

**Sec. I-3. 32 MRSA §1105, sub-§1,** as enacted by PL 2003, c. 452, Pt. R, §3 and affected by Pt. X, §2, is amended to read:

**1. Unlicensed practice.** A person, firm or corporation ~~may not:who violates section 1201 is subject to the provisions of Title 10, section 8003-C.~~

- A. ~~Make electrical installations without being licensed as provided in this chapter;~~
- B. ~~While in the business of making electrical installations, employ an unlicensed person, firm or corporation to do that work, unless the unlicensed person, firm or corporation is an apprentice electrician or an electrician's helper as set forth in this chapter; or~~
- C. ~~Procure a license as provided in this chapter wrongfully or by fraud.~~

**Sec. I-4. 32 MRSA §1105, sub-§2,** as enacted by PL 2003, c. 452, Pt. R, §3 and affected by Pt. X, §2, is repealed.

**Sec. I-5. 32 MRSA §1105, sub-§5,** as enacted by PL 2003, c. 452, Pt. R, §3 and affected by Pt. X, §2, is amended to read:

**5. Installations by resident; certification.** Nothing in this chapter prevents a person from making electrical installations in a single-family residence occupied by that person or to be occupied by that person as the person's bona fide personal abode, as long as the installation conforms with the standards of the National Electric Code or other standards approved by the board. An electrical installation made under the authority of this subsection, after July 1, 1987, in a newly constructed residence, requires certification by a state or local inspector, master electrician or limited electrician in house wiring prior to the activation of electricity by the utility company.

**Sec. I-6. 32 MRSA §1151,** as amended by PL 2005, c. 235, §§1 to 3, is further amended to read:

### **§ 1151. Appointment; vacancies; removal; compensation**

The Electricians' Examining Board, as established by Title 5, section 12004-A, subsection 13, ~~and in this chapter called the "board,"~~ consists of 7 members appointed by the Governor.

The 7 members consist of: one master electrician experienced in low-energy electronics; one electrician who is a bona fide member from organized labor classified as an inside electrician; one electrical inspector; one master electrician from the education field; and one person experienced in the electrical field, all of whom must have at least 10 years of experience in the electrical field, except that the latter 3 need not be active electricians at the time of their appointment; and 2 ~~representatives of the public~~ members as defined in Title 5, section 12004-A.

Appointments are made for a 3-year term. Appointments of members must comply with Title 10, section 608009.

Any member of the board may be removed from office for cause by the Governor.

**Sec. I-7. 32 MRSA §1153,** as amended by PL 1999, c. 386, Pt. F, §12, is further amended to read:

## § 1153. Meetings; chair; quorum; rules

The board shall ~~hold regular meetings~~meet at least ~~twice~~once a year to conduct its business and to elect a chair. Additional meetings ~~may~~must be held as necessary to conduct the business of the board and may be convened at the call of the chair or a majority of the board members. ~~At the first meeting in each calendar year, the 7 appointive members shall choose one appointive member to act as chair. A quorum of the board consists of not less than 4 members.~~Four members of the board constitute a quorum. The board shall ~~keep correct records of all its proceedings;~~ may adopt, pursuant to the Maine Administrative Procedure Act, Title 5, chapter 375, subchapter ~~H~~2, rules it determines necessary for the holding of examinations and for carrying out this chapter; and shall provide for reciprocity of licensing as required to implement section 1206.

**Sec. I-8. 32 MRSA §1153-B**, as amended by PL 1991, c. 531, §10 and PL 1995, c. 502, Pt. H, §48, is further amended to read:

### § 1153-B. Powers

The board shall ~~have~~has the following duties and powers, in addition to those otherwise set forth in this chapter.

**1. Licenses.** The board shall evaluate the qualifications and ~~supervise~~approve the examination ~~to be taken by~~ applicants for licensure under this chapter.

**2. Hearings.** ~~Hearings may be conducted by the board to assist with investigations, to determine whether grounds exist for suspension, revocation or denial of a license, or as otherwise deemed necessary to the fulfillment of its responsibilities under this chapter.~~

~~The board shall not refuse to renew a license for any reason other than failure to pay a required fee, unless it has afforded the licensee an opportunity for an adjudicatory hearing. The board shall hold an adjudicatory hearing at the written request of any person who is denied a license without a hearing for any reason other than failure to pay a required fee, provided that the request for hearing is received by the board within 30 days of the applicant's receipt of written notice of the denial of his application, the reasons for the denial and his right to request a hearing. Hearings shall be conducted in conformity with the Maine Administrative Procedure Act, Title 5, chapter 375, subchapter IV, to the extent applicable. The board may subpoena witnesses, records and documents in any hearing it conducts.~~

**3. Contracts.** ~~The board may enter into contracts to carry out its responsibilities under this chapter.~~

**4. Certificate as evidence.** ~~Notwithstanding any provision of law or rule or evidence, the certificate of the Commissioner of Professional and Financial Regulation or the Director of the Office of Licensing and Registration, under the seal of the State, must be received by any court in this State as prima facie evidence of the issuance, suspension or revocation of any license or permit issued by the department.~~

**Sec. I-9. 32 MRSA §1155-A**, as amended by PL 1999, c. 386, Pt. F, §13 and c. 547, Pt. B, §78 and affected by §80, is repealed.

**Sec. I-10. 32 MRSA §1155-B** is enacted to read:

**§ 1155-B. Denial or refusal to renew license; disciplinary action**

**1. Disciplinary sanctions.** In addition to the grounds enumerated in Title 10, section 8003, subsection 5-A, paragraph A, the board may deny a license, refuse to renew a license or impose the disciplinary sanctions authorized by Title 10, section 8003, subsection 5-A for:

A. Any gross negligence, incompetency or misconduct in the performance of the work of making electrical installations. Continued failure to conform with applicable regulations of the National Electrical Code, National Electrical Safety Code or of other safety codes that have been approved by the American Standards Association or its successor or other organization approved by the board is prima facie evidence of that gross negligence and incompetency; and

B. While in the business of making electrical installations, employ an unlicensed person, firm or corporation to do that work, unless the unlicensed person, firm or corporation is an apprentice electrician or electrician's helper as set forth in this chapter.

**2. Reinstatement.** The board, for reasons it considers sufficient, may reissue a license to any person whose license has been revoked, if 4 or more members of the board vote in favor of that reissuance.

**Sec. I-11. 32 MRSA §1157,** as enacted by PL 1975, c. 767, §36, is repealed.

**Sec. I-12. 32 MRSA §1202, sub-§1, ¶A,** as amended by PL 1993, c. 349, §67 and PL 2003, c. 20, Pt. OO, §2 and affected by §4, is further amended to read:

A. For a journeyman electrician's license, a person must:

(1) Complete at least 8,000 hours of service as an apprentice or helper electrician or at least 8,000 hours of experience in electrical installations, as defined in section 1101, and satisfactorily complete a program of study comprising 576 hours as approved by the Electricians' Examining Board or from an accredited institution. The 576 hours shall consist of 225 hours of required study, including an approved course of not less than 45 hours in the current National Electrical Code; and 351 hours of elective study, comprised of all trade-related electives or 225 hours of trade-related courses and 135 hours of degree-related courses;

(2) Be a graduate of an accredited regional applied technology high school 2-year electrical program, have worked for 8,000 hours in the field of electrical installations under the supervision of a master electrician or the equivalent and have completed a course of not less than 45 hours in the current National Electrical Code, the course to be approved by the board;

(3) Be a graduate of an accredited Maine community college electrical program or a vocational-electrical program of the Department of Corrections, have worked for 4,000 hours in the field of electrical installations under the supervision of a master electrician or the equivalent and have completed a course of not less than 45 hours in the current National Electrical Code, the course to be approved by the board. Persons qualifying under this paragraph may writesit for the journeyman's examination upon graduation if application is made within one year of graduation; or

(4) Be an electrical apprentice registered with the State Apprenticeship and Training Council and have completed 576 hours of related instruction, as defined in this paragraph, prescribed in their apprenticeship program, the 8,000-hour approved program and a course of not less than 45 hours in the current National Electrical Code, the course to be approved by the board. Persons qualifying under this paragraph may write the journeyman's examination after completion of the 576 hours of instruction, if application is made within one year of the completion of the instruction.

**Sec. I-13. 32 MRSA §1202, sub-§2,** as amended by PL 1999, c. 386, Pt. F, §15, is further amended to read:

**2. Apprentice or helper.** The board may issue a license upon payment of ~~an annual~~the fee as adopted by the board ~~set under section 1203-A~~ to any person who applies for a license, without examination. Any such person employed by an electrician as an apprentice for the purpose of qualifying for any license mentioned in section 1203, or as an electrician's helper, must apply for a license as such immediately after commencing that employment or immediately after starting school in an electrical course.

**Sec. I-14. 32 MRSA §1202, sub-§3,** as amended by PL 1983, c. 553, §28, is further amended to read:

**3. License displayed.** All persons licensed by the board ~~shall~~are entitled to receive a ~~certificate~~license, which must be publicly displayed at the principal place of business of the electrician or, if no such place of business, must be carried on the person and displayed at any time upon request, as long as that person continues in the business as defined.

**Sec. I-15. 32 MRSA §1202, sub-§4,** as amended by PL 1995, c. 325, §14, is further amended to read:

**4. Inactive status licenses.** A licensee who does not desire to perform any of the electrical installations described in section 1101 and who wants to preserve the license while not engaged in any electrical installations ~~shall surrender the license to the board for placement on~~may apply for an inactive status license pursuant to Title 10, section 8003, subsection 5-A, paragraph D, subparagraph 5. ~~The board shall place the license on inactive status upon proper application by the licensee. The fee for inactive status may not exceed \$80 per renewal. The fee for inactive status licensure is set under section 1203-A.~~ During inactive status the licensee ~~is required to~~must renew the license biennially and pay the renewal fee as set under section 1203-A, but is not required to meet the education provisions under the rules of the board.

A licensee surrendering a license pursuant to this section may have the license reinstated to active status by demonstrating compliance within the previous biennium with section 1204 and proper application for an active license. Any license placed on inactive status after the effective date of this subsection and remaining inactive for 3 or more years may be reactivated by the applicant being required to successfully pass a license examination at the discretion of the board.

**Sec. I-16. 32 MRSA §1204,** as amended by PL 1995, c. 325, §17, is further amended to read:

## **§ 1204. Renewals**

All licenses may be renewed for 2-year periods without further examination, upon the payment of the proper renewal fee as set under section 1203-A and documentation of continuing education as established by rule as the board determines necessary. The expiration dates for licenses issued under this chapter may be established at such other times as the Commissioner of Professional and Financial Regulation may designate. ~~The board shall notify everyone registered under this chapter of the date of expiration of the license and the fee required for its renewal for a 2-year period. The notice must be mailed to the person's last known address at least 30 days in advance of the expiration date of the license.~~

A license may be renewed up to 90 days after the date of its expiration upon payment of a late fee of \$10 in addition to the renewal fee as set under section 1203-A. Any person who submits an application for renewal more than 90 days after the license expiration date shall ~~bepay an additional late fee as set under section 1203-A and is~~ subject to all requirements governing new applicants under this chapter, except that the board may in its discretion, giving due consideration to the protection of the public, waive examination or other requirements. ~~The board may levy penalties for nonrenewal.~~ Notwithstanding any other provision of this chapter, the board shall waive examination if a renewal application is ~~made~~received within 90 days after separation from the United States Armed Forces, under conditions other than dishonorable, by a person who has failed to renew ~~his~~that person's license because ~~he~~that person was on active duty in the Armed Forces; ~~provided~~except that the waiver of examination shall ~~may~~ not be granted if the person served more than 4 years in the Armed Forces, except if ~~he~~the person is required by some mandatory provision to serve a longer period and ~~he shall submit~~the person submits satisfactory evidence of this mandatory provision to the board.

~~Any master electrician giving up his master's license for a lower grade license shall be required to successfully pass an examination in order to reinstate his master license.~~

## PART J

**Sec. J-1. 32 MRSA §1401, sub-§1, ¶D**, as amended by PL 1999, c. 590, §1, is further amended to read:

D. The agreement must be in writing and a copy must be furnished to the payor or the payor's legal representative by the payee when the agreement is executed. The agreement may be revocable or irrevocable; however, if irrevocable, there must be a provision to allow for the transfer of the account by the appointment of successor trustees. The agreement must clearly state the name of the initial financial institution or credit union into which the money will be deposited and must direct the payor to send a copy of the agreement to the named financial institution or credit union. The agreement must clearly state terms providing for disposition of excess funds after funeral goods and services have been provided. The agreement must clearly state any fees that may be charged against the account; fees must be reasonable, as defined by the board, and may be charged only:

- (1) Upon transfer of the account by the appointment of a successor trustee;
- (2) Upon revocation of the agreement if the agreement is ~~revokable~~revocable; and
- (3) For the actual financial and tax administration of the account.

The payee shall maintain a complete record of the deposit of all funds, including principal and interest. The record must be available for inspection by the payor, the payor's legal representative, the commissioner's designee or an inspector for the board and must contain the name and address of the financial institution or credit union currently in possession of the funds and the dates and amounts of deposits.

**Sec. J-2. 32 MRSA §1451**, as amended by PL 2001, c. 505, §1, is further amended to read:

**§ 1451. Board; powers and duties**

The State Board of Funeral Service, as established by Title 5, section 12004-A, subsection 18, ~~and in this chapter called the "board,"~~ consists of 8 members, 5 of whom must be persons licensed for the practice of funeral service for 10 consecutive years or who have had 10 consecutive years' experience as a practitioner of funeral service in this State immediately preceding their appointment and 3 of whom must be ~~representatives of the public~~ members as defined in Title 5, section 12004-A. Members are appointed by the Governor for a term of 4 years. A national organization of retired persons may submit a list of applicants to the Governor for use in the selection process of one of the public members ~~representing the public~~. Appointments of members must comply with Title 10, section 608009. A board member may be removed by the Governor for cause.

The board may adopt rules consistent with law governing the practice of funeral service, including but not limited to licensing ~~or registration, or both,~~ of practitioner trainees, practitioners of funeral service, funeral directors, embalmers, funeral attendants, funeral home establishments and branches. These rules do not become effective unless adopted in conformity with Title 5, chapter 375, subchapter H2.

The board shall meet at least once a year to conduct its business and to elect its officers a chair. Additional meetings ~~shall~~ must be held as necessary to conduct the business of the board; and may be convened at the call of the ~~chairman~~ chair or a majority of the board members. Five members of the board shall constitute a quorum ~~for all purposes~~.

The board shall ~~keep a record of all proceedings,~~ issue all notices, ~~certificates of registration and licenses and may cause inspections to be made of all establishments or places of business of any person engaged in the profession of funeral service in the State, which may include the investigation of complaints or suspected violation of this chapter and the rules adopted by the board. The inspection may also be for the purpose of determining that these establishments and places are maintained in a clean and sanitary manner and that suitable equipment for their proper conduct is maintained and that the laws and the rules of the board relating to the conduct of these establishments are observed. The inspection may include a review of the financial records to determine compliance with the laws and rules of the board governing prearranged funeral services or plans. The inspection may be made by members of the board upon authorization by the board or by professional technical staff.~~

The board may enter into reciprocal agreements with corresponding boards of other states for the purpose of allowing the practitioners of funeral services to perform their licensed functions in this or other states under such terms and conditions as the boards may prescribe.

**Sec. J-3. 32 MRSA §1451-A**, as enacted by PL 1983, c. 413, §58, is repealed.

**Sec. J-4. 32 MRSA §1452**, as amended by PL 1983, c. 553, §31, is repealed.

**Sec. J-5. 32 MRSA §1452-A**, as enacted by PL 1977, c. 604, §16, is repealed.



**Sec. J-6. 32 MRSA §1455-A**, as amended by PL 1997, c. 210, §40 and PL 1999, c. 547, Pt. B, §78 and affected by §80, is repealed.

**Sec. J-7. 32 MRSA §1455-B** is enacted to read:

**§ 1455-B. Denial or refusal to renew license; disciplinary action**

In addition to the grounds enumerated in Title 10, section 8003, subsection 5-A, paragraph A, the board may deny a license, refuse to renew a license or impose the disciplinary sanctions authorized by Title 10, section 8003, subsection 5-A for:

**1. False advertising.** False or misleading advertising as a practitioner of funeral service, funeral director or embalmer; advertising or using the name of a person in connection with that of any funeral establishment who is not licensed as a practitioner of funeral service, funeral director or embalmer;

**2. Unauthorized solicitation of human remains.** Solicitation of human remains by the licensee, or the licensee's agents, assistants or employees, whether that solicitation occurs after death or while death is impending. Nothing in this subsection may be construed to prohibit general advertising.

**3. Unauthorized employment.** Employment by the licensee of persons known as "cappers," "steerers," "solicitors" or other such persons to obtain the services of a licensee or one engaged in the practice of funeral service;

**4. Unauthorized solicitation of human remains.** Employment, directly or indirectly, of a practitioner trainee, agent, assistant, embalmer, employee or other person, on part or full time, or on commission, for the purpose of calling upon individuals or institutions by whose influence human remains may be turned over to a particular funeral establishment;

**5. Unauthorized commission to secure business.** The direct or indirect payment or offer of payment of a commission by the licensee or the licensee's agents, assistants or employees for the purpose of securing business;

**6. Unauthorized commission; crematory, mausoleum or cemetery.** Solicitation or acceptance by a licensee of any commission, bonus or rebate in consideration of recommending or causing human remains to be disposed of in any crematory, mausoleum or cemetery;

**7. Refusal to surrender human remains.** Refusing to promptly surrender the custody of human remains, upon the express order of the person lawfully entitled to the custody thereof;

**8. Negligent filings.** Negligent, careless or willful noncompliance with the laws relating to filing death certificates and obtaining burial permits; or

**9. Abusive or disrespectful handling of human remains.** Abuse or disrespect in the handling of human remains, or violation of any law or ordinance affecting the handling, custody, care or transportation of human remains.

Whoever violates any provision of this chapter or any rule prescribed by the board for the preparation, embalming, transportation or burial of any human remains commits a Class E crime.

**Sec. J-8. 32 MRSA §1501, first ¶**, as amended by PL 1989, c. 450, §22, is further amended to read:

The State Board of Funeral Service may determine the qualifications necessary to enable any person to lawfully engage in the funeral service profession and operate a funeral establishment. The board shall examine all applicants for licenses for the practice of funeral service and shall issue a license to all persons who successfully pass that examination and pay the fee as set under section 1504. To be licensed for the practice of funeral service under this chapter, a person must be at least 18 years of age, a resident of this State, have successfully completed a prescribed course at a school or schools approved by the State Board of Funeral Service and must have served as a practitioner trainee for not less than 12 months under the personal supervision of a person licensed for the practice of funeral service and approved by the board. Each applicant shall demonstrate trustworthiness and competency to engage in the profession of funeral service in such a manner as to safeguard the interests of the public.

**Sec. J-9. 32 MRSA §1501, 2nd ¶**, as enacted by PL 1989, c. 450, §22, is amended to read:

Each applicant for ~~license or registration~~licensure as a practitioner of funeral service, funeral director or embalmer ~~shall~~must be examined on the courses as outlined in the board's rules.

**Sec. J-10. 32 MRSA §1503**, as amended by PL 1983, c. 553, §33, is repealed.

**Sec. J-11. 32 MRSA §1503-A**, as amended by PL 1989, c. 450, §23, is further amended to read:

#### **§ 1503-A. Practitioner trainee**

In order for any person to receive credit for time served as a practitioner trainee, that person ~~shall~~must have served 2,000 hours of employment with a funeral establishment approved by the State Board of Funeral Service under the instruction and supervision of a person licensed for the practice of funeral service and actively engaged in that practice, and ~~must register~~be licensed as a practitioner trainee with the board ~~on a form supplied by the board~~. Upon terminating employment, the practitioner trainee shall notify the board immediately, giving the date of termination. The practitioner trainee must repeat this procedure with all subsequent employers accurately showing the dates of beginning and of terminating apprenticeship employment. Before a funeral service license ~~will~~may be issued, the practitioner trainee must file with the board a certification of the trainee time served, signed by the practitioner trainee's employer or employers, before a notary public. Practitioner trainee requirements ~~shall be~~are satisfied in the case of an applicant who presents proof of present licensure as a practitioner of funeral service in another state at the time application is made for ~~license~~licensure as a practitioner of funeral service in this State.

**Sec. J-12. 32 MRSA §1504**, as amended by PL 1999, c. 685, §1, is further amended to read:

#### **§ 1504. Fees; expiration and renewal of licenses**

The Director of the Office of Licensing and Registration within the Department of Professional and Financial Regulation may establish by rule fees for purposes authorized under this chapter in amounts that are reasonable and necessary for their respective purposes, except that the fee for any one purpose may not exceed \$300 annually. Rules adopted pursuant to this section are routine technical rules pursuant to Title 5, chapter 375, subchapter ~~H-A2-A~~.

**1. License renewal.** All licenses and certificates of registration that are issued by the board expire February 1st annually or such other time as the Commissioner of Professional and Financial Regulation may designate. Any person holding a license or registration under this law may have the license renewed by making and filing an application with the board, within 30 days preceding the expiration of that license or certificate of registration, upon blanks prescribed by the board and upon payment of the established renewal fee as set under this section.

**2. Late renewal.** A license may be renewed up to 90 days after the date of its expiration upon payment of a late fee in addition to the renewal fee. Any person who submits an application for renewal more than 90 days after the license expiration date is subject to all requirements governing new applicants under this chapter, except that the board may in its discretion, giving due consideration to the protection of the public, waive examination if the renewal application is made received, together with the late fee and renewal fee as set under this section, within 2 years from the date of the expiration.

**Sec. J-13. 32 MRSA §1505,** as amended by PL 1983, c. 553, §35, is repealed.

**Sec. J-14. 32 MRSA §1507,** as amended by PL 1997, c. 210, §6, is further amended to read:

### **§ 1507. Inactive status license**

A licensee who is no longer actively practicing funeral service may surrender the licensee's active license to the State Board of Funeral Service and request apply for an inactive license status license pursuant to Title 10, section 8003, subsection 5-A, paragraph D, subparagraph (5). The holder of an inactive status license may not practice funeral service in the State. The board may place the licensee on inactive status only upon proper application and the submission of appropriate fees by the licensee. The fee for inactive status licensure is set under section 1504. The holder of an inactive status license is required to must renew the license annually and pay the renewal fee as set under section 1504, but is not required to meet the continuing education requirement required by of this chapter and the rules adopted under it.

A holder of an inactive status license who wishes to reinstate that holder's active license must comply with the continuing education requirement and fees provided in this chapter and the rules adopted under it.

## **PART K**

**Sec. K-1. 32 MRSA §1522, sub-§3,** as enacted by PL 1997, c. 749, §3, is repealed.

**Sec. K-2. 32 MRSA §1524, sub-§3,** as amended by PL 1999, c. 399, §10 and affected by §20, is repealed.

**Sec. K-3. 32 MRSA §1524-A, sub-§2,** as enacted by PL 1999, c. 399, §11 and affected by §20, is repealed.

**Sec. K-4. 32 MRSA §1524-A,** as enacted by PL 1999, c. 399, §11 and affected by §20, is further amended by adding at the end a new paragraph to read:

As an alternative to satisfying subsections 3 and 4, an applicant for licensure as a limited deaf interpreter may submit documentation of a score of 3.5 or higher on the Educational Interpreter Performance Assessment, or successor assessment.

**Sec. K-5. 32 MRSA §1526,** as enacted by PL 1997, c. 749, §3, is repealed.

**Sec. K-6. 32 MRSA §1527,** as amended by PL 2005, c. 267, §2, is further amended to read:

## **§ 1527. Applications for licensure; fees**

The Director of the Office of Licensing and Registration within the department may establish by rule fees for purposes authorized under this chapter in amounts that are reasonable and necessary for their respective purposes, except that an application fee may not exceed \$50, an initial license fee may not exceed \$325 and an applicant who is deaf must pay an initial license fee of \$100. An applicant for initial licensure, pursuant to section 1524, 1524-A or 1524-B, shall submit a written application with supporting documents to the department on forms provided by the department. The applicant shall pay a nonrefundable application fee established by the department in an amount not to exceed \$50, and an initial license fee not to exceed \$325, except that an applicant who is deaf must pay an initial license fee of \$100. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

**Sec. K-7. 32 MRSA §1528**, as amended by PL 2005, c. 267, §3, is further amended to read:

## **§ 1528. Renewal**

All licenses must be renewed annually on or before June 30th of each year or at such other time as the commissioner may designate. ~~The annual license renewal fee must be established by the department by rulemaking and may not exceed \$325, except that an applicant who is deaf must pay an annual license renewal fee of \$100. The commissioner shall notify each licensee, at the licensee's last known address, 30 days in advance of the expiration of the license. Renewal notices must be on forms provided by the department. A license not renewed by June 30th automatically expires. The department may renew an expired license if the renewal application is returned within 90 days after the license expiration date and upon payment of a late fee of \$10 as set under section 1527 in addition to the renewal fee as set under section 1527.~~ A person who submits an application for renewal more than 90 days after the license expiration date is subject to all requirements governing new applicants under this chapter.

**Sec. K-8. 32 MRSA §1529**, as enacted by PL 1997, c. 749, §3 and amended by PL 1999, c. 547, Pt. B, §78 and affected by §80, is further amended to read:

## **§ 1529. Violations**

~~A person who violates section 1525 is guilty of a Class E crime subject to the provisions of Title 10, section 8003-C. The State may bring an action in Superior Court to enjoin any person from violating this chapter, regardless of whether procedures have been instituted in the District Court or whether criminal proceedings have been introduced.~~

**Sec. K-9. 32 MRSA §1530**, as amended by PL 1999, c. 399, §16 and affected by §20 and amended by c. 547, Pt. B, §78 and affected by §80, is repealed and the following enacted in its place:

## **§ 1530. Denial or refusal to renew license; disciplinary action**

In addition to the grounds enumerated in Title 10, section 8003, subsection 5-A, paragraph A, the department may deny a license, refuse to renew a license or impose the disciplinary sanctions authorized by Title 10, section 8003, subsection 5-A upon a medical finding of mental incompetency.

## **PART L**

**Sec. L-1. 32 MRSA §2273**, as amended by PL 1995, c. 397, §43, is further amended to read:

## **§ 2273. Board of Occupational Therapy Practice; establishment; compensation**

**1. Establishment and membership.** There is established within the ~~Department of Professional and Financial Regulation~~ department, in accordance with Title 5, section 12004-A, subsection 26, a Board of Occupational Therapy Practice. The board ~~shall consist~~consists of 5 members appointed by the Governor. Appointments of members must comply with Title 10, section 8009. The persons appointed to the board, other than the public member, must have been engaged in rendering occupational therapy services to the public, teaching or research in occupational therapy for at least 2 years immediately preceding their appointments. At least 3 board members ~~shall~~must be occupational therapists. The 4th member ~~shall~~must be either an occupational therapist or an occupational therapy assistant, if available. These members ~~shall at all times be holders of valid licenses for the practice of occupational therapy in the State, except for the members of the first board, all of whom shall fulfill the requirements for licensure of this chapter.~~ The remaining member ~~shall~~must be a representative of the public member as defined in Title 5, section 12004-A. A member of the board may be removed from office for cause by the Governor.

**2. Terms of appointment.** ~~The Governor, within 60 days following the effective date of this chapter, shall appoint 2 board members for a term of one year, 2 for a term of 2 years and one for a term of 3 years. Appointments made after the initial appointments are for 3-year terms. Terms begin on the first day of the calendar year and end on the last day of the calendar year, except for the first appointed members who serve through the last calendar day of the year in which they are appointed. Appointments of members must comply with section 60.~~

A member of the board may be removed from office for cause by the Governor.

**3. Meetings; chair; quorum.** ~~The board shall meet during the first month of each calendar year to select a chairman and for other purposes at least once a year to conduct its business and to elect a chair. At least one additional meeting shall~~Additional meetings must be held before the end of each calendar year. Other meetings as necessary and may be convened at the call of the chairman or the written request of any 2 board members. A chair or a majority of the members of the board shall constitute a quorum for all purposes. Three members of the board constitute a quorum.

**Sec. L-2. 32 MRSA §2274,** as amended by PL 1995, c. 397, §44, is further amended to read:

## **§ 2274. Board of occupational therapy practice; powers and duties**

**1. Powers.** The board shall administer and enforce this chapter and evaluate the qualifications of applicants for licensure. ~~The board may issue subpoenas, examine witnesses, administer oaths and may investigate or cause to be investigated any complaints made to it or any cases of noncompliance with or violation of this chapter.~~

**2. Rules.** The board may adopt, in accordance with the Maine ~~Administrative~~Administrative Procedure Act, Title 5, chapter 375, rules relating to professional conduct to carry out the policy of this chapter, including, but not limited to, rules relating to professional licensure and to the establishment of ethical standards of practice for persons holding a license to practice occupational therapy in this State.

~~3. **Hearings.** Hearings may be conducted by the board to assist with investigations, to determine whether grounds exist for suspension, revocation or denial of a license, or as otherwise deemed necessary to the fulfillment of its responsibilities under this chapter.~~

~~4. **Records.** The board shall keep such records and minutes as are necessary to the ordinary dispatch of its functions.~~

~~6. **Reports.** No later than August 1st of each year, the board shall submit to the commissioner, for the preceding fiscal year ending June 30th, its annual report of its operations and financial position, together with such comments and recommendations as the commissioner deems essential.~~

**Sec. L-3. 32 MRSA §2275,** as amended by PL 1995, c. 397, §§45 and 46, is repealed.

**Sec. L-4. 32 MRSA §2276, sub-§3,** as amended by PL 2003, c. 452, Pt. R, §4 and affected by Pt. X, §2, is further amended to read:

**3. Unlicensed practice.** A person who violates this section commits a Class E crime. Violation of this subject to the provisions of Title 10, section is a strict liability crime as defined in Title 17-A, section 34, subsection 4-A8003-C.

~~The State may bring an action in Superior Court to enjoin any person from violating this chapter, regardless of whether proceedings have been or may be instituted in the District Court or whether criminal proceedings have been or may be instituted.~~

**Sec. L-5. 32 MRSA §2279,** as amended by PL 1997, c. 683, Pt. B, §§19 and 20, is further amended to read:

### **§ 2279. Qualifications**

An applicant applying for a license as an occupational therapy practitioner must file a written application, ~~provided by the board,~~ showing to the satisfaction of the board that the applicant meets the following requirements.

**1. Residence.** An applicant need not be a resident of this State.

**2-A. Character references.** An applicant must submit 2 completed character reference forms acceptable to the board.

**3. Education.** An applicant must present evidence satisfactory to the board of having successfully completed the academic and fieldwork requirements of an educational program in occupational therapy or occupational therapy assisting.

A. The occupational therapy or occupational therapy assisting educational program must be accredited by ACOTE.

**5. Examination.** An applicant for licensure as an occupational therapy practitioner must pass an examination as provided for in section 2280-A.

**6. Licensure.** An applicant may be licensed as an occupational therapist if the applicant has practiced as an occupational therapy assistant for 4 years, has completed the level II fieldwork requirements for an occupational therapist before January 1, 1988, and has passed the examination for occupational therapists.

**7. Certification.** An applicant must submit a verification of certification form from NBCOT. The form must be completed and signed by NBCOT. An applicant applying within 3 months of having taken the certification examination who has the examination scores sent directly to the board is exempt from this requirement.

**8. Fee.** An applicant must pay an application fee and license fee as set under section 2285.

**Sec. L-6. 32 MRSA §2280-A, first ¶,** as enacted by PL 1997, c. 294, §8, is amended to read:

The certification examination of NBCOT for the occupational therapist or occupational therapy assistant satisfies examination requirements of the board. ~~The certification examination of NBCOT for the occupational therapist or occupational therapy assistant satisfies examination requirements of the board.~~

**Sec. L-7. 32 MRSA §2282,** as enacted by PL 1983, c. 746, §2, is amended to read:

### **§ 2282. Issuance of license**

The board shall issue a license to any person who meets the requirements of this chapter upon payment of the prescribed license fee as set under section 2285.

**Sec. L-8. 32 MRSA §2283, sub-§1,** as amended by PL 1997, c. 294, §10, is repealed and the following enacted in its place:

**1. Renewal.** A license renewal fee as set under section 2285 must be paid by the licensee. Licenses issued under this chapter are subject to renewal and expire on the stated expiration date as determined by the commissioner. Any license not renewed by the designated renewal date automatically expires. Licenses may be renewed up to 90 days after the date of expiration upon payment of a late fee in addition to the renewal fee as set under section 2285. Any person who submits an application for renewal more than 90 days after the date of expiration is subject to all requirements governing new applicants under this chapter, except that the board, giving due consideration to the protection of the public, may waive examination if that renewal application is received, together with the late fee and renewal fee, within 2 years from the date of the expiration.

**Sec. L-9. 32 MRSA §2284, sub-§5,** as enacted by PL 1997, c. 294, §11, is amended to read:

**5. Fee.** Applicants must pay the application and license fees according to this chapter as set under section 2285.

**Sec. L-10. 32 MRSA §2285,** as amended by PL 1997, c. 294, §13, is repealed and the following enacted in its place:

### **§ 2285. Fees**

The Director of the Office of Licensing and Registration within the department may establish by rule fees for purposes authorized under this chapter in amounts that are reasonable and necessary for their respective purposes, except that the fee for any one purpose may not exceed \$120. Rules adopted pursuant to this section are routine technical rules pursuant to Title 5, chapter 375, subchapter 2-A.

**Sec. L-11. 32 MRSA §2286, sub-§1**, as enacted by PL 1983, c. 746, §2, is repealed.

**Sec. L-12. 32 MRSA §2286, sub-§2**, as amended by PL 1997, c. 294, §14 and PL 1999, c. 547, Pt. B, §78 and affected by §80, is repealed and the following enacted in its place:

**2. Disciplinary action.** The board may deny a license, refuse to renew a license or impose the disciplinary sanctions authorized by Title 10, section 8003, subsection 5-A for any of the reasons enumerated in Title 10, section 8003, subsection 5-A, paragraph A.

## PART M

**Sec. M-1. 32 MRSA §2311, sub-§3-A** is enacted to read:

**3-A. Board.** "Board" means the Oil and Solid Fuel Board.

**Sec. M-2. 32 MRSA §2313-A, first ¶**, as enacted by PL 1991, c. 198, §12, is amended to read:

Effective January 1, 1992, a chimney or fireplace installer must issue a disclosure to any consumer prior to the installation taking place. Disclosures must be in a format determined by the board and contain the information the board considers necessary.

**Sec. M-3. 32 MRSA §2315, sub-§3**, as enacted by PL 1999, c. 386, Pt. J, §8, is repealed.

**Sec. M-4. 32 MRSA §2315, sub-§4**, as enacted by PL 1999, c. 386, Pt. J, §8, is repealed.

**Sec. M-5. 32 MRSA §2317, sub-§1**, as enacted by PL 2003, c. 452, Pt. R, §5 and affected by Pt. X, §2, is repealed and the following enacted in its place:

**1. Unlicensed practice.** A person, firm or corporation who violates section 2401 is subject to the provisions of Title 10, section 8003-C.

**Sec. M-6. 32 MRSA §2317, sub-§3**, as enacted by PL 2003, c. 452, Pt. R, §5 and affected by Pt. X, §2, is repealed.

**Sec. M-7. 32 MRSA §2351**, as amended by PL 2001, c. 633, §1, is further amended to read:

### **§ 2351. Appointment; vacancies; removal; compensation**

The Oil and Solid Fuel Board, as established by Title 5, section 12004-A, subsection 27, ~~and in this chapter called the "board,"~~ consists of the Commissioner of Public Safety or a representative and 6 other members, called in this chapter the "appointive members," who are appointed by the Governor.

Four of the appointive members must be oil burner technicians who are active in the trade. One of the members must have at least 5 years' experience and the other 3 members must have at least 10 years' experience as oil burner technicians. Of those members, 2 members may be recommended by the Maine Oil Dealers Association; one member may be recommended by a national association of oil heat service managers with a chapter in the northern part of the State; and one member may be recommended by a national association of oil heat service managers with a chapter in the southern part of the State. One of the appointive members must be a representative of the solid fuel burning industry and one must be a representative of the public member as defined in Title 5, section 12004-A.

The appointive members are appointed for terms of 4 years. Appointments of members must comply with Title 10, section 608009.



Any appointive member of the board may be removed from office by the Governor for cause.

~~Annually, the 6 appointive members of the board shall choose one of their members as chairman.~~

**Sec. M-8. 32 MRSA §2352**, as amended by PL 1999, c. 386, Pt. J, §11, is repealed.

**Sec. M-9. 32 MRSA §2353**, as amended by PL 1999, c. 386, Pt. J, §12, is further amended to read:

**§ 2353. Meetings; chair; quorum; rules**

The board shall meet at least once a year to conduct its business and to elect its officers a chair. Additional meetings ~~may~~must be held as necessary to conduct the business of the board; and may be convened at the call of the chair or a majority of the board members. Four members of the board constitute a quorum ~~for all purposes~~. The board may adopt standards and rules as necessary, pursuant to the Maine Administrative Procedure Act, Title 5, chapter 375, for the holding of examinations and for carrying out this chapter, and provide for reciprocity of licensing with similar boards of other states that maintain standards equivalent to those provided under this chapter.

**Sec. M-10. 32 MRSA §2355**, as amended by PL 1985, c. 389, §14 and PL 1999, c. 547, Pt. B, §78 and affected by §80, is repealed and the following enacted in its place:

**§ 2355. Denial or refusal to renew license; disciplinary action**

The board may deny a license, refuse to renew a license or impose the disciplinary sanctions authorized by Title 10, section 8003, subsection 5-A for any of the reasons enumerated in Title 10, section 8003, subsection 5-A, paragraph A.

Any license that is suspended or revoked must be immediately surrendered to the board and held during any period of suspension, or if revoked, until reinstated as provided in this chapter.

There is no appeal from the failure of the board to issue a license as a result of an applicant failing to pass an examination when the results of the examination have been unanimously certified by the board to be correct.

Any person whose license is suspended or revoked for more than 90 days must establish that the person meets all requirements governing new applicants under this chapter as a condition of reinstatement or return of the person's license, except that the board may in its discretion, giving due consideration to the protection of the public, waive examination if the period of suspension is less than 2 years or, in the case of revocation of license, the applicant is both eligible and has made application for reinstatement of license within 2 years of the effective date of revocation.

**Sec. M-11. 32 MRSA §2355-A** is enacted to read:

**§ 2355-A. Employing unlicensed person**

A person, firm or corporation in the oil or solid fuel burner installation business that employs an unlicensed person, unless the work is exempted under this chapter, commits a Class E crime.

**Sec. M-12. 32 MRSA §2356**, as repealed and replaced by PL 1983, c. 413, §121, is repealed.

**Sec. M-13. 32 MRSA §2357**, as amended by PL 1987, c. 395, Pt. A, §171, is repealed.

**Sec. M-14. 32 MRSA §2358**, as enacted by PL 1983, c. 413, §122, is repealed.

**Sec. M-15. 32 MRSA §2401-B, sub-§3**, as enacted by PL 1999, c. 386, Pt. J, §14, is amended to read:

**3. License displayed.** All persons licensed by the board must receive a license certificate that must be publicly displayed at the principal place of business of the licensee, if any, and a pocket card license that must be carried on the person and displayed at any time upon request.

**Sec. M-16. 32 MRSA §2402-B**, as amended by PL 2003, c. 89, §2, is further amended to read:

### **§ 2402-B. Fees**

The Director of the Office of Licensing and Registration within the Department of Professional and Financial Regulation may establish by rule fees for purposes authorized under this subchapter in amounts that are reasonable and necessary for their respective purposes, except that the fee for any one purpose may not exceed \$350 biennially. The fee for the limited license for a manufactured housing mechanic or the joint limited license for a manufactured housing dealer and employee or owner may not exceed \$50 biennially. Rules adopted pursuant to this section are routine technical rules pursuant to Title 5, chapter 375, subchapter 2-A.

**Sec. M-17. 32 MRSA §2403, first ¶**, as amended by PL 1983, c. 553, §38, is further amended to read:

Applicants for a master or journeyman's oil burner technician or master solid fuel burner technician license shall present to the board a written application for examination, ~~containing such information as the board may require~~, accompanied by the prescribed fee. Examinations ~~shall~~must be in whole or in part in writing, ~~shall be conducted~~approved by the board and shall be of a thorough and practical character commensurate with the responsibilities of the type of license applied for.

**Sec. M-18. 32 MRSA §2404**, as amended by PL 1999, c. 685, §4, is further amended to read:

### **§ 2404. Renewals**

All licenses expire 2 years from the original date of issue or at such other time as the Commissioner of Professional and Financial Regulation may designate. The licenses may be renewed on a biennial basis without further examination upon the payment of the ~~proper~~renewal fee as set under section 2402-B. ~~The board shall notify everyone registered under this chapter of the date of expiration of the license and the amount of fee required for its renewal for a 2-year period. The notice must be mailed to the person's last known address at least 30 days in advance of the expiration date of the license. A license may be renewed up to 90 days after the date of expiration upon payment of a late fee in addition to the renewal fee as set under section 2402-B. Any person who submits an application for renewal more than 90 days after the license renewal date shall pay an additional late fee as set under section 2402-B and is subject to all requirements governing new applicants under this chapter, except that the board may, giving due consideration to the protection of the public, waive examination or other requirements. The board may assess penalties for late renewals more than 90 days after the date of expiration.~~

## **PART N**

**Sec. N-1. 32 MRSA §3111, sub-§5**, as enacted by PL 1979, c. 555, §2, is amended to read:

**5. Physical therapy.** ~~"Physical therapy" means the evaluation, treatment and instruction of human beings to detect, assess, prevent, correct, alleviate and limit physical disability, bodily malfunction and pain from injury, disease and any other bodily condition; the administration, interpretation and evaluation of tests and measurements of bodily functions and structures for the purpose of treatment planning; the planning, administration, evaluation and modification of treatment and instruction; and the use of physical agents and procedures, activities and devices for preventive and therapeutic purposes; and the provision of consultative, educational and other advisory services for the purpose of reducing the incidence and severity of physical disability, bodily malfunction and pain~~ is the practice the scope of which is set forth in section 3111-A.

**Sec. N-2. 32 MRSA §3111-A** is enacted to read:

**§ 3111-A. Scope of practice**

The practice of physical therapy includes the evaluation, treatment and instruction of human beings to detect, assess, prevent, correct, alleviate and limit physical disability, bodily malfunction and pain from injury, disease and any other bodily condition; the administration, interpretation and evaluation of tests and measurements of bodily functions and structures for the purpose of treatment planning; the planning, administration, evaluation and modification of treatment and instruction; and the use of physical agents and procedures, activities and devices for preventive and therapeutic purposes; and the provision of consultative, educational and other advisory services for the purpose of reducing the incidence and severity of physical disability, bodily malfunction and pain.

**Sec. N-3. 32 MRSA §3112,** as amended by PL 2003, c. 250, Pt. A, §1, is further amended to read:

**§ 3112. Board created; appointment; powers and duties**

The Board of Examiners in Physical Therapy, as established by Title 5, section 12004-A, subsection 31, and within the Department of Professional and Financial Regulation, ~~shall consist~~consists of 2 physical therapists, one physical therapist assistant, one physician and one public member as defined in Title 5, section 12004-A.

**1. Appointment.** Members of the board are appointed by the Governor for a term of 4 years. Appointments of members must comply with Title 10, section 608009.

A member of the board may be removed from office for cause by the Governor.

**2. Meetings; chair; quorum.** The board shall meet at least once a year to conduct its business and to elect a chair and a secretary, ~~who serve for 2 years.~~ Additional meetings must be held as necessary to conduct the business of the board and may be convened at the call of the chair or a majority of the board members. ~~The board shall keep records and minutes as are necessary to the ordinary dispatch of its functions.~~Three members of the board constitute a quorum.

**3. Officers.** ~~The chairman shall be empowered to administer oaths in matters connected with the duties of the board. The secretary shall keep accurate minutes of meetings and carry on official correspondence.~~

**4. Quorum.** ~~Three members of the board shall constitute a quorum for all purposes.~~

**5. Powers and duties.** The board shall ~~have~~has the following powers and duties:

A. To review the qualifications of applicants for licensure and to license physical therapists and physical therapist assistants who qualify under this chapter;

B. To ~~conduct~~approve physical therapist and physical therapist assistant examinations and to establish passing standards; and

C. To ~~make~~adopt rules in accordance with this chapter necessary for the enforcement of its authority and performance of its duties consistent with the provisions of Title 5, chapter 375;

E. ~~To order investigation of a complaint on its own motion or on written complaint filed with the board regarding noncompliance with or violation of any section of this chapter or of any rules adopted by the board;~~

F. ~~To conduct hearings to assist with investigations, to determine whether grounds exist for suspension, revocation or denial of a license, or as otherwise deemed necessary to the fulfillment of its responsibilities under this chapter.~~

~~The board shall not refuse to renew a license for any reason other than failure to pay a required fee, unless it has afforded the licensee an opportunity for an adjudicatory hearing. The board shall hold an adjudicatory hearing at the written request of any person who is denied a license without a hearing for any reason other than failure to pay a required fee, provided that the request for hearing is received by the board within 30 days of the applicant's receipt of written notice of the denial of his application, the reasons therefor and his right to request a hearing. Hearings shall be conducted in conformity with the Maine Administrative Procedure Act, Title 5, chapter 375, subchapter IV, to the extent applicable. The board may subpoena witnesses, records and documents in any hearing it conducts;~~

G. ~~After hearing, to censure or proceed as provided in section 3117.~~

H. ~~To maintain a register containing names and addresses of each person licensed and other information that is considered necessary by the board and the Commissioner of Professional and Financial Regulation. This information is open for public inspection during regular office hours; and~~

I. ~~To submit, no later than August 1st of each year to the Commissioner of Professional and Financial Regulation for the preceding fiscal year ending June 30th, an annual report of its operations and financial position together with such comments and recommendations as the board considers essential.~~

**Sec. N-4. 32 MRSA §3113-B**, as amended by PL 1999, c. 386, Pt. K, §2, is further amended to read:

**§ 3113-B. Exemptions**

Nothing in this chapter prohibits:

**1. Engaging in licensed practice.** Any person licensed in this State under any other provision of law from engaging in the practice for which that person is licensed;

**2. Federal officials.** Any person serving in the United States Armed Services or public health service or employed by the Veterans' Administration or other federal agency from performing that person's official duties, provided the duties are limited to that service or employment;

**3. Persons employed by licensed doctors.** Any person employed by and under the control of a duly licensed doctor in that doctor's office from administering physical therapy modalities, providing that person does not profess to be a physical therapist or physical therapist assistant or use words or letters to indicate that the person is a licensed physical therapist or physical therapist assistant;

**4. Graduate physical therapist or assistant.** The supervised practice of a graduate physical therapist or graduate physical therapist assistant, who is approved by the board to sit for examination, until the results of the examination have been published. The graduate must work in a facility employing at least one physical therapist licensed to practice in this State who assumes responsibility for patient-related activities of the applicant. ~~This responsibility must be verified in advance of the graduate engaging in the practice of physical therapy pursuant to this section. That verification must be accompanied by the supervising physical therapist filing a supervisor's affidavit with the board on a form provided by the board;~~

**5. Student physical therapist or assistant.** The supervised practice of physical therapy by a student enrolled in an accredited physical therapist or physical therapist assistant program who indicates that that person is a "student"; or

**6. Delegation to aides or assistants.** Any physical therapist licensed pursuant to this chapter from delegating to a physical therapy aide or licensed physical therapist assistant treatment procedures or patient-related activities commensurate with the education and training of the person, but not including interpretation of referrals, performance or evaluation procedures or determination and modification of patient treatment programs. The board shall adopt rules governing supervision of physical therapy aides and licensed physical therapist assistants.

**Sec. N-5. 32 MRSA §3114-A, sub-§1, ¶C,** as amended by PL 1983, c. 413, §133, is further amended to read:

C. Pass an examination, approved by the board, to determine the applicant's fitness to practice as a physical therapist or to act as a physical therapist assistant. ~~The board may waive the examination requirement for an applicant who is currently licensed in another state by virtue of having previously passed a qualifying examination acceptable to the board, provided that the passing standards for the examination were equivalent to those then required by the law of this State.~~

**Sec. N-6. 32 MRSA §3114-B** is enacted to read:

**§ 3114-B. Endorsement**

The board may waive the examination requirement for an applicant who is currently licensed in another state or other jurisdiction by virtue of having previously passed a qualifying examination acceptable to the board, if the passing standards for the examination are equivalent to those then required by the law of this State.

**Sec. N-7. 32 MRSA §3115,** as amended by PL 2003, c. 250, Pt. A, §3, is further amended to read:

## § 3115. Licensure

The board shall license an applicant who meets the requirements of this chapter and pays the biennial licensure fee as set under section 3116-A. ~~The fee for original licenses effective for one year or less during the biennial licensing period is 1/2 the fee set under section 3116-A. Each person licensed receives a certificate. Every certificate of licensure and renewal certificate for the current biennium must be conspicuously displayed at the place of employment of the licensee. A certificate of licensure~~The license must be conspicuously displayed by the licensee at the place of employment. Licensure as a physical therapist entitles the person to whom it is granted to engage in the practice of physical therapy anywhere in this State and to use the words "physical therapist" or letters "P.T." to indicate that the person is licensed in this State. ~~A certificate of licensure~~Licensure as a physical therapist assistant entitles the person to whom it is granted to act as a physical therapist assistant and to use the words "physical therapist assistant" or letters "P.T.A." to indicate that the person is licensed in this State.

**Sec. N-8. 32 MRSA §3116,** as amended by PL 2003, c. 250, Pt. A, §4, is further amended to read:

## § 3116. License renewal

All licenses must be renewed biennially on or before March 31st of each even-numbered year or at such other times as the Commissioner of Professional and Financial Regulation may designate upon application by the licensee accompanied by the renewal fee as set under section 3116-A. Any license not renewed by March 31st automatically expires. The board may renew an expired license if the renewal notice is returned within 90 days of the expiration date and upon payment of a late fee in addition to the renewal fee as set under section 3116-A. A person who submits an application for renewal more than 90 days after the license expiration date is subject to all requirements governing new applicants under this chapter, except that the board may in its discretion, giving due consideration to the protection of the public, waive examination if the renewal application is made within 2 years from the date of that expiration.

**Sec. N-9. 32 MRSA §3117-A,** as amended by PL 2003, c. 204, Pt. D, §1, is further amended to read:

## § 3117-A. Denial or refusal to renew license; disciplinary action

~~The board may suspend or revoke a license pursuant to Title 5, section 10004. In addition, the board may refuse to issue or renew a license or the District Court may revoke, suspend or refuse to renew a license of a physical therapist or physical therapist assistant for any of the following reasons:~~

In addition to the grounds enumerated in Title 10, section 8003, subsection 5-A, paragraph A, the board may deny a license, refuse to renew a license or impose the disciplinary sanctions authorized by Title 10, section 8003, subsection 5-A for any of the following reasons:

**1. Fraud.** ~~The practice of fraud or deceit in obtaining a license under this chapter or in connection with service rendered as a licensed physical therapist or physical therapist assistant;~~

**2. Addiction.** ~~Addiction, as confirmed by medical findings, to the use of alcohol or other drugs, which that has resulted in the licensed physical therapist or physical therapist assistant being unable to perform his the licensed physical therapist's or physical therapist assistant's duties or perform those duties in a manner which that would not endanger the health or safety of the patients to be served; or~~

**3. Incompetency.** A medical finding of mental incompetency;

**4. Accomplice.** ~~Aiding or abetting a person not duly licensed as a licensed physical therapist or physical therapist assistant in representing himself as a licensed physical therapist or physical therapist assistant;~~

**5. Misconduct.** ~~Any gross negligence, incompetency or misconduct in the practice of physical therapy;~~

**6. Criminal conviction.** ~~Subject to the limitations of Title 5, chapter 341, conviction of a Class A, B or C crime or of a crime which, if committed in this State, would be punishable by one year or more of imprisonment; or~~

**7. Violation.** ~~Any violation of this chapter or any rule adopted by the board.~~

**Sec. N-10. 32 MRSA §3118**, as enacted by PL 1983, c. 413, §139 and amended by PL 1999, c. 547, Pt. B, §78 and affected by §80, is repealed and the following enacted in its place:

**§ 3118. Unlicensed practice**

Any person who violates section 3113-A is subject to the provisions of Title 10, section 8003-C.

**PART O**

**Sec. O-1. 32 MRSA §3304**, as repealed and replaced by PL 1983, c. 413, §140 and amended by PL 1999, c. 547, Pt. B, §78 and affected by §80, is repealed and the following enacted in its place:

**§ 3304. Unlicensed practice**

Any person who violates section 3302, subsection 1 is subject to the provisions of Title 10, section 8003-C.

**Sec. O-2. 32 MRSA §3401**, as repealed and replaced by PL 2003, c. 446, §1 and affected by §4, is amended to read:

**§ 3401. Membership; vacancies; removal; compensation**

The Plumbers' Examining Board, as established by Title 5, section 12004-A, subsection 32, consists of 5 members, who are appointed by the Governor as follows.

**1. Public member.** One of the members of the board must be a ~~representative of the public member as defined in Title 5, section 12004-A.~~

**2. Master plumbers.** Two of the members of the board must be master plumbers as defined in section 3301, and one of those 2 members must be a member of a bona fide labor organization.

**3-A. Journeyman plumber.** One of the members of the board must be a journeyman plumber, as defined in section 3301, who has been engaged in the business of plumbing for at least 2 years. ~~This subsection takes effect June 19, 2005.~~

**4. Local plumbing inspector.** One of the members of the board must be a local plumbing inspector who has been engaged in plumbing inspections for at least 4 years and is employed by a municipality. ~~This subsection takes effect June 19, 2005.~~

Members are appointed for terms of 4 years. Appointments of members must comply with Title 10, section 608009.

Any member of the board may be removed from office for cause by the Governor.

**Sec. O-3. 32 MRSA §3403**, as amended by PL 1983, c. 553, §40, is further amended to read:

### **§ 3403. Meeting; chair; quorum**

The board shall meet at least once a year to conduct its business and to elect a ~~chairman and a secretary~~chair. Additional meetings ~~shall~~must be held as necessary to conduct the business of the board; and may be convened at the call of the ~~chairman~~chair or a majority of the board members. ~~Two~~Three members of the board shall constitute a quorum for all purposes. ~~The board shall keep such records and minutes as are necessary to the ordinary dispatch of its function.~~

**Sec. O-4. 32 MRSA §3403-A**, as amended by PL 1999, c. 386, Pt. L, §§4 and 5, is further amended to read:

### **§ 3403-A. Powers and duties**

The board shall administer, coordinate and enforce this chapter and ~~shall have~~has the following powers and duties in addition to those otherwise set forth in this chapter.

**1. Rules.** The board may, in accordance with ~~the Maine Administrative Procedure Act, Title 5, chapter 375, subchapter H~~2, adopt rules commensurate with the authority vested in it by this chapter. These rules may include, but not be limited to, internal plumbing, licensing requirements, examinations and reciprocity of licensing with similar boards of other states that maintain standards equivalent to this State.

**2. Hearings.** ~~Hearings may be conducted by the board to assist with investigations, to determine whether grounds exist for suspension, revocation or denial of a license, or as otherwise deemed necessary to the fulfillment of its responsibilities under this chapter.~~

~~The board may not refuse to renew a license for any reason other than failure to pay a required fee, unless it has afforded the licensee an opportunity for an adjudicatory hearing. The board shall hold an adjudicatory hearing at the written request of any person who is denied a license without a hearing for any reason other than failure to pay a required fee, provided that the request for hearing is received by the board within 30 days of the applicant's receipt of written notice of the denial of his application, the reasons for the denial and his right to request a hearing. Hearings shall be conducted in conformity with the Maine Administrative Procedure Act, Title 5, chapter 375, subchapter IV, to the extent applicable. The board may subpoena witnesses, records and documents in any hearing it conducts.~~

**3. Contracts.** ~~The board may enter into contracts to carry out its responsibilities under this chapter.~~



**Sec. O-5. 32 MRSA §3404**, as amended by PL 1983, c. 553, §41 and PL 1999, c. 547, Pt. B, §78 and affected by §80, is repealed and the following enacted in its place:

**§ 3404. Denial or refusal to renew license; disciplinary action; reinstatement**

The board may deny a license, refuse to renew a license or impose the disciplinary sanctions authorized by Title 10, section 8003, subsection 5-A for any of the reasons enumerated in Title 10, section 8003, subsection 5-A, paragraph A.

The board, for reasons it considers sufficient, may reissue a license to any person whose license has been revoked if 2 or more members of the board vote in favor of the reissuance.

**Sec. O-6. 32 MRSA §3406** is repealed.

**Sec. O-7. 32 MRSA §3501, sub-§4**, as amended by PL 1999, c. 386, Pt. L, §6, is further amended to read:

**4. License displayed.** All persons licensed by the board must receive a license certificate that must be publicly displayed at the principal place of business of the plumber, if any, and a pocket card license that must be carried on the person and displayed at any time upon request.

**Sec. O-8. 32 MRSA §3504**, as amended by PL 2003, c. 250, Pt. B, §6, is further amended to read:

**§ 3504. Renewals**

All licenses expire 2 years from the original date of issue or at such other time as the commissioner may designate.

~~The board shall notify everyone registered under this chapter of the date of expiration of his license and the fee required for its renewal for a 2-year period. The notice shall be mailed to the person's last-known address at least 30 days in advance of the expiration date of his license.~~

A license may be renewed up to 90 days after the date of its expiration upon payment of a late fee in addition to the renewal fee as set under section 3501-B. Any person who submits an application for renewal more than 90 days after the license expiration date shall pay an additional late fee as set under section 3501-B and is subject to all requirements governing new applications under this chapter, except that the board may in its discretion, giving due consideration to the protection of the public, waive examination or other requirements. ~~The board may assess penalties for late renewal that is more than 90 days after the date of expiration.~~ Notwithstanding any other provision of this chapter, the board shall waive examination if a renewal application is made within 90 days after separation from the United States Armed Forces, under conditions other than dishonorable, by a person who has failed to renew the person's license because the person was on active duty in the United States Armed Forces; the waiver of examination may not be granted if the person served more than 4 years in the United States Armed Forces, except if the person is required by some mandatory provision to serve a longer period and the person submits satisfactory evidence to the board.

~~Any master plumber giving up his master plumber's license for a lower grade license shall be required to successfully pass an examination in order to reinstate his master plumber's license.~~

All journeyman-in-training licenses ~~shall be~~ issued for a single nonrenewable period of 4 years and ~~shall~~ not be subject to the requirements of this section, ~~except that each person holding such a license shall be notified by the board of the date of its expiration in the manner provided in this section.~~

## PART P

**Sec. P-1. 32 MRSA §3552, sub-§3**, as enacted by PL 1993, c. 600, Pt. A, §230 and amended by PL 1999, c. 547, Pt. B, §78 and affected by §80, is further amended to read:

**3. Penalty.** A person who practices podiatric medicine in violation of subsection 1 commits a Class E crime violates subsection 1 is subject to Title 10, section 8003-C. The State may bring action in Superior Court to enjoin a person from violating subsection 1, regardless of whether proceedings are instituted in District Court and regardless of the status of criminal proceedings.

**Sec. P-2. 32 MRSA §3601**, as amended by PL 1993, c. 600, Pt. A, §234, is further amended to read:

### § 3601. Appointment; term; removal

The Board of Licensure of Podiatric Medicine established in Title 5, section 12004-A, subsection 33 and in this chapter called the "board," consists of 4 podiatrists and a representative of the public appointed by the Governor public member as defined in Title 5, section 12004-A. One of the members must be chosen by a majority of the members to act as chair of the board for a term of 2 years. The podiatrists are appointed by the Governor for a term of 4 years from nominations submitted by the Podiatry Association of Maine and by other organizations and individuals. The podiatrists selected must at the time of their appointment have been actively engaged in the practice of podiatry for a period of at least 2 years. Appointment of members must comply with Title 10, section 608009.

**Sec. P-3. 32 MRSA §3602**, as amended by PL 1993, c. 600, Pt. A, §235, is further amended to read:

### § 3602. Meetings; chair; quorum

The board shall hold regular semiannual meetings and may hold other meetings during the year as it determines necessary to transact its business. One of the members must be chosen by a majority of the board to act as chair of the board for a term of 2 years. One member must be chosen by a majority of the board to act as secretary and treasurer of the board for a term of 2 years, who shall keep a record of the proceedings of the board, which must include, among other things, a record of all money received and disbursed, a list of all applicants for licenses to practice podiatry and whether those applicants were granted or denied a license. The records must be filed in the office of the board and be open to inspection during regular office hours meet at least once a year to conduct its business and to elect a chair. Additional meetings must be held as necessary to conduct the business of the board and may be convened at the call of the chair or a majority of the board members. Three members of the board constitute a quorum for the transaction of business, but a license to practice podiatry may not be granted except upon the affirmative vote of a majority of the members of the board.

**Sec. P-4. 32 MRSA §3604**, as repealed and replaced by PL 1995, c. 462, Pt. A, §62, is repealed.

**Sec. P-5. 32 MRSA §3605-B, sub-§4**, as enacted by PL 1993, c. 600, Pt. A, §239, is repealed.

**Sec. P-6. 32 MRSA §3605-B, sub-§6**, as enacted by PL 1993, c. 600, Pt. A, §239, is repealed.

**Sec. P-7. 32 MRSA §3651-A, sub-§1**, as amended by PL 1993, c. 600, Pt. A, §242 and affected by §243, is further amended to read:

**1. Residency requirement.** An applicant who has graduated after January 1, 1991 from podiatric medical school as set forth in section 3651-B seeking licensure to practice podiatry shall provide the board with evidence of satisfactory completion of at least one year of postgraduate clinical training in a podiatric residency training program approved by the accrediting body of the American Podiatric Medical Association, or its successor or other organization approved by the board.

**Sec. P-8. 32 MRSA §3651-A, sub-§2, ¶A,** as amended by PL 1993, c. 600, Pt. A, §242 and affected by §243, is further amended to read:

A. An applicant for a residency license must be a doctor of podiatric medicine who is a graduate of a school of podiatry, as set forth in this chapter. An examination is not required for applicants for residency licensure. The fee for residency licensure is the same as the fee for licensure for that year. ~~The residency license application and the license must be in forms prescribed by the board.~~ A residency license may be denied for a reason for which a podiatric medical license may be disciplined under section 3655-A.

**Sec. P-9. 32 MRSA §3651-B,** as enacted by PL 1993, c. 600, Pt. A, §244, is repealed.

**Sec. P-10. 32 MRSA §3651-C** is enacted to read:

### **§ 3651-C. Examination; requirements**

Except as otherwise provided in this chapter, an individual must pass an examination approved by the board before engaging in the practice of podiatry. An applicant shall submit an application for a license to practice podiatry containing satisfactory proof that the applicant:

**1. Minimum age.** Is at least 18 years of age;

**2. Graduation.** Has received a certificate of graduation from an accredited college of podiatric medicine, recognized by the Council of Education of the American Podiatry Association or its successor or other organization approved by the board; and

**3. Examination.** Has passed an examination approved by the board.

**Sec. P-11. 32 MRSA §3652,** as amended by PL 1999, c. 685, §12, is further amended to read:

### **§ 3652. Fees; reexamination; license renewal**

The Director of the Office of Licensing and Registration within the Department of Professional and Financial Regulation may establish by rule fees for purposes authorized under this chapter in amounts that are reasonable and necessary for their respective purposes, except that the fee for any one purpose may not exceed \$600 annually. Rules adopted pursuant to this section are routine technical rules pursuant to Title 5, chapter 375, subchapter H-A2-A.

An applicant for an examination for a license to practice podiatry shall pay, at the time of filing an application, ~~to the board~~ a license application fee and a license fee as set under this section plus actual ~~costs~~ of examination administration. An applicant who fails to pass an examination is entitled to a reexamination within 6 months upon the payment of a fee, but only 2 such reexaminations are permitted. Podiatrists licensed in another state and applying for a license to practice in this State without examination shall pay an application fee and a license fee.

A doctor of podiatric medicine licensed to practice podiatric medicine and surgery within this State shall apply, ~~on or before August 1, 1993 and on or before July 1st of every year after August 1, 1993~~ or at such other time as the Commissioner of Professional and Financial Regulation may designate, to the board for a license renewal ~~on a form furnished by the board and pay at the renewal fee as set under this section.~~

~~On or before August 1, 1993, and on or before July 1st of every year after August 1, 1993,~~ an applicant who is practicing podiatric medicine and surgery in this State shall include satisfactory evidence to the board that in the preceding license period the applicant has completed a program of continuing education as prescribed in the rules of the board.

An application for license renewal made not more than 90 days after the date of expiration must include a late fee in addition to the renewal fee as set under this section. An application received more than 90 days but less than 2 years after the expiration date is subject to the requirements for new applicants as well as continuing education requirements, if applicable, and a late fee, renewal fee and additional late fee as set under this section, except that the board, giving due consideration to the health, welfare and safety of the citizens of the State, may waive the examination requirement at its discretion. A license that has been expired for over 2 years may not be renewed and must be processed as a new application.

**Sec. P-12. 32 MRSA §3654**, as amended by PL 1999, c. 685, §13, is further amended to read:

**§ 3654. Reciprocity; endorsement; residency requirement**

~~Beginning July 1, 1995, the~~The board may issue a license to practice podiatry by endorsement to an applicant who has successfully passed the written examination of another state or of a national certifying agency in podiatry recognized by the board if the written examination of the other state or national certifying agency was, ~~in the opinion of the board,~~ equivalent to its own examination and if the applicant satisfies in all other respects the requirements for licensure in section 3651-A. An applicant for licensure by endorsement who graduated after January 1, 1991 from podiatric medical school under section 3651-A shall provide the board evidence of satisfactory completion of at least one year of postgraduate clinical training in a podiatric residency training program under section 3651-A. The application to the board must be accompanied by ~~an~~the application fee and a license fee as set under section 3652.

**Sec. P-13. 32 MRSA §3655-A**, as amended by PL 1993, c. 600, Pt. A, §248 and PL 1999, c. 547, Pt. B, §68 and affected by §80, is repealed.

**Sec. P-14. 32 MRSA §3656** is enacted to read:

**§ 3656. Denial or refusal to renew license; disciplinary action; informal conference**

In addition to the grounds enumerated in Title 10, section 8003, subsection 5-A, paragraph A, the board may deny a license, refuse to renew a license or impose the disciplinary sanctions authorized by Title 10, section 8003, subsection 5-A for:

**1. Habitual substance abuse.** Habitual substance abuse that has resulted or is foreseeably likely to result in the applicant or licensee performing services in a manner that endangers the health or safety of the licensee's patients;

**2. Mental or physical condition.** A professional diagnosis of a mental or physical condition that has resulted or may result in the applicant or licensee performing services in a manner that endangers the health or safety of the podiatrist's patients;

**3. False advertising.** Engaging in false, misleading or deceptive advertising; or

**4. Unlawful prescription of controlled substance.** Prescribing narcotic or hypnotic or other drugs listed as controlled substances by the federal Drug Enforcement Administration for other than accepted therapeutic purposes.

If the factual basis of a complaint that has been filed 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 conference must be conducted in executive session of the board, pursuant to Title 1, section 405, unless otherwise requested by the licensee. Statements made at the conference may not be introduced at a subsequent formal hearing unless all parties consent.

## PART Q

**Sec. Q-1. 32 MRSA §3811-A**, as enacted by PL 1985, c. 481, Pt. A, §56, is repealed and the following enacted in its place:

### **§ 3811-A. Definitions**

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

**1. Board.** "Board" means the State Board of Examiners of Psychologists.

**2. Mental illness.** "Mental illness" means a clinically significant behavioral or psychological syndrome or pattern that occurs in an individual and that is typically associated with either a painful symptom or impairment in one or more important areas of functioning.

**Sec. Q-2. 32 MRSA §3812**, as enacted by PL 1967, c. 544, §82, is amended to read:

### **§ 3812. Unlicensed practice; exemptions**

~~It is specifically prohibited that any~~An individual or organization shall present himself ~~may not profess to be~~ or be presented to the public by any title incorporating the name "psychological," "psychologist" or "psychology," other than those so licensed by this chapter, except that any psychological scientist employed by a recognized research laboratory, college, university or state or federal agency may ~~represent himself by~~use the title conferred upon him ~~the scientist~~ by the administration of such or equivalent laboratory, college, university or state or federal agency. Nothing in this section ~~shall~~may be construed as permitting such persons to offer their service to any other persons or organizations as consultants or to accept remuneration for any psychological services other than that of their institutional salaries unless they have been licensed under this chapter. Visiting lecturers from recognized laboratories, colleges or universities are exempt from this section and may utilize their academic research title when presenting lectures to similar institutions or organizations. Students of psychology, psychological interns and other persons preparing for the profession of psychological examiner or psychologist under qualified supervision in recognized training institutions or facilities may be designated by such titles as "psychological intern", "psychological trainee" or others clearly indicating such training status.

The use of occasional services of qualified consultant psychologists from ~~without the State~~another state or jurisdiction or the use of the services of organizations from ~~without the State~~another state or jurisdiction employing qualified psychologists ~~shall~~does not constitute the unlawful practice of psychology.

**Sec. Q-3. 32 MRSA §3814**, as amended by PL 1983, c. 413, §146 and PL 1999, c. 547, Pt. B, §78 and affected by §80, is further amended to read:

### **§ 3814. Penalties for unlicensed practice**

~~If any person shall~~Persons who hold himself~~themselves~~ out to the public as a ~~psychologist~~psychologists or psychological examiner~~examiners~~ or engage in psychological practice as defined in ~~section 3814~~this chapter and ~~shall~~do not then possess in full force ~~a~~ valid ~~license~~licenses to practice as psychological examiner~~examiners~~ or ~~psychologist~~psychologists under this chapter; ~~he shall be deemed guilty of a Class E crime~~are subject to the provisions of Title 10, section 8003-C.

~~The State may bring an action in Superior Court to enjoin any person from violating this chapter, regardless of whether proceedings have been or may be instituted in the District Court or whether criminal proceedings have been or may be instituted.~~

**Sec. Q-4. 32 MRSA §3816**, as amended by PL 1983, c. 413, §147, is further amended to read:

### **§ 3816. Code of ethics**

The board of examiners shall adopt rules establishing a code of ethics in keeping with those standards established by the American Psychological Association or its successor or other organization approved by the board to govern appropriate practices or behavior as referred to in this chapter.

**Sec. Q-5. 32 MRSA §3818**, as enacted by PL 1975, c. 767, §43, is repealed.

**Sec. Q-6. 32 MRSA §3821**, as amended by PL 1993, c. 600, Pt. A, §249, is further amended to read:

### **§ 3821. Membership; terms; vacancies**

The State Board of Examiners of Psychologists, as established by Title 5, section 12004-A, subsection 34, and ~~called the "board,"~~ consists of 9 members who are appointed by the Governor to serve a term of 3 years. Two members of the board must be ~~representatives of the public~~ members as defined in Title 5, section 12004-A. Seven members of the board must be licensed psychologists or psychological examiners ~~with at least one member licensed as a psychological examiner~~ and insofar as possible be representative of the field of psychology. ~~These 7 members must be representative of the field of psychology insofar as possible.~~ Appointments of members must comply with Title 10, section 608009. Before the filling of any vacancies of professional or public members, the Governor ~~shall~~may solicit recommendations. A board member may be removed by the Governor for cause.

**Sec. Q-7. 32 MRSA §3822**, as amended by PL 1985, c. 481, Pt. A, §58, is further amended to read:

### **§ 3822. Meetings; chair; quorum**

The board shall meet at least once a year to conduct its business and to elect a ~~chairman, secretary and treasurer~~chair. Additional meetings ~~shall~~must be held as necessary to conduct the business of the board; and may be convened at the call of the ~~chairman~~chair or a majority of the board members. ~~Each member~~

~~shall be compensated according to the provisions of Title 5, chapter 379, provided that the expense shall not exceed the fees collected by the board. Five members of the board shall at all times constitute a quorum. The board shall keep such records and minutes as are necessary to the ordinary dispatch of its functions.~~

**Sec. Q-8. 32 MRSA §3824**, as amended by PL 1995, c. 397, §61, is further amended to read:

### **§ 3824. Powers and duties**

The board shall have the following powers and duties, in addition to those otherwise set forth in this chapter.

**1. Licenses.** ~~The board shall evaluate the qualifications and supervise the examination of applicants for licensure under this chapter, and investigate or cause to be investigated all complaints made to it and all cases of noncompliance with this chapter, including the supervision of psychological examiners.~~

**2. Rules.** The board may, in accordance with procedures established by the ~~Maine Administrative Procedure Act~~, Title 5, chapter 375, subchapter H~~2~~, adopt such rules as may be reasonably necessary for the proper performance of its duties and the administration of this chapter.

**3. Hearings.** ~~Hearings may be conducted by the board to assist with investigations, to determine whether grounds exist for suspension, revocation or denial of a license, or as otherwise deemed necessary to the fulfillment of its responsibilities under this chapter. Hearings shall be conducted in conformity with the Maine Administrative Procedure Act, Title 5, chapter 375, subchapter IV, to the extent applicable. The board may subpoena witnesses, records and documents in any hearing it conducts.~~

**5. Temporary licensure.** The board shall ~~provide~~adopt rules for the granting of a temporary license to enable psychologists to practice in this State under supervision ~~prior to full licensure by pending such examination as the board may require.~~ An applicant who fulfills all the requirements for licensure, ~~except the written with the exception of any required examination,~~ may apply to the board for a temporary license. Upon receiving a completed application and fee ~~and upon the applicant's successful completion of an oral examination as set under section 3833-A,~~ the board shall issue a temporary license that entitles the applicant to practice as a psychologist or psychological examiner under supervision while completing the requirements for permanent licensure. The temporary license is effective for one year.

**6. Continuing education.** The board shall establish in rules requirements for continuing education. The board shall require the applicant for license renewal to present evidence of ~~his~~the applicant's satisfactory completion of continuing professional education in accordance with rules adopted by the board. ~~This subsection takes effect on January 1, 1986.~~

**Sec. Q-9. 32 MRSA §3831**, as amended by PL 1985, c. 481, Pt. A, §61, is further amended to read:

### **§ 3831. Licensure; qualifications**

**1. Psychological examiner.** ~~Any person wishing to obtain the right to practice as a psychological examiner, who has not been licensed to do so, shall, before it shall be lawful for him to practice as a psychological examiner, make application to the State Board of Examiners of Psychologists;~~

~~upon such form and in such manner as prescribed by the board, and obtain from the board a license to do so. Unless such a person has obtained a license, it shall be unlawful for him to practice and, if he shall practice as a psychological examiner without first having obtained such a license, he shall be deemed to have violated this chapter. A candidate for this license shall furnish the board with satisfactory evidence that hethe candidate is trustworthy and competent to practice as a psychological examiner in such manner as to safeguard the interests of the public; has had a master's degree reflecting comprehensive training in psychology from an accredited educational institution recognized by the board as maintaining satisfactory standards; has had at least one year of full-time supervised experience in psychology of a type considered by the board to be qualifying in nature; is competent as a psychological examiner as shown by passing such examinations, written or oral, or both, as the board deemsdetermines necessary; is not considered by the board to be engaged in unethical practice; and has not within the preceding 6 months failed an examination given by the board.~~

**2. Psychologist.** ~~Any person wishing to obtain the right to practice as a psychologist, who has not been licensed to do so, shall, before it shall be lawful for him to practice psychology, make application to the State Board of Examiners of Psychologists, upon such form and in such manner as prescribed by the board, and obtain from the board a license to do so. Unless such a person has obtained a license, it shall be unlawful for him to practice and, if he shall practice psychology without first having obtained a license, he shall be deemed to have violated this chapter. A candidate for this license shall furnish the board with satisfactory evidence that hethe candidate is trustworthy and competent to practice as a psychologist in such manner as to safeguard the interest of the public; has received a doctorate degree reflecting comprehensive training in psychology from an accredited institution recognized by the board as maintaining satisfactory standards, at the time the degree was granted; has had at least 2 years of experience in psychology of a type considered by the board to be qualifying in nature; is competent in psychology, as shown by passing such examinations, written or oral, or both, as the board deemsdetermines necessary; is not considered by the board to be engaged in unethical practice; and has not within the preceding 6 months failed an examination given by the board. The board shall recognize that valid comprehensive training in psychology must be received in or accepted by a single program, but may be obtained through a degree given by administrative units other than a department of psychology, including programs approved by the National Association of School Psychologists or the American Psychological Association designation program or their successors or other organizations approved by the board. The board shall adopt a list of these programs. Individuals with degrees from programs not on that list shallmust be evaluated on a case-by-case basis.~~

**Sec. Q-10. 32 MRSA §3834,** as amended by PL 1983, c. 413, §154, is repealed.

**Sec. Q-11. 32 MRSA §3835,** as amended by PL 2001, c. 323, §25, is further amended to read:

### **§ 3835. License renewal**

Licenses issued under this chapter expire biennially ~~on a date~~ as established by the Commissioner of Professional and Financial Regulation, ~~if not renewed.~~ A person licensed under this chapter shall submit, on or before the ~~biennial~~ biennalestablished expiration date, an application for license renewal together with the ~~biennial~~ renewal fee as set under section 3833-A ~~set by the director.~~

The board shall notify every licensed psychologist of the expiration date of the license and indicate the amount of fee required for biennial renewal. This notice must be mailed to each person's last known address at least 30 days in advance of the expiration date of that license. A license may be renewed up to 90 days after the date of expiration upon payment of a late fee in addition to the renewal fee as set under



section 3833-A. Any person who submits an application for renewal more than 90 days after the license renewal date is subject to all requirements governing new applicants under this chapter, except that the board may in its discretion, giving due consideration to the protection of the public, waive examination if that renewal application is ~~made~~received, together with the late fee and renewal fee, within 2 years from the date of that expiration.

**Sec. Q-12. 32 MRSA §3836**, as amended by PL 2001, c. 323, §26, is further amended to read:

**§ 3836. Endorsement; conditional licensure**

The board may, at any time at its discretion, grant a conditional license without ~~an assembled~~ examination to any person who at the time of application is licensed ~~or certified~~ by a similar board of another state whose standards, in the opinion of the board, are equivalent to those required by this chapter. The board, at its discretion, may issue a conditional license, at the appropriate level, to applicants for a permanent license upon payment of the ~~required~~ fee as set under section 3833-A, ~~to be established by the director~~. The conditional license is effective for one year and requires that the licensee practice only under supervision. ~~An oral examination must be taken and passed~~The board may require conditional licensees to pass an examination approved by the board during the term of the conditional license.

**Sec. Q-13. 32 MRSA §3837**, as amended by PL 1993, c. 600, Pt. A, §250 and PL 1999, c. 547, Pt. B, §78 and affected by §80, is repealed.

**Sec. Q-14. 32 MRSA §3837-A** is enacted to read:

**§ 3837-A. Denial or refusal to renew license; disciplinary action**

**1. Disciplinary action.** In addition to the grounds enumerated in Title 10, section 8003, subsection 5-A, paragraph A, the board may deny a license, refuse to renew a license or impose the disciplinary sanctions authorized by Title 10, section 8003, subsection 5-A for:

- A. Practice of psychology under a false or assumed name or impersonation of another practitioner of a like or different name;
- B. Habitual substance abuse that has resulted or is foreseeable likely to result in the licensee performing services in a manner that endangers the health or safety of patients;
- C. An incapacitating mental illness or condition;
- D. Practice of medicine without a license to do so in violation of section 3270;
- 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.

**2. Reinstatement.** The board, for reasons it determines sufficient, may reissue a license to a psychological examiner or psychologist whose license has been revoked or has not been renewed if 4 or more of its members vote in favor of reissuance.

**Sec. Q-15. 32 MRSA §3838**, as amended by PL 1985, c. 481, Pt. A, §63, is repealed.

**Sec. Q-16. 32 MRSA §3839**, as repealed and replaced by PL 1983, c. 413, §159, is repealed.

**Sec. Q-17. Maine Revised Statutes headnote amended; revision clause.** In the Maine Revised Statutes, Title 32, chapter 56, subchapter 3, in the subchapter headnote, the word "registration" is amended to read "licensure" and the Revisor of Statutes shall implement this revision when updating, publishing or republishing the statutes.

## PART R

**Sec. R-1. 32 MRSA §4854,** as amended by PL 1997, c. 246, §7, is further amended to read:

### **§ 4854. State Board of Veterinary Medicine**

The State Board of Veterinary Medicine, as established by Title 5, section 12004-A, subsection 42, within the Department of Professional and Financial Regulation, consists of 6 members, appointed by the Governor, 5 of whom must be licensed veterinarians who are residents of this State and graduates of a veterinary school and who have been licensed to practice veterinary medicine in the State for the 5 years preceding their appointment and one member who must be a representative of the public member as defined in Title 5, section 12004-A. ~~At least 30 days before the appointment of a licensed Maine veterinarian to the board, the State Veterinary Medical Association shall forward to the Governor for consideration the names of 3 or more qualified veterinarians.~~ Members are appointed for 5-year terms. Appointments of members must comply with Title 10, section 608009. A person may not serve on the board who is, or has been during the 2 years preceding appointment, a trustee or a member of the faculty or advisory board of a veterinary school.

**Sec. R-2. 32 MRSA §4855,** as amended by PL 1997, c. 246, §8, is repealed.

**Sec. R-3. 32 MRSA §4856,** as amended by PL 1997, c. 246, §9, is further amended to read:

### **§ 4856. Meetings; chair; quorum**

~~The board shall meet at least once a year at a time and place fixed by the board to conduct its business and to elect a chair. Other meetings may be called by the chair by giving notice as required by rule. Additional meetings must be held as necessary to conduct the business of the board and may be convened at the call of the chair or a majority of the board members. A majority of four members of the board constitutes a quorum.~~  
The board shall ~~have~~ have the power to:

**Sec. R-4. 32 MRSA §4859,** as amended by PL 2003, c. 251, §1, is further amended to read:

### **§ 4859. Powers**

The board shall ~~have~~ have the power to:

**1. Establish standards.** Establish, consistent with this chapter, standards of qualification for the practice of veterinary medicine in the State of Maine, and, for the purpose of section 4853, subsection 8 and section 4861, recognize schools of veterinary medicine.;

**2. License; set standards.** ~~The power to grant~~ Grant and deny licenses, register and to set standards ~~for~~ of practice for veterinarians practicing veterinary medicine in this State and for the performance of duties by veterinary technicians;

**3. After hearing, adopt, amend or repeal rules.** After hearing, adopt, amend or repeal rules in accordance with Title 5, chapter 375, subchapter ~~H~~2, necessary to carry into effect this chapter. These rules must be made in accordance with the purpose and intent of the law and the standards set forth in this chapter and include, but are not limited to, rules concerning misconduct, fraud, advertising, standards of competency, personal conduct, standards of sanitation for the operation of veterinary hospitals, associations with other veterinarians and unprofessional conduct and qualifications for licensure. Rules adopted pursuant to this subsection are routine technical rules as defined by Title 5, chapter 375, subchapter 2-A; and

**5. Conduct investigations.** ~~Conduct investigations of alleged violations of this chapter and the rules adopted thereunder.~~

**6. License veterinary technicians.** Register License veterinary technicians in accordance with procedures as the board may prescribe by rule; Rules adopted pursuant to this subsection are routine technical rules as defined by Title 5, chapter 375, subchapter 2-A.

**7. Hold hearings.** ~~Hold hearings on all matters properly brought before the board and in connection thereto to administer oaths, receive evidence, make necessary determinations and enter orders consistent with the findings. The board may require by subpoena the attendance and testimony of witnesses and the production of papers, records or other documentary evidence and commission depositions.~~

**8. Bring proceedings.** ~~Bring proceedings in the courts for the enforcement of this chapter or any rules made pursuant thereto.~~

**Sec. R-5. 32 MRSA §4861**, as amended by PL 2005, c. 347, Pt. C, §1, is further amended to read:

### **§ 4861. Application for license; qualifications and examination**

A person desiring a license to practice veterinary medicine in this State ~~shall~~must make written application and pay the ~~required licensure~~license fee as set under section 4863-A. The application must show that the applicant holds a doctorate degree in veterinary medicine from an approved veterinary medicine program that is recognized by the United States Department of Education and by the board, and is ~~a person of good moral character~~trustworthy and competent and provide such other information and proof as the board may establish by rule. The board may adopt rules applicable to graduates of approved veterinary medicine programs by the Commissioner of Education and rules applicable to foreign educated graduates who can demonstrate equivalent education and training. Rules adopted pursuant to this section are routine technical rules as defined by Title 5, chapter 375, subchapter 2-A.

**1-A. Examinations.** Examinations, written or practical, must be prepared to measure the competence of an applicant to engage in the practice of veterinary medicine. The board may also test an applicant's knowledge of the laws and rules relating to the practice of veterinary medicine. The board may require successful completion of an equivalency examination or assessment mechanism for foreign educated and trained applicants that is designed to evaluate educational equivalence, including clinical competencies and a command of the English language.

The board may employ and cooperate and contract with an organization or consultant in the preparation, administration and grading of an examination, but ~~shall retain~~retains sole discretion and responsibility for determining which applicants have successfully passed the examination. The applicant shall pay the ~~required~~ examination fee as set under section 4863-A.

**2. Oral or practical examination.** ~~At its discretion, the board may orally or practically examine any person qualifying for licensure under this section. The examination may cover laws and rules relating to the practice of veterinary medicine.~~

**3. Temporary permit.** The board may issue without examination a temporary permit to practice veterinary medicine in this State to a qualified applicant for license pending examination. A temporary permit issued pursuant to this subsection expires the day after the notice of results of the first examination given after the permit is issued. The applicant shall pay the ~~required~~ temporary permit fee set under section 4863-A.

~~All persons granted permits under this section shall furnish proof of liability insurance to cover the date of this permit.~~

**4. Permit for performance of relief veterinary service.** The board may issue without examination a permit to perform relief veterinary service in this State to a qualified person who holds a doctorate degree in veterinary medicine from an approved veterinary medicine program that is recognized by the United States Department of Education and by the board or by rules of the board applicable to foreign educated graduates, and who holds a current license for the practice of veterinary medicine issued by another state, ~~territory or district of the United States~~ territory, province of Canada or other jurisdiction. The board may establish, by rule, the application process. The initial term of a permit issued under this subsection may not exceed 30 days. Extensions may be granted in the discretion of the board. The applicant shall pay the ~~required~~ relief permit fee as set under section 4863-A.

**5. Licensure by endorsement.** The board shall grant a license by endorsement to a veterinarian who:

A. Has submitted a complete application;

B. Has paid the ~~required~~ examination and license fee as set under section 4863-A;

C. ~~Is licensed in good standing in~~Holds a valid license issued by another state, United States territory or, province of Canada or, if an applicant does not meet the definition of good standing, as established by the board, the applicant shall provide, to the satisfaction of the board, that the applicant is qualified for licensure in the State and may practice under the restrictions and limitations on that license, and those limitations, if any, may include conditions of probation before the issuance of a licenseother jurisdiction;

D-1. Has ~~successfully~~successfully passed an examination pursuant to subsection 1-A pertaining to the practice of veterinary medicine as determined by board rule. The board may require the applicant to submit to an examination covering the laws and rules pertaining to the practice of veterinary medicine in this State; and

E. Has actively practiced clinical veterinary medicine for 3,000 hours during the 3 years preceding application.

**Sec. R-6. 32 MRSA §4862**, as amended by PL 1997, c. 246, §19, is repealed.

**Sec. R-7. 32 MRSA §4863**, as amended by PL 2003, c. 251, §3, is further amended to read:

### **§ 4863. License renewal**

All licenses expire annually on such date as the commissioner may designate, and may be renewed with the board by payment of ~~a the renewal fee as set under section 4863-A. At least 30 days prior to the annual renewal date, the Department of Professional and Financial Regulation shall mail a notice to each licensee and registrant that the license or registration expires on the renewal date and provide a renewal application form for reregistration.~~

Licenses may be reinstated up to 90 days after the date of expiration upon payment of a late fee as set under section 4863-A in addition to the renewal fee. A person who submits an application for renewal more than 90 days after the license renewal date is subject to all requirements governing new applicants under this chapter, except that the board may, giving due consideration to the protection of the public, waive examination if that renewal application is made received, together with the late fee, renewal fee and additional late fee as set under section 4863-A, within 2 years from the date of the expiration. ~~In addition, the board may levy penalties for nonrenewal.~~

By rule the board may waive the payment of the ~~registration~~ renewal fee of a licensed veterinarian during the period when that veterinarian is on active duty with any branch of the Armed Services of the United States, not to exceed the longer of 3 years or the duration of a national emergency.

**Sec. R-8. 32 MRSA §4864**, as amended by PL 2005, c. 347, Pt. C, §2, is further amended to read:

### **§ 4864. Denial or refusal to renew license; disciplinary action**

~~The board, on its own motion or upon complaint made to it, may hold a hearing to determine whether or not violations of this chapter or the standards for the practice of veterinary medicine adopted by the board have been violated. Hearings conducted under this section are "adjudicatory proceedings" and must be conducted in accordance with the provisions of Title 5, chapter 375, subchapter IV. The board has the authority to issue subpoenas subject to the provisions of Title 5, section 9060. If the board considers a licensee has committed any of the acts set forth in this section, it shall either report its findings to the Attorney General for prosecution in the District Court for suspension or revocation in accordance with Title 4, chapter 5, or place the licensee on probation for a certain period of time during which the licensee shall file periodic affidavits of the licensee's practice in accordance with the standards set by the board, or censure, by letter, the licensee. The following acts are grounds for disciplinary action by the board or for revocation or suspension by the District Court:~~

In addition to the grounds enumerated in Title 10, section 8003, subsection 5-A, paragraph A, the board may deny a license, refuse to renew a license or impose the disciplinary sanctions authorized by Title 10, section 8003, subsection 5-A for:

**1. Convictions.** ~~Conviction in this State or another state or in a federal court of a felony or of a crime involving moral turpitude;~~

- 2. Fraud.** ~~The employment of fraud, misrepresentation or deception in obtaining a license;~~
- 3. Violation of drug laws.** Conviction of violation of any federal or state law regulating the possession, distribution or use of any narcotic drug or cannabis;
- 4. Chronic use of drugs.** Chronic or habitual use of drugs;
- 5-A. Mental illness.** A medical finding of mental incompetency;
- 6. Certain prescriptions of narcotics.** Prescribing narcotic drugs for other than accepted therapeutic purposes;
- 7. Malpractice.** ~~Gross or repeated malpractice;~~
- 8. Incompetence or gross negligence.** ~~Incompetence or gross negligence;~~
- 9. Cruelty to animals.** The performance of any inhumane or cruel act, as established by the board and by applicable civil and criminal laws and rules in the treatment or care of any animal;
- 10. Permitting a veterinary technician to perform prohibited acts.** Permitting any registered/licensed veterinary technician operating under the licensee's supervision to perform any act or operation other than that permitted under section 4866;
- 11. Unprofessional conduct.** Unprofessional conduct, as defined in the rules of the board, includes, but is not limited to, the following:
  - A. Advertising in any manner considered by the board to be false, misleading or otherwise deemed unprofessional;
  - B. Knowingly making any false or fraudulent statement, written or oral, in connection with the practice of veterinary medicine;
  - C. Refusing to divulge to the board upon demand, the means, method, device or instrumentality used in the treatment of a disease, injury, ailment or infirmity of any animal; or
  - D. Fraud or dishonesty in the application or reporting of any test for disease in animals or making a false report of any contagious or infectious disease;
- 12. Unauthorized associations.** A veterinarian may practice only in an individual capacity under that veterinarian's own name or in association with a licensed practitioner of veterinary medicine or professional association. The following are deemed unauthorized associations:
  - A. Association for the joint practice of veterinary medicine with any person, corporation or partnership not licensed to practice veterinary medicine;
  - B. Knowingly aiding and abetting in the practice of veterinary medicine any person not licensed to practice in this State;
  - C. The lending, leasing or in any other manner placing of one's ~~certificate of registration or license~~ at the disposal of or in the service of any other person not licensed to practice veterinary medicine in this State; and

D. The continuance of a veterinarian directly or indirectly in the employ of or in association with any veterinarian after knowledge that such veterinarian is engaged in the violation of the provisions of this chapter; or

**13. Lack of sanitation.** Failure to maintain veterinary premises and equipment in a clean and sanitary condition as defined by the board in accordance with the sanitation provisions included in Title 7, section 3936; ~~or.~~

**14. Violation.** ~~Violation of a provision of this chapter or a rule adopted by the board.~~

**Sec. R-9. 32 MRSA §4865-A,** as amended by PL 2005, c. 347, Pt. C, §4, is repealed.

**Sec. R-10. 32 MRSA §4870,** as amended by PL 1993, c. 404, Pt. A, §14, is further amended to read:

### **§ 4870. Enforcement**

Any person; who shall ~~practice~~practices veterinary medicine without a currently valid license, temporary permit or permit for the performance of relief veterinary service, ~~shall be guilty of a Class E crime, provided that each act of such unlawful practice shall constitute a distinct and separate offense~~is subject to the provisions of Title 10, section 8003-C.

~~A person who practices veterinary medicine without a currently valid license, temporary permit or permit for the performance of relief veterinary service may not receive any compensation for services rendered. A veterinary technician employed by a veterinarian is subject to section 4866.~~

~~The board or any citizen of this State may bring an action to enjoin any person from practicing veterinary medicine without a currently valid license, temporary permit or permit for the performance of relief veterinary service. If the court finds that the person is violating, or is threatening to violate this chapter, it shall enter an injunction restraining him from such unlawful acts.~~

~~The successful maintenance of an action based on any one of the remedies set forth in this section shall in no way prejudice the prosecution of an action based on any other of the remedies.~~

**Sec. R-11. 32 MRSA §4871,** as amended by PL 1997, c. 246, §27, is repealed.

**Sec. R-12. 32 MRSA §4873,** as enacted by PL 1975, c. 477, §4, is repealed.

**Sec. R-13. 32 MRSA §4874,** as enacted by PL 1979, c. 291, §13, is amended to read:

### **§ 4874. Immunity from civil liability**

Notwithstanding any inconsistent provisions of any public or private and special law, any person who voluntarily, without the expectation of monetary or other compensation renders first aid, emergency treatment or rescue assistance to an animal who is ill, injured or in need of rescue assistance, ~~shall~~is not be liable for damages for injuries alleged to have been sustained by the animal ~~nor~~or for damages for the death of the animal alleged to have occurred by reason of an act or ~~ommission~~omission in the rendering of the first aid, emergency treatment or rescue assistance, unless it is established that the injuries or the death were caused willfully, wantonly or recklessly or by gross negligence on the part of the person.

## **PART S**

**Sec. S-1. 32 MRSA §4902, sub-§1-A** is enacted to read:

**1-A. Approved.** "Approved" means approved by the board.

**Sec. S-2. 32 MRSA §4903, sub-§1,** as enacted by PL 1981, c. 501, §70, is amended to read:

**1. Licensure required.** No person may practice or offer to practice geology or soil science in the State without ~~certification in accordance with~~ current license issued under this chapter, unless specifically exempted from the ~~certification~~license requirement by this chapter.

**Sec. S-3. 32 MRSA §4906, first ¶,** as amended by PL 1981, c. 501, §72, is further amended to read:

The following persons ~~shall be~~are exempt from the ~~certification~~license requirement imposed by this chapter:

**Sec. S-4. 32 MRSA §4906-A,** as amended by PL 1985, c. 748, §42, is further amended to read:

### **§ 4906-A. Subsurface sewage disposal**

Persons who have been licensed by the Department of Professional and Financial Regulation pursuant to Title 22, section 42, subsection 3-A; to evaluate soil for subsurface sewage disposal are exempt from the ~~certification~~license requirement if their soil evaluation work relates solely to subsurface sewage disposal systems.

**Sec. S-5. 32 MRSA §4907,** as amended by PL 1995, c. 397, §§65 and 66, is further amended to read:

### **§ 4907. Board**

The State Board of Certification for Geologists and Soil Scientists as established by Title 5, section 12004-A, subsection 19, shall administer this chapter ~~and its office shall be within the Department of Professional and Financial Regulation.~~ The board ~~shall consist~~consists of 7 members, 5 of whom ~~shall be~~are appointed by the Governor from the following categories: One academic geologist; one independent consultant or salaried geologist; one independent consultant or salaried soil scientist; one other soil scientist; and a ~~representative of the public member as defined in Title 5, section 12004-A.~~ The 4 geologist members appointed by the Governor must be licensed under this chapter. The 6th and 7th members ~~shall be~~are the State Soil Scientist with the Maine Soil and Water Conservation Commission, ex officio, and the State Geologist or the State Geologist's designee, who ~~shall~~must be a geologist employed in State Government, ex officio. No person, except the ~~representative of the public member,~~ may be eligible for appointment to the board unless certified under this chapter.

**1. Qualifications.** Each member of the board ~~shall be a citizen of the United States and shall~~must have been a resident of this State for at least 5 years immediately preceding ~~his~~the appointment.

**2. Term.** Appointments are for 5-year terms. Appointments of members must comply with Title 10, section 608009. A board member may be removed for cause by the Governor.



**4. Meetings; chair; quorum.** The board shall meet at least once a year to conduct its business and to elect its officers a chair. Additional meetings ~~shall~~ must be held as necessary to conduct the business of the board; and may be convened at the call of the ~~chairman~~ chair or a majority of the board members. ~~The board shall, every 2 years, elect a chairman who shall be a member of the board. No chairman may serve more than 2 consecutive terms.~~ Four members of the board constitute a quorum.

~~Four members shall constitute a quorum.~~

~~The board shall keep such records and minutes as are necessary to the ordinary dispatch of its functions.~~

**5. Hearings.** ~~Hearings may be conducted by the board to assist with investigations, to determine whether grounds exist for suspension, revocation or denial of a license, or as otherwise deemed necessary to the fulfillment of its responsibilities under this chapter.~~

~~The board shall not refuse to renew a license for any reason other than failure to pay a required fee, unless it has afforded the licensee an opportunity for an adjudicatory hearing. The board shall hold an adjudicatory hearing at the written request of any person who is denied a license without a hearing for any reason other than failure to pay a required fee, provided that the request for hearing is received by the board within 30 days of the applicant's receipt of written notice of the denial of his application, the reasons therefor and his right to request a hearing. Hearings shall be conducted in conformity with the Maine Administrative Procedure Act, Title 5, chapter 375, subchapter IV, to the extent applicable. The board may subpoena witnesses, records and documents in any hearing it conducts.~~

**Sec. S-6. 32 MRSA §4908, sub-§1,** as amended by PL 1987, c. 395, Pt. A, §176 and PL 1995, c. 502, Pt. H, §48, is repealed.

**Sec. S-7. 32 MRSA §4908, sub-§2,** as amended by PL 1995, c. 397, §68, is repealed.

**Sec. S-8. 32 MRSA §4909,** as amended by PL 1999, c. 386, Pt. P, §1, is further amended to read:

### **§ 4909. Qualifications**

~~An application for certification as a geologist or soil scientist shall be made to the board on a form prescribed by it and shall be accompanied by the prescribed application fee.~~

~~An applicant for certification as a geologist or soil scientist shall have all the following qualifications:~~

~~1. Be of high ethical professional standards;~~

**1-A. Application.** An applicant for licensure as a geologist or soil scientist shall file an application and pay the application fee as set under section 4912. An applicant for licensure as a geologist or soil scientist must be trustworthy and competent.

**2. Geologist examination requirements.** As a geologist, to qualify to sit for the examination for certification~~licensure~~, an applicant ~~shall~~ must:

A. Be a graduate of an accredited college or university with a major in geological sciences, or have completed 30 credits in geological sciences at an accredited college or university, or have at least 7 years of professional geological work ~~which~~that shall include either a minimum of 3 years of professional geological work under the supervision of a qualified geologist or a minimum of 5 years of responsible charge of geological work;

B. Have acquired 7 years of experience in responsible charge of geological work, toward which an undergraduate degree with 30 credit hours or more in geological science courses ~~shall count~~counts as 2 years of training and each year of graduate study in the geological sciences ~~shall count~~counts as 1/2 year of training, up to a maximum of 2 years of credit; and

C. Receive credit toward the experience requirement subject to the evaluation of the board. Applicants with less than 30 credit hours in geological science courses may be given proportional work-experience credits for such academic credit hours as they may have acquired.

**2-A. Soil scientist examination requirements.** As a soil scientist, to qualify to sit for the examination for ~~certification~~licensure, an applicant must:

A. Be a graduate of an approved 4-year college curriculum leading to a Baccalaureate Degree, in which the applicant has successfully completed a minimum of 15 credit hours of soil or soil-related courses of a pedological nature and have a specific record of an additional 3 years or more of experience in soil science of a grade and character that indicates to the board that the applicant may be competent to practice as a soil scientist and be otherwise qualified. Teaching pedological courses in a college or university offering an approved 4-year soil science or agronomic curriculum must be considered as experience in soils investigations.

Applicants may sit for the General practice examination upon graduation from an approved 4-year college and may sit for the professional practice examination upon completion of the experience requirement as stated in this subsection.

"Additional 3 years of experience" does not imply a sequence of obtaining a degree and then experience. Experience time may not be granted for time while enrolled in courses, but summer employment must be counted even though a degree may not have been obtained.

Actual field experience in an acceptable apprenticeship program counts as experience time.

Each degree beyond the bachelor's degree counts as one year of experience.

Soil-related courses may amount to only 20% of the required 15 credits for a maximum of 3 credits.

**3. Examination.** ~~Sit~~An applicant shall sit for and pass an examination before the board or its authorized representatives. Such examination will be held at certain specified times and of such scope as prescribed by the board.

Generally, the examinations ~~shall~~must test the applicant's knowledge basic to geology or soil science and ~~his~~the applicant's ability to apply that knowledge and to assume responsible charge in the professional practice of geology or soil science.

An applicant for ~~certification~~licensure must meet all the requirements of this chapter and, in addition, ~~shall~~must have 3 years' experience in geology or soil science as defined by this chapter and in the rules and regulations of the board to be provided.

An applicant failing in an examination may be examined again upon filing a new application and the payment of the prescribed fees.

The board, upon application therefor, ~~on its prescribed form~~ and upon the payment of the application and ~~certification~~license fees, may issue a ~~certificat~~license as a geologist or soil scientist without written examination to any person holding a ~~certificat~~license as a geologist or soil scientist issued to ~~him~~that geologist or soil scientist by any state or country having equivalent requirements, when the applicant's qualifications meet the other requirements of this chapter and the rules established by the board.

In determining the qualifications of an applicant for ~~certification~~licensure, a majority vote of the board is required.

Any applicant who has passed the examination or has otherwise qualified as a geologist or soil scientist upon payment of the ~~certification fee fixed by this chapter~~as set under section 4912, ~~shall~~must have a ~~certificat~~license as a geologist or soil scientist as appropriate.

**Sec. S-9. 32 MRSA §4911**, as amended by PL 1999, c. 685, §15, is further amended to read:

### **§ 4911. Expiration and renewal**

~~Certification expires~~Licenses expire on December 31st ~~annually~~or at such other times as the Commissioner of Professional and Financial Regulation may designate and ~~becomes~~become invalid on that date unless renewed. ~~It is the duty of the Office of Licensing and Registration within the Department of Professional and Financial Regulation to notify, at the last known address, every person registered under this chapter of the license expiration date and the amount of the fee that is required. The notice must be mailed at least one month in advance of the expiration date.~~

A ~~certificat~~license may be renewed up to 90 days after the date of expiration upon payment of a late fee in addition to the renewal fee as set under section 4912. Any person who submits an application for renewal more than 90 days after the license renewal date is subject to all requirements governing new applicants under this chapter, except that the board may, in its discretion, giving due consideration to the protection of the public, waive examination if the renewal application is made received, together with the late fee and renewal fee, within 2 years from the date of the expiration.

**Sec. S-10. 32 MRSA §4912**, as repealed and replaced by PL 1999, c. 685, §16, is amended to read:

### **§ 4912. Fees**

The Director of the Office of Licensing and Registration within the Department of Professional and Financial Regulation may establish by rule fees for purposes authorized under this subchapter in amounts that are reasonable and necessary for their respective purposes, except that the fee for any one purpose may not exceed \$250 annually. Rules adopted pursuant to this section are routine technical rules pursuant to Title 5, chapter 375, subchapter H-A2-A.

**Sec. S-11. 32 MRSA §4913**, as amended by PL 1983, c. 413, §184 and PL 1999, c. 547, Pt. B, §72 and affected by §80, is repealed and the following enacted in its place:

**§ 4913. Denial or refusal to renew license; disciplinary action**

The board may deny a license, refuse to renew a license or impose the disciplinary sanctions authorized by Title 10, section 8003, subsection 5-A for any of the reasons enumerated in Title 10, section 8003, subsection 5-A, paragraph A.

**Sec. S-12. 32 MRSA §4915**, as amended by PL 1975, c. 760, §19, is repealed.

**Sec. S-13. 32 MRSA §4919**, as amended by PL 2001, c. 421, Pt. B, §99 and affected by Pt. C, §1, is further amended to read:

**§ 4919. Unlicensed practice**

~~A person who violates any of the provisions of this chapter for which a penalty has not been prescribed commits a civil violation for which a forfeiture of not more than \$1,000 may be adjudged~~section 4903 is subject to the provisions of Title 10, section 8003-C.

~~The State may bring an action in Superior Court to enjoin any person from violating this chapter, regardless of whether other administrative, civil or criminal proceedings have been or may be instituted.~~

**Sec. S-14. 32 MRSA §4920**, as enacted by PL 1985, c. 389, §22, is repealed.

**PART T**

**Sec. T-1. 32 MRSA §5503, sub-§3**, as enacted by PL 2001, c. 261, §4, is amended to read:

**3. Person registered and practicing forestry.** A person registered and practicing forestry under the supervision of a forester as set forth by section 5515, subsection 910, paragraph B; or

**Sec. T-2. 32 MRSA §5505**, as enacted by PL 2001, c. 261, §4, is amended to read:

**§ 5505. Board; organization**

**1. Establishment; purpose.** The Board of Licensure of Foresters, as established within the department pursuant to Title 5, section 12004-A, subsection 17, administers the provisions of this chapter to protect the public by improving the standards relative to the practice of forestry, to protect the public from unqualified practitioners and to help ensure the proper management of the forest resources of the State.

**2. Members.** The board consists of 6 members appointed by the Governor. Each member must be a ~~citizen of the United States and a~~ resident of this State. The board consists of:

- A. One public member as defined in Title 5, section 12004-A; and
- B. Five foresters who hold valid licenses.

**3. Terms; removal.** Terms of the members of the board are for 3 years. Appointments of members must comply with Title 10, section 8009. Members may be removed by the Governor for cause.

**4. Meetings; chair; quorum.** ~~The board shall meet at least once a year and at such other times as the board determines necessary to conduct its business and to elect a chair. Additional meetings must be held as necessary to conduct the business of the board and may be convened at the call of the chair or a majority of the board members.~~ A majority of the Four members of the board constitutes ~~constitute~~ a quorum for the transaction of business under this chapter.

**5. Election of officers.** ~~The board shall annually elect a chair and other officers as it determines necessary.~~

**Sec. T-3. 32 MRSA §5508,** as enacted by PL 2001, c. 261, §4, is repealed and the following enacted in its place:

**§ 5508. Duties and powers**

The board shall administer and enforce this chapter and evaluate the qualifications of applicants for licensure.

**Sec. T-4. 32 MRSA §5509,** as enacted by PL 2001, c. 261, §4, is repealed.

**Sec. T-5. 32 MRSA §5509-A** is enacted to read:

**§ 5509-A. Denial or refusal to renew license; disciplinary action**

In addition to the grounds enumerated in Title 10, section 8003, subsection 5-A, paragraph A, the board may deny a license, refuse to renew a license or impose the disciplinary sanctions authorized by Title 10, section 8003, subsection 5-A for:

**1. Aiding or abetting.** Aiding or abetting a person in conduct that constitutes a violation of this chapter;

**2. Lack of trustworthiness.** A lack of trustworthiness and competence on the part of the applicant or licensee to conduct forestry practices in a manner that safeguards the interests of the public;

**3. Suspension or revocation of license.** Suspension or revocation of a professional or occupational license for disciplinary reasons or rejection of an application for reasons related to untrustworthiness within 3 years prior to the date of application; or

**4. Failure to meet professional qualifications; failure to submit complete application.** Failure to meet the professional qualifications for licensure as provided in this subchapter or failure to submit a complete application within 30 days after being notified of the materials needed to complete the application.

**Sec. T-6. 32 MRSA §5510,** as enacted by PL 2001, c. 261, §4, is amended to read:

**§ 5510. General qualifications**

**1. Application.** ~~The applicant shall submit a properly completed an application on forms furnished by the board, together with the prescribed fee as set under section 5507.~~

**2. Criminal history information.** ~~Subject to Title 5, chapter 341, the applicant shall provide criminal history record information.~~

**Sec. T-7. 32 MRSA §5512**, as enacted by PL 2001, c. 261, §4, is repealed.

**Sec. T-8. 32 MRSA §5513**, as enacted by PL 2001, c. 261, §4, is repealed.

**Sec. T-9. 32 MRSA §5514, sub-§5**, as amended by PL 2003, c. 364, §3, is further amended to read:

**5. Renewal.** Licenses expire annually on December 31st or on a date the commissioner determines. The board shall issue a renewal license, subject to the limitations set forth in subsection 6, upon receipt of the written request for renewal, the ~~annual~~renewal fee as set under section 5507 and evidence of satisfactory completion of continuing education as set forth in subsection 4. Licenses may be renewed up to 90 days after the date of expiration upon payment of a late fee as set under section 5507 in addition to the renewal fee. A person who submits an application for renewal more than 90 days after the license has expired is required to pay a ~~late renewal penalty~~an additional late fee as set under section 5507 in addition to the 90-day late fee and renewal fee.

**Sec. T-10. 32 MRSA §5515, sub-§6**, as enacted by PL 2001, c. 261, §4, is amended to read:

**6. Examination.** Each applicant for a forester license shall submit an application and examination fee as set under section 5507 and successfully pass an examination ~~administered~~approved by the board designed to test an individual's knowledge to engage in the practice of forestry. Applicants ~~shall~~must meet all other qualifications for licensure prior to taking the examination.

**Sec. T-11. 32 MRSA §5515, sub-§8**, as amended by PL 2003, c. 364, §4, is further amended to read:

**8. Renewal.** Licenses expire annually on December 31st or on a date the commissioner determines. The board shall issue a renewal license upon receipt of the written request for renewal, the ~~annual~~renewal fee as set under section 5507 and evidence of satisfactory completion of continuing education as set forth in subsection 7. Licenses may be renewed up to 90 days after expiration upon payment of a late fee as set under section 5507 in addition to the renewal fee. A person who submits an application for renewal more than 90 days after the license expiration date is subject to all requirements governing new applicants under this chapter, except that the board may, in its discretion and giving due consideration to the protection of the public, waive examination and internship if the renewal application is within 2 years from the date of expiration for those applicants who demonstrate compliance with subsection 7 and upon payment of a ~~late renewal penalty~~an additional late fee as set under section 5507 in addition to the 90-day late fee and renewal fee.

## PART U

**Sec. U-1. 32 MRSA §6203**, as amended by PL 2003, c. 347, §§1 to 4 and affected by §25 and amended by c. 689, Pt. B, §6, is repealed.

**Sec. U-2. 32 MRSA §6203-A** is enacted to read:

### **§ 6203-A. Definitions**

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

**1. Agency.** "Agency" means an establishment, organization or institution, public or private, that is licensed by the Department of Health and Human Services and that offers, purports to offer, maintains or operates one or more programs for the assessment, diagnosis, care, treatment or rehabilitation of individuals who are suffering physically, emotionally or psychologically from the abuse of alcohol or other drugs.

**2. Alcohol and drug counseling aide.** "Alcohol and drug counseling aide" means an individual who is licensed by the board to engage in an apprenticeship for the purpose of acquiring knowledge and experience in the performance of alcohol and drug counseling services, including but not limited to knowledge of ethical standards. An alcohol and drug counseling aide may facilitate individual and direct group counseling or assume other facilitation duties under supervision and may supervise nonclinical activities. An alcohol and drug counseling aide may write treatment chart notations when the notations are cosigned by a certified clinical supervisor. All work performed must be under the supervision of a certified clinical supervisor. An alcohol and drug counseling aide may not engage in independent or private practice. All work associated with the apprenticeship may be conducted only in an agency.

**3. Alcohol and drug counseling services.** "Alcohol and drug counseling services" are those counseling services offered for a fee, monetary or otherwise, as part of the treatment and rehabilitation of persons abusing alcohol or other drugs. The purpose of alcohol and drug counseling services is to help individuals, families and groups confront and resolve problems caused by the abuse of alcohol or other drugs. Alcohol and drug counseling services are the 12 core functions defined by rule of the board.

**4. Board.** "Board" means the State Board of Alcohol and Drug Counselors.

**5. Certified alcohol and drug counselor.** "Certified alcohol and drug counselor" means an individual who provides individual or group alcohol and drug counseling services unaided and who meets the criteria established in section 6214-C. A certified alcohol and drug counselor may not engage in independent or private practice. All work performed must be under the supervision of a certified clinical supervisor within an agency.

**6. Certified clinical supervisor.** "Certified clinical supervisor" means an individual who is licensed by the board to provide supervision to individuals who provide alcohol and drug counseling services as required by this chapter. For the purposes of this subsection, "supervision" includes, but is not limited to, oversight of case record reviews, case management, development of counseling skills, education and treatment modalities, clinical supervision log maintenance and client treatment plans and activities.

**7. Consumer of alcohol and drug counseling services.** "Consumer of alcohol and drug counseling services" means a person affected by or recovering from alcoholism or other drug abuse.

**8. Inactive alcohol and drug counselor.** "Inactive alcohol and drug counselor" means a person who is licensed to provide alcohol and drug counseling services and who applies to the board for an inactive license under section 6219-B.

**9. Licensed alcohol and drug counselor.** "Licensed alcohol and drug counselor" means an individual who provides individual or group alcohol and drug counseling services independently within an agency or in private practice and who meets the criteria established in section 6214-D. A licensed alcohol and drug counselor may also assume clinical supervision duties upon being licensed by the board as a certified clinical supervisor.

**Sec. U-3. 32 MRSA §6204,** as amended by PL 1991, c. 456, §9, is repealed.

**Sec. U-4. 32 MRSA §6205,** as amended by PL 2003, c. 347, §5 and affected by §25, is further amended to read:

### **§ 6205. Licensing**

A person may not, unless specifically exempted by this chapter, practice as an alcohol and drug counselor or begin an internship or profess to the public to be, or assume or use the title or designation of, "certified alcohol and drug counselor," "licensed alcohol and drug counselor" or "alcohol and drug counseling aide" or the abbreviation "C.A.D.C.," "L.A.D.C." or "A.D.C.A." or any other title, designation, words, letters or device tending to indicate that such a person is licensed, certified or registered, unless that person is licensed, certified or registered with and holds a current and valid license, certificate or registration from the board. Any person who offers or gives alcohol and drug counseling services in violation of this section must be punished, upon conviction, by a fine of not less than \$50 and not more than \$500 for each such offense violates this section is subject to the provisions of Title 10, section 8003-C.

**Sec. U-5. 32 MRSA §6208-A,** as amended by PL 1999, c. 386, Pt. R, §1, is further amended to read:

### **§ 6208-A. Appointment; terms; vacancies**

**1. Membership.** The State Board of Alcohol and Drug Counselors, as established by Title 5, section 12004-A, subsection 41, consists of 9 members. Seven members are appointed by the Governor. One member must be the Director of the Office of Substance Abuse or a designee. One member, appointed by the Chancellor of the University of Maine System, must be a member of the university faculty involved in the training of substance abuse or alcohol and drug counselors. Of these 9 members, 5 members must be licensed alcohol and drug counselors and 2 members must be public members as defined in Title 5, section 12004-A. Members must represent a broad geographic distribution of the State.

**2. Term of office.** Appointments are for 3-year terms. Appointments of members must comply with Title 10, section 608009.

**Sec. U-6. 32 MRSA §6210,** as amended by PL 1991, c. 456, §14, is further amended to read:

### **§ 6210. Meetings; chair; quorum**

The board shall meet at least once a year to conduct its business and to elect officers a chair. Additional meetings ~~may~~must be held as necessary to conduct the business of the board; and may be convened at the call of the chair or a majority of the board members. Six members of the board constitute a quorum ~~for all purposes.~~

~~The board shall elect a chair and such officers as determined necessary to carry out the business of the board. The board shall keep such records and minutes as are necessary to the ordinary dispatch of its functions.~~



**Sec. U-7. 32 MRSA §6212**, as amended by PL 2003, c. 347, §§8 to 10 and affected by §25, is further amended to read:

**§ 6212. Powers and duties of the board**

The board shall ~~have~~has the following powers and duties in addition to all other powers and duties imposed by this chapter.

**1. Set standards.** The board shall administer and enforce this chapter, set forth education and examination standards and evaluate the qualifications for licensure. Any standards of eligibility set by the board must be clearly defined, measurable and written in accordance with accepted standards and available to the public upon request.

**2. Adopt criteria.** The board, in cooperation with the Office of Substance Abuse, may ~~design, adopt or~~ design and adopt an examination or other suitable criteria for establishing a candidate's knowledge, skill and experience in alcohol and drug counseling. Any criteria adopted by the board for establishing a candidate's knowledge, skill and experience in alcohol and drug counseling must be clearly defined, have an established baseline scoring procedure that is objectively measured, be in writing and be available to the public upon request.

**3. Standards of practice.** The board may ~~register and set~~establish standards of practice for all persons practicing as alcohol and drug counselors who are working in the State. Any standards set by the board for practice for alcohol and drug counselors working in the State must be clearly defined, measurable and written in accordance with accepted standards and available to the public upon request. Educational background must be a consideration in any licensing ~~or registration~~ standards adopted by the board.

**4. Rules.** The board may adopt such rules, including but not limited to rules regarding examinations; clinical supervision; and reasonable practice and education requirements for ~~registering alcohol and drug counseling aides; licensing alcohol and drug counselors; certified alcohol and drug counselors; and certified clinical supervisors, and establish such advisory committees as the board may determine necessary and proper to carry out this chapter~~individuals licensed under this chapter. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

**6. Complaints.** ~~The board shall investigate, or cause to be investigated, all complaints made to it and all cases of noncompliance with or other violation of this chapter or any rules adopted by the board.~~

**7. Hearings.** ~~Hearings must be conducted by the board to assist with investigations, to determine whether grounds exist for suspension, revocation or denial of registration or licensure, or as otherwise deemed necessary to the fulfillment of its responsibilities under this chapter.~~

~~The board may not refuse to renew registration or licensure for any reason other than failure to pay a required fee, unless it has afforded the licensee an opportunity for an adjudicatory hearing. The board shall hold an adjudicatory hearing at the written request of any person who is denied registration or licensure without a hearing for any reason other than failure to pay a required fee, provided that the request for hearing is received by the board within 30 days of the applicant's receipt of written notice of the denial of application, the reasons for the denial of application and the applicant's right to request a hearing.~~

Hearings must be conducted in conformity with the Maine Administrative Procedure Act, Title 5, chapter 375, subchapter IV, to the extent applicable. The board may subpoena witnesses, records and documents in any hearing it conducts:

**8. Records.** ~~The board shall keep records and minutes for the ordinary dispatch of its functions.~~

**9. Code of ethics.** The board shall adopt a code of ethics generally in keeping with standards established by the national professional associations concerned with the areas of board responsibility.

**10. Issue licenses.** ~~The board shall issue licenses as necessary to implement this chapter.~~

**12. Clinical supervision.** For purposes of direct clinical supervision of licensed practitioners in the field of alcohol and drug counseling, the board may certify upon receipt of ~~proper~~an application and fee under section 6215 licensed psychologists, physicians, registered clinical nurse specialists, clinical professional counselors, clinical social workers and any other licensed or certified mental health professionals who are qualified to provide alcohol and drug counseling services by virtue of the requirements for that profession and who meet the requirements established by board rules.

**Sec. U-8. 32 MRSA §6213-B,** as enacted by PL 2003, c. 347, §13 and affected by §25, is amended to read:

### **§ 6213-B. Alcohol and drug counseling aide; qualification for licensure**

**1. Requirements.** The board shall issue a registrationlicense to practice as an alcohol and drug counseling aide to an applicant who meets the following minimal requirements. An applicant must:

- A. Be at least 18 years of age;
- B. Have a high school diploma or its equivalent;
- C. Be employed at an agency;
- D. Provide the name of the person who will be the applicant's certified clinical supervisor; and
- E. Have paid an application and registrationlicense fee under section 6215.

**Sec. U-9. 32 MRSA §6215,** as amended by PL 2003, c. 347, §17 and affected by §25, is further amended to read:

### **§ 6215. Application; fees**

~~Application for registration, certification or licensure to practice alcohol and drug counseling must be on forms prescribed and furnished by the board. The Director of the Office of Licensing and Registration within the Department of Professional and Financial Regulation may establish by rule fees for purposes authorized under this subchapter in amounts that are reasonable and necessary for their respective purposes, except that the fee for any one purpose may not exceed \$200 annually. Rules adopted pursuant to this section are routine technical rules pursuant to Title 5, chapter 375, subchapter 2-A.~~

**Sec. U-10. 32 MRSA §6215-A** is enacted to read:

### **§ 6215-A. Application for licensure**

Applicants for licensure must submit the fee as set under section 6215.

**Sec. U-11. 32 MRSA §6217-A**, as amended by PL 2003, c. 347, §19 and affected by §25, is repealed.

**Sec. U-12. 32 MRSA §6217-B** is enacted to read:

**§ 6217-B. Denial or refusal to renew license; disciplinary action**

In addition to the grounds enumerated in Title 10, section 8003, subsection 5-A, paragraph A, the board may deny a license, refuse to renew a license or impose the disciplinary sanctions authorized by Title 10, section 8003, subsection 5-A for:

**1. Active abuse.** Active abuse of alcohol or any other drug that in the judgment of the board is detrimental to the performance or competency of a certified alcohol and drug counselor, alcohol and drug counseling aide or certified clinical supervisor; or

**2. Mental incompetency.** A legal finding of mental incompetency.

**Sec. U-13. 32 MRSA §6219**, as amended by PL 2003, c. 347, §21 and affected by §25, is further amended to read:

**§ 6219. Expiration and renewal**

~~All licenses, certifications and registrations issued pursuant to this chapter expire annually on November 30th or at such other time as the Commissioner of Professional and Financial Regulation may designate. Licensees, certificate holders and registrants must renew their licenses, certificates and registrations on or before November 30th annually or on such other date as determined by the commissioner by filing an application prescribed by the board, completing any continuing education requirements established by board rule and paying the required renewal fee as set under section 6215.~~

~~Licenses, certifications and registrations issued pursuant to this chapter may be renewed up to 90 days after the date of expiration upon payment of a late fee in addition to the renewal fee as set under section 6215. Any person who submits an application for renewal more than 90 days after the renewal date is subject to all requirements governing new applicants under this chapter, except that the board may in its discretion, giving due consideration to the protection of the public, waive examination if that renewal application is made received, together with the late fee and renewal fee as set under section 6215, within 2 years from the date of that expiration or if the applicant is a registered an inactive status alcohol and drug counselor. ~~The board is responsible for mailing notification of the date of expiration to any licensed alcohol and drug counselor or inactive alcohol and drug counselor not later than 30 days prior to the date of expiration.~~~~

**Sec. U-14. 32 MRSA §6219-B**, as enacted by PL 2003, c. 347, §22 and affected by §25, is amended to read:

**§ 6219-B. Inactive status license**

**1. Placement on inactive status.** ~~A registrant, certificate holder or licensee under this chapter who does not desire to perform any of the activities described in section 62036203-A, subsections 1-C, 1-D, 1-E, 5, 6 and 59 and who wants to preserve the registration, certificate or license while not engaged in any alcohol and drug counseling activity may surrender that registration, certificate or license to the~~

~~board for placement on apply for an inactive status license pursuant to Title 10, section 8003, subsection 5-A, paragraph D, subparagraph (5). The board may place the registration, certificate or license on inactive status and issue an inactive license only upon proper application and payment of the required fee under section 6215. The fee for inactive status licensure is set under section 6215. During inactive status, the registrant, certificate holder or licensee is required to must renew the inactive registration, certificate or license annually and pay the renewal fee as set under section 6215, but is not required to meet the continuing educational provisions of section 6219-A.~~

**2. Reinstatement to active status.** ~~A registrant, certificate holder or licensee who has surrendered a registration, certificate or license pursuant to this section may have that registration, certificate or license reinstated.~~ An inactive status licensee may apply for reinstatement to active status by submitting proper application and payment of the required paying the fee as set under section 6215 and, completing continuing education requirements as determined by board rule and submitting such additional information as the board may require. Rules adopted pursuant to this subsection are routine technical rules as defined by Title 5, chapter 375, subchapter 2-A.

## PART V

**Sec. V-1. 32 MRSA §7001-A, sub-§1,** as enacted by PL 1985, c. 736, §2, is amended to read:

**1. Accredited educational institution.** An "accredited educational institution" is an institution accredited by the Council on Social Work Education or its successor or other organization approved by the board.

**Sec. V-2. 32 MRSA §7002,** as amended by PL 1985, c. 736, §3 and PL 1999, c. 547, Pt. B, §78 and affected by §80, is further amended to read:

### § 7002. Unlicensed practice

Notwithstanding Title 17-A, section 4-A, any person who makes a representation to the public or uses the title of social worker, unless licensed by the board, as a licensed clinical social worker, licensed master social worker, certified social worker or a licensed social worker, ~~shall be subject to a fine of not less than \$50 nor more than \$500~~ is subject to the provisions of Title 10, section 8003-C. Any person performing the functions of a social worker as a part of a profession or occupation or in a voluntary capacity is not subject to this section.

~~The State may bring an action in Superior Court to enjoin any person from violating this chapter, regardless of whether proceedings have been or may be instituted in the District Court or whether criminal proceedings have been or may be instituted.~~

**Sec. V-3. 32 MRSA §7004,** as amended by PL 1979, c. 96, §6, is further amended to read:

### § 7004. Services to minors for drug abuse

Any person ~~certified~~ licensed under this chapter who renders social work services to a minor for problems associated with the abuse of drugs or alcohol is under no obligation to obtain the consent of that minor's parent or guardian or to inform that parent or guardian of the treatment. Nothing in this section ~~shall~~ may be construed so as to prohibit the licensed person rendering this treatment from informing that

parent or guardian. For purposes of this section, "abuse of drugs" means the use of drugs solely for their stimulant, depressant or hallucinogenic effect upon the higher functions of the central nervous system and not as a therapeutic agent recommended by a practitioner in the course of medical treatment.

**Sec. V-4. 32 MRSA §7026**, as amended by PL 2005, c. 235, §4, is further amended to read:

### **§ 7026. State Board of Social Worker Licensure**

The State Board of Social Worker Licensure, as established by Title 5, section 12004-A, subsection 38, within the Department of Professional and Financial Regulation, shall administer this chapter. The board consists of 7 members appointed by the Governor. Three members of the board must be licensed clinical social workers, licensed master social workers or certified social workers - independent practice; 2 must be licensed social workers; and there must be 2 public members as defined in Title 5, section 12004-C. In addition, board members must meet the qualifications required under section 7027.

Appointments are for 3-year terms. Appointments of members must comply with Title 10, section 608009.

**Sec. V-5. 32 MRSA §7029**, as amended by PL 1987, c. 395, Pt. B, §13, is further amended to read:

### **§ 7029. Meetings; chair; quorum**

~~The board shall annually elect a chairman and secretary from its membership. The secretary shall keep full and complete records of its proceedings and accounts, which shall be open to public inspection at all reasonable times.~~

The board shall meet at least once a year to conduct its business and to elect its officers a chair. Additional meetings ~~shall~~must be held as necessary to conduct the business of the board; and may be convened at the call of the ~~chairman~~chair or a majority of the board members. Four members of the board shall constitute a quorum for the transaction of business.

~~The board shall adopt a seal for its use. The seal and records shall be kept at the Department of Professional and Financial Regulation.~~

**Sec. V-6. 32 MRSA §7030**, as amended by PL 1995, c. 397, §84, is further amended to read:

### **§ 7030. Powers**

The board ~~shall have~~has the following duties and powers, in addition to those otherwise set forth in this chapter.

**1. Licenses.** The board shall evaluate the qualifications and ~~supervise~~approve the examination ~~to be taken by~~ applicants for licensure under this chapter. ~~The board shall accommodate the special needs or handicapping conditions of licensing applicants which prohibit examination in the usual manner.~~

**1-A. Enforcement.** ~~The board shall investigate or cause to be investigated all complaints made to it and all cases of noncompliance with this chapter.~~

**2. Rules.** The board may, in accordance with procedures established by the ~~Maine Administrative Procedure Act~~, Title 5, chapter 375, subchapter H~~2~~, adopt such rules as may be reasonably necessary for the proper performance of its duties and the administration of this chapter. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

**3. Hearings.** ~~Hearings may be conducted by the board to assist with investigations, to determine whether grounds exist for suspension, revocation or denial of a license, or as otherwise deemed necessary to the fulfillment of its responsibilities under this chapter.~~

~~The board shall not refuse to renew a license for any reason other than failure to pay a required fee, unless it has afforded the licensee an opportunity for an adjudicatory hearing. The board shall hold an adjudicatory hearing at the written request of any person who is denied a license without a hearing for any reason other than failure to pay a required fee, provided that the request for hearing is received by the board within 30 days of the applicant's receipt of written notice of the denial of his application, the reasons therefor and his right to request a hearing. Hearings shall be conducted in conformity with the Maine Administrative Procedure Act, Title 5, chapter 375, subchapter IV, to the extent applicable. The board may subpoena witnesses, records and documents in any hearing it conducts.~~

**5. Continuing educational requirements.** The board may establish continuing educational requirements as the board ~~deems~~considers necessary. In developing these requirements, the board shall consider training requirements for social workers who are required to conduct investigations or assessments ~~which~~that may lead to the filing of civil or criminal actions.

**Sec. V-7. 32 MRSA §7053, first ¶**, as amended by PL 1985, c. 736, §11, is further amended to read:

To be eligible for a license to practice social work at any level, an applicant ~~shall~~must be at least 18 years of age and ~~shall~~must satisfactorily pass any examination as the board may prescribe by its rules. Each applicant ~~shall~~must demonstrate trustworthiness and competence to engage in the practice of social work in such a manner as to safeguard the interests of the public. Applications for licensure must be submitted to the board together with the fee as set under section 7056.

**Sec. V-8. 32 MRSA §7053-A, sub-§4, ¶E**, as amended by PL 2001, c. 316, §4, is further amended to read:

E. Participate in training and education of social work students from an accredited institution or an educational institution in candidacy for accreditation with the Council on Social Work Education or a successor or other organization approved by the board and supervise other licensed social workers.

**Sec. V-9. 32 MRSA §7054-A, first ¶**, as enacted by PL 1985, c. 736, §14, is amended to read:

A person holding a certificate of registration or license under the laws of another state, territory or possession of the United States, the District of Columbia or of any foreign country, ~~which~~that is the equivalent of a license as a licensed clinical, licensed master or licensed social worker under this chapter who, ~~in the opinion of the board~~, meets the requirements of this chapter, based upon verified evidence may, upon application, be licensed without further examination.

**Sec. V-10. 32 MRSA §7056**, as amended by PL 1987, c. 113, §2, is repealed and the following enacted in its place:

## **§ 7056. Fees**

The Director of the Office of Licensing and Registration within the Department of Professional and Financial Regulation may establish by rule fees for purposes authorized under this chapter in amounts that are reasonable and necessary for their respective purposes, except that the fee for any one purpose may not exceed \$175. Rules adopted pursuant to this section are routine technical rules pursuant to Title 5, chapter 375, subchapter 2-A.

**Sec. V-11. 32 MRSA §7057, 2nd ¶**, as amended by PL 1985, c. 736, §17, is further amended to read:

The passing grade on any examination shall ~~must~~ be established by the board based upon National Testing Scores set by the testing company. ~~A candidate failing any examination may apply for reexamination, which shall be granted upon payment of a fee established by the board in an amount not in excess of the original application and examination fees. Any candidate for registration having an average grade of less than 50% in his written examination may not apply for reexamination for one year.~~

**Sec. V-12. 32 MRSA §7058**, as enacted by PL 1977, c. 673, §3, is repealed.

**Sec. V-13. 32 MRSA §7059**, as amended by PL 1985, c. 736, §18 and PL 1999, c. 547, Pt. B, §78 and affected by §80, is repealed.

**Sec. V-14. 32 MRSA §7059-A** is enacted to read:

### **§ 7059-A. Denial or refusal to renew license; disciplinary action**

In addition to the grounds enumerated in Title 10, section 8003, subsection 5-A, paragraph A, the board may deny a license, refuse to renew a license or impose the disciplinary sanctions authorized by Title 10, section 8003, subsection 5-A for:

**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.

**Sec. V-15. 32 MRSA §7060**, as amended by PL 2005, c. 173, §2, is further amended to read:

### **§ 7060. Expiration and renewals**

A license renewal fee as set under section 7056 must be paid by the licensee. Licenses expire biennially on December 31st or at such other times as the Commissioner of Professional and Financial Regulation may designate. Biennial fees for renewal of licenses must be set by the board in an amount not to exceed those amounts specified in section 7056 and are due and payable biennially on or before the first day of January. License renewal fees for certified social workers are the same as those for licensed master social workers. Each renewal is contingent upon evidence of participation in a continuing professional education course or program as approved by the board. A license may be renewed up to 90 days after the date of expiration upon payment of a late fee of \$10 in addition to the renewal fee as set under section 7056. Any person who submits an application for renewal more than 90 days after the renewal date is subject to all requirements governing new applicants under this chapter, except that the board may in

its discretion, giving due consideration to the protection of the public, waive examination if the renewal application is made received, together with the late fee and renewal fee, within 2 years from the date of the expiration.

~~The board shall adopt rules that provide that a person licensed under this chapter may, upon written request, be placed in an inactive status. Reasons for granting inactive status include, but are not limited to, changes in occupation, residence and health. The payment of fees must be suspended during the term of inactive status. The board shall also adopt rules by which a person in an inactive status may be reinstated. A person may be reinstated to active status by paying the fees for the year of reinstatement.~~

A licensee who is no longer actively practicing social work may apply for an inactive status license pursuant to Title 10, section 8003, subsection 5-A, paragraph D, subparagraph (5). The holder of an inactive status license may not practice social work in the State. The fee for inactive status licensure is set under section 7056. The holder of an inactive status license is required to renew the license annually and pay the renewal fee as set under section 7056, but is not required to meet the continuing education requirement of this chapter and the rules adopted under it.

~~The board shall notify every person licensed under this chapter of the date of expiration of that person's license and the fee required for its renewal for a 2-year period. The notice must be mailed to the person's last known address at least 30 days in advance of the expiration date of the license.~~

In addition to the other requirements of this section, a licensed social worker must:

**1. Not employee of Department of Health and Human Services.** If not employed by the Department of Health and Human Services, provide documentation of 96 hours of consultation as determined by the board during the first 3,200 hours of social work employment in a period of not less than 2 years but not more than 4 years. For purposes of fulfilling the requirement of 96 hours of consultation during the first 3,200 hours of social work employment, a licensed social worker who practiced social work and obtained social work consultation hours in a long-term care setting and who held a valid license as of September 13, 2003 may count consultation hours that were obtained prior to August 3, 2004, whether the consultation hours were obtained in individual or group settings, if the consultation was provided by a licensed social worker, regardless of the group size and the eligibility requirements of the consulting licensed social worker; or

**2. Employee of Department of Health and Human Services.** If employed by the Department of Health and Human Services, provide documentation of either:

A. A minimum of 96 hours of consultation with a licensed social worker who has been licensed for at least 4 years or a licensed master social worker. This consultation must be concurrent with the first 3,200 hours of social work employment occurring in a period of not less than 2 years but not more than 4 years; or

B. A minimum of 96 hours of consultation concurrent with the person's first 3,200 hours of social work employment occurring in a period of not less than 2 years but not more than 4 years with a licensed social worker who has been licensed for at least 2 years, has been designated by the department as a supervisor trainee and is concurrently receiving 48 hours of consultation with a licensed master social worker.

**Sec. V-16. 32 MRSA §7062**, as amended by PL 1987, c. 395, Pt. B, §20, is repealed.



## PART W

**Sec. W-1. 32 MRSA §9703**, as amended by PL 1995, c. 397, §89, is further amended to read:

### **§ 9703. Board of respiratory care practitioners; establishment; compensation**

**1. Establishment and membership.** There is established within the ~~Department of Professional and Financial Regulation~~ department, in accordance with Title 5, section 12004-A, subsection 35, a Board of Respiratory Care Practitioners. The board ~~shall consist~~ consists of 5 members appointed by the Governor as follows:

A. Three respiratory care practitioners who have been engaged in the practice of respiratory care for at least 2 years immediately preceding their appointments and who ~~shall be at all times~~ are holders of valid licenses for the practice of respiratory care in the State, ~~except for the members of the first board, each of whom shall fulfill the requirements for licensure of this chapter; and~~

B. Two public members ~~who are residents of the State who do not hold a license to practice respiratory care and who have no direct or indirect financial interest in the practice or delivery of respiratory care~~ as defined in Title 5, section 12004-A.

**2. Terms of appointment.** ~~To the first board established under this chapter, the Governor shall appoint 2 board members for a term of one year, 2 for a term of 2 years and one for a term of 3 years. Appointments made after the initial appointments are for 3-year terms. Appointments of members must comply with Title 10, section 608009. A member of the board may be removed from office for cause by the Governor.~~

**3. Meetings; chair; quorum.** The board shall meet at least once a year to conduct its business and to elect a ~~chairman~~ chair. Additional meetings ~~shall~~ must be held as necessary to conduct the business of the board and may be convened at the call of the ~~chairman~~ chair or a majority of the board members. Three members of the board shall constitute a quorum ~~for all purposes.~~

**Sec. W-2. 32 MRSA §9704**, as amended by PL 1995, c. 397, §§90 to 92, is further amended to read:

### **§ 9704. Board of Respiratory Care Practitioners; powers and duties**

**1. Powers.** The board shall administer and enforce this chapter and evaluate the qualifications of applicants for licensure. ~~The board may issue subpoenas, examine witnesses, administer oaths and may investigate or cause to be investigated any complaints made to it or any cases of noncompliance with or violation of this chapter.~~

**2. Rules.** The board may, in accordance with the Maine Administrative Procedure Act, Title 5, chapter 375, adopt rules to carry out the policy of this chapter, including, but not limited to, rules relating to professional licensure, professional conduct, continuing education, approval of continuing education programs and to the establishment of ethical standards of practice for persons holding a license to practice respiratory care in this State. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

~~3. Hearings.~~ Hearings may be conducted by the board to assist with investigations, to determine whether grounds exist for suspension, revocation or denial of a license, or as otherwise deemed necessary to the fulfillment of its responsibilities under this chapter. Hearings shall be conducted in accordance with the Maine Administrative Procedure Act, Title 5, chapter 375, subchapter IV, to the extent applicable.

~~4. Records.~~ The board shall keep such records and minutes as are necessary to the ordinary dispatch of its functions.

~~6. Reports.~~ No later than August 1st of each year, the board shall submit to the commissioner, for the preceding fiscal year, its annual report of its operations, together with such comments and recommendations as the commissioner deems essential.

**Sec. W-3. 32 MRSA §9705, sub-§3**, as enacted by PL 1985, c. 288, §3 and amended by PL 1999, c. 547, Pt. B, §78 and affected by §80, is further amended to read:

**3. Unlicensed practice.** A person who violates this section is guilty of a Class E crime subject to the provisions of Title 10, section 8003-C.

The State may bring an action in Superior Court to enjoin any person from violating this chapter, regardless of whether proceedings have been or may be instituted in the District Court or whether criminal proceedings have been or may be instituted.

**Sec. W-4. 32 MRSA §9705-A**, as enacted by PL 1999, c. 386, Pt. S, §2, is amended to read:

### **§ 9705-A. Associate license required**

A person may not perform respiratory care services in association with a respiratory care practitioner licensed under this chapter unless that individual is approved by the board in accordance with this section.

**1. Licensed in another state.** The associate shall file verification that the associate holds a valid license in good standing from another state that has licensure requirements equivalent to the requirements of this chapter.

**2. Certified or registered.** The associate must be certified or registered by the National Board of Respiratory Care or its successor or other organization approved by the board and must reside in a nonlicensure state.

At the time of application, the associate must report the dates and locations that respiratory care services will be performed in this State, which may not exceed 30 days in a calendar year. If the board determines that the applicant meets the requirements of this section, it may issue an associate permit for license upon payment of a fee not to exceed \$10 as set under section 9710.

**Sec. W-5. 32 MRSA §9707-A**, as enacted by PL 1989, c. 450, §43, is amended to read:

### **§ 9707-A. Respiratory care practitioner trainee license**

The board may register license student employees as respiratory care practitioner trainees as defined under section 9702, subsection 7, and promulgate adopt rules for that registration license. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

**Sec. W-6. 32 MRSA §9708, sub-§2**, as enacted by PL 1985, c. 288, §3, is amended to read:

**2. Ethical practice.** An applicant shall ~~must~~ exhibit adherence to established ethical professional ~~standard~~ trustworthiness and competence.

**Sec. W-7. 32 MRSA §9708, sub-§3, ¶A,** as enacted by PL 1985, c. 288, §3, is amended to read:

A. For a license as a respiratory therapist:

(1) The applicant is presently credentialed by the National Board for Respiratory Care or its successor or other organization approved by the board as a registered respiratory therapist; or

(2) The applicant:

(a) Is a graduate of an educational program for respiratory therapists which is recognized by the board and accredited by the American Medical Association in collaboration with the Joint Review Committee for Respiratory Therapy Education; and

(b) Has passed an examination as provided for in section 9709; or

**Sec. W-8. 32 MRSA §9709, sub-§3,** as enacted by PL 1985, c. 288, §3, is repealed.

**Sec. W-9. 32 MRSA §9710,** as amended by PL 1999, c. 386, Pt. S, §4, is repealed and the following enacted in its place:

### **§ 9710. Fees**

The Director of the Office of Licensing and Registration within the department may establish by rule fees for purposes authorized under this chapter in amounts that are reasonable and necessary for their respective purposes, except that the fee for any one purpose may not exceed \$135 biennially. Rules adopted pursuant to this section are routine technical rules pursuant to Title 5, chapter 375, subchapter 2-A.

**Sec. W-10. 32 MRSA §9711,** as enacted by PL 1985, c. 288, §3, is repealed.

**Sec. W-11. 32 MRSA §9712,** as amended by PL 1989, c. 450, §§47 and 48, is further amended to read:

### **§ 9712. Term of licenses**

**1. Biennial renewal.** Licenses shall expire biennially on April 30th or on such other date as the commissioner determines. ~~Notice of expiration shall be mailed to each licensee's last known address at least 30 days in advance of the expiration of the license. The notice shall include any requests for information necessary for renewal.~~

Licenses may be renewed up to 90 days after the date of expiration upon payment of a late fee of \$10 in addition to the required renewal fee as set under section 9710. ~~Any~~A person who submits an application for renewal more than 90 days after the license renewal date ~~shall be~~ is subject to all requirements

governing new applicants under this chapter, except that the board may, giving due consideration to the protection of the public, waive examination if that renewal application is madereceived, together with the late fee and renewal fee, within 2 years from the date of that expiration.

**2. Continuing education.** ~~Each license renewal shall be accompanied by evidence of continuing education or other requirements as determined by the board.~~

**3. Transition.** ~~Implementation of biennial license renewal shall occur during the 1990 renewal period.~~

**Sec. W-12. 32 MRSA §9713**, as enacted by PL 1985, c. 288, §3 and amended by PL 1999, c. 547, Pt. B, §78 and affected by §80, is repealed and the following enacted in its place:

**§ 9713. Deny or refuse to renew license; disciplinary action**

The board may deny a license, refuse to renew a license or impose the disciplinary sanctions authorized by Title 10, section 8003, subsection 5-A for any of the reasons enumerated in Title 10, section 8003, subsection 5-A, paragraph A.

**PART X**

**Sec. X-1. 32 MRSA §9853**, as amended by PL 2005, c. 511, §§2 to 4, is further amended to read:

**§ 9853. Radiologic Technology Board of Examiners**

The Radiologic Technology Board of Examiners, as authorized by Title 5, chapter 379, shall administer this chapter. The board consists of 9 members appointed by the Governor.

**1. Appointment and membership.** The membership of the board consists of 2 radiologists; 2 radiographers; one nuclear medicine technologist; one radiation therapist; one radiation physicist; and 2 public members ~~who are not affiliated with the medical or any allied health professions defined in Title 5, section 12004-A~~. The Governor may appoint these members from lists submitted by the following organizations or their successors.

- A. Radiologist members may be appointed from lists submitted by the Maine Radiological Society.
- B. The radiation physicist member may be appointed from lists submitted by the Maine Radiological Society.
- C. Radiologic technologist members may be appointed from lists submitted by the Maine Society of Radiologic Technologists, the Society of Nuclear Medicine Technologists and the New England Society of Radiation Therapy Technologists.

The list submitted by each organization must include at least 2 names for each position to be filled from that organization.

~~The consumer members are appointed by the Governor.~~

**2. Term of office.** The term of office is 3 years. Appointments of members must comply with Title 10, section 608009.

A member may be removed by the Governor for cause.

**3. Meetings; chair quorum.** The board shall meet at least once a year to conduct its business and to elect its officers ~~a chair~~. Additional meetings ~~shall~~ must be held as necessary to conduct the business of the board and may be convened at the call of the ~~chairman~~ chair or a majority of the board members.

**5. Quorum.** A majority of the Five voting members of the board shall constitute a quorum. No action may be taken by the board except by affirmative vote of the majority of those present and voting.

**6. Powers and duties.** The board ~~shall have~~ has the following powers and duties:

A. To review the qualifications of applicants for licensure and to license radiographers, nuclear medicine technologists and radiation therapists who qualify under this chapter;

B. To ~~conduct~~ approve the qualifying examinations for radiographers, nuclear medicine technologists and radiation therapists, and to establish passing standards;

C. To develop, in consultation with representatives of the appropriate disciplines, requirements for courses of study, training and examination for applicants for a limited license; and

~~D. To submit a report during the Second Regular Session of the 111th Legislature, but no later than April 1, 1984, to the joint standing committee of the Legislature having jurisdiction over health and institutional services on its progress in approving a course of study, training and examination for applicants for a limited license, pursuant to paragraph C, and to section 9855, subsection 1, paragraph E;~~

E. To make rules in accordance with this chapter necessary for the enforcement of its authority and performance of its duties consistent with the Maine Administrative Procedure Act, Title 5, chapter 375. These rules may include, but not be limited to, licensing requirements, approved courses, examinations and continuing education requirements for renewal of licenses;

~~F. To establish and charge reasonable fees for issuing and renewing licenses, administering examinations and supplying information to applicants, licensees and the general public;~~

~~G. To order investigation of a complaint on its own motion or on written complaint filed with the board regarding noncompliance with or violation of any section of this chapter or of any rules adopted by the board;~~

~~H. To conduct hearings to assist with investigations and to determine whether grounds exist for suspension, revocation or denial of a license, or as otherwise determined necessary to the fulfillment of its responsibilities under this chapter.~~

~~The board may not refuse to renew a license for any reason other than failure to pay a required fee, unless it has afforded the licensee an opportunity for an adjudicatory hearing. The board shall hold an adjudicatory hearing at the written request of any person who is denied a license without a hearing for any reason other than failure to pay a required fee, provided that the request for hearing~~

is received by the board within 30 days of the applicant's receipt of a written notice of the denial of the application, the reasons for the denial and the applicant's right to request a hearing. Hearings must be conducted in conformity with the Maine Administrative Procedure Act, Title 5, chapter 375, subchapter IV, to the extent applicable. The board may subpoena witnesses, records and documents in any hearing it conducts; and

I. ~~After hearing, to censure or proceed as provided in section 9860.~~

**Sec. X-2. 32 MRSA §9855, sub-§3, ¶C,** as repealed and replaced by PL 2005, c. 511, §6, is amended to read:

C. Either have successfully completed a course in radiologic technology and an examination that is approved by the board or possess valid certification and current registration from the American Registry of Radiologic Technologists or its successor or other organization or another certification program approved by the board to practice as a radiation therapist.

**Sec. X-3. 32 MRSA §9856,** as amended by PL 2001, c. 323, §28, is further amended to read:

### **§ 9856. Application; fees**

**1. Application for license.** To apply for a license as a radiographer, nuclear medicine technologist, radiation therapy technologist or for a limited license, an applicant shall:

- A. Submit a written application with supporting documents to the board ~~on forms provided by the board;~~
- B. Pay ~~an~~ the application fee as set under section 9859-A; and
- C. Pay an examination fee as set under section 9859-A.

**2. Denial of application.** In case the application is denied and permission to take the examination is refused, the examination fee only ~~shall be~~ is returned to the applicant. Any applicant who fails to pass the examination ~~shall be~~ is entitled to reexamination within 6 months upon repayment of the examination fee only. Pursuant to section 9858, the board may issue a temporary license to an applicant who has failed an examination and is awaiting reexamination upon receipt of the fee as set under section 9859-A; the temporary license ~~shall expire~~ expires at such time as the board may by rule direct.

**Sec. X-4. 32 MRSA §9859,** as amended by PL 2005, c. 511, §9, is further amended to read:

### **§ 9859. Licensure renewal; fees**

An original or renewal ~~licensure~~ license fee as set under section 9859-A must be paid by the applicant or licensee. All licenses must be renewed as the Commissioner of Professional and Financial Regulation may designate, as set forth in Title 10, section 8003, subsection 4. Any license not renewed by the designated renewal date automatically expires. Licenses may be renewed up to 90 days after the date of expiration upon payment of a late fee and renewal fee; as set under section 9859-A. Any person who submits an application for renewal more than 90 days after the licensing renewal date must submit a renewal fee, ~~a~~ late fee and ~~a filing~~ additional late fee as set under section 9859-A and is subject to all requirements governing new applicants under this chapter, except that the board may, giving due consideration to the protection of the public, waive examination or other requirements.

**Sec. X-5. 32 MRSA §9860**, as amended by PL 1993, c. 600, Pt. A, §262 and PL 1999, c. 547, Pt. B, §78 and affected by §80, is repealed.

**Sec. X-6. 32 MRSA §9860-A** is enacted to read:

**§ 9860-A. Denial or refusal to renew license; disciplinary action**

In addition to the grounds enumerated in Title 10, section 8003, subsection 5-A, paragraph A, the board may deny a license, refuse to renew a license or impose the disciplinary sanctions authorized by Title 10, section 8003, subsection 5-A for:

**1. Substance abuse.** Habitual substance abuse or abuse of other drugs listed as controlled substances by the drug enforcement administration that has resulted or is foreseeably likely to result in the licensee performing services in a manner that endangers the health or safety of patients; or

**2. Mental incompetence.** A medical finding of mental incompetency.

**Sec. X-7. 32 MRSA §9861**, as enacted by PL 1983, c. 524 and amended by PL 1999, c. 547, Pt. B, §78 and affected by §80, is further amended to read:

**§ 9861. Unlicensed practice**

**1. Penalties.** ~~Any person who practices, or holds himself out as authorized to practice, as a radiologic technologist in this State without first obtaining a license as required by this chapter, or after the license has expired or has been suspended or revoked or temporarily suspended or revoked, is guilty of a Class E crime~~violates section 9854 is subject to the provisions of Title 10, section 8003-C.

**2. Injunction.** ~~The State may bring an action in Superior Court to enjoin any person for violating this chapter, regardless of whether proceedings have been or may be instituted in District Court or whether criminal proceedings have been or may be instituted.~~

**PART Y**

**Sec. Y-1. 32 MRSA §9903**, as amended by PL 1995, c. 625, Pt. A, §39, is further amended to read:

**§ 9903. Board of Licensing of Dietetic Practice; establishment; compensation**

**1. Establishment and membership.** ~~There is established, within the Department of Professional and Financial Regulation~~department, the Board of Licensing of Dietetic Practice. The board consists of 5 members appointed by the Governor, including 2 public members ~~who are residents of this State, who do not hold a license to practice dietetics and who have no direct or indirect financial interest in the practice or delivery of dietetic services~~as defined in Title 5, section 12004-A. Other than these public members, the persons appointed to the board must have been engaged in rendering dietetic services to the public or in teaching or research in dietetics for at least 2 years immediately preceding their appointments. Two board members must be dietitians. The 5th member must be a dietetic technician. The professional members must at all times be holders of valid licenses under this chapter, except for the members of the first board, each of whom must fulfill the requirements for licensing under this chapter.

**2. Terms of appointment.** ~~To the first board established under this chapter, the Governor shall appoint 2 board members for terms of one year, 2 for terms of 2 years and one for a term of 3 years. Appointments made after the initial appointments are for 3-year terms. Appointments of members must comply with Title 10, section 608009. A member of the board may be removed from office for cause by the Governor.~~

**3. Meetings; chair; quorum.** The board shall meet at least once a year to conduct its business and to elect a chair. Additional meetings ~~may~~**must** be held as necessary to conduct the business of the board and may be convened at the call of the chair or a majority of the board members. ~~A majority of the~~**Three** members of the board ~~constitutes~~**constitute** a quorum for all purposes.

**Sec. Y-2. 32 MRSA §9904**, as amended by PL 1995, c. 402, Pt. A, §30, is further amended to read:

### **§ 9904. Board of Licensing of Dietetic Practice; powers and duties**

**1. Powers.** The board shall administer and enforce this chapter and ~~evaluate the qualifications of applicants for licensing. The board may examine witnesses, administer oaths and shall investigate or cause to be investigated any complaints made to it or any cases of noncompliance with or violation of this chapter.~~

**2. Rules.** The board may adopt, in accordance with the Maine Administrative Procedure Act, Title 5, chapter 375, rules relating to professional conduct to carry out the policy of this chapter, including, but not limited to, rules relating to professional licensing and to the establishment of ethical standards of practice for persons licensed to practice dietetics in this State.

**3. Hearings.** ~~Hearings may be conducted by the board to assist with investigations, 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. Hearings must be conducted in accordance with the Maine Administrative Procedure Act, Title 5, chapter 375, subchapter IV to the extent applicable.~~

**4. Records.** ~~The board shall keep such records and minutes as are necessary to the ordinary dispatch of its functions.~~

**6. Reports.** ~~No later than August 1st of each year, the board shall submit to the commissioner, for the preceding fiscal year, its annual report of its operations together with such comments and recommendations as the commissioner deems essential.~~

**Sec. Y-3. 32 MRSA §9906, sub-§3**, as enacted by PL 1985, c. 389, §28 and amended by PL 1999, c. 547, Pt. B, §78 and affected by §80, is further amended to read:

**3. Penalty.** A person who violates this section is ~~guilty of a Class E crime~~**subject to the provisions of Title 10, section 8003-C.**

~~The State may bring an action in Superior Court to enjoin any person from violating this chapter, regardless of whether proceedings have been or may be instituted in the District Court or whether criminal proceedings have been or may be instituted.~~



**Sec. Y-4. 32 MRSA §9907**, as amended by PL 1995, c. 402, Pt. A, §32, is further amended to read:

### **§ 9907. Qualifications**

**1. Dietitian's licensing.** An applicant for licensing as a dietitian must file a written application ~~on forms provided by the board~~, showing to the satisfaction of the board that the applicant meets the following requirements.

A. The applicant must exhibit ~~adherence to established ethical professional standard~~trustworthiness and competency.

B. An applicant must present evidence satisfactory to the board of having successfully completed the academic requirements established by the American Dietetic Association or equivalent requirements as determined by the board and must have received a baccalaureate or higher degree from an accredited college or university. As part of the applicant's professional education, the applicant must have completed courses in organic and inorganic chemistry, human physiology, microbiology, principles of sociology or psychology, basic communication skills, economics, food composition, nutrition and management theory.

C. An applicant must submit to the board evidence of having successfully completed the experience requirements approved by the American Dietetic Association or equivalent experience approved by the board. That experience must include at least 6 months full-time experience in the field of dietetics, or its part-time equivalent. The experience must have been acquired during or within 5 years of completion of the academic requirements in paragraph B or not more than 5 years before the date of license application.

D. The applicant must have successfully completed an examination given by the American Dietetic Association or its equivalent as determined and ~~administered~~approved by the board. The examination requirement of this paragraph does not apply to an applicant who presents evidence of having practiced as a dietitian without censure for a period of 10 years immediately prior to September 30, 1987.

**2. Dietetic technician's licensing.** An applicant for licensing as a dietetic technician must file a written application ~~on forms provided by the board~~ showing to the satisfaction of the board that the applicant meets the following requirements.

A. The applicant must exhibit ~~adherence to established ethical professional standard~~trustworthiness and competency.

B. The applicant must have graduated from a dietetic technician program approved by the Commission on Accreditation of the American Dietetic Association or its equivalent, as determined by the board, or graduated with a Bachelor of Science Degree in Food and Nutrition from an approved 4-year program.

C. An applicant must submit to the board evidence of having successfully completed a 2-month work experience approved by the board. That experience must have been acquired during or within 5 years from completion of the academic requirements in paragraph B and not more than 5 years from the date of license application.

D. The applicant must have successfully completed an examination given by the American Dietetic Association or its equivalent as determined by the board.

**Sec. Y-5. 32 MRSA §9908**, as amended by PL 1987, c. 313, §5, is further amended to read:

**§ 9908. Issuance of license**

The board shall issue a license to any person who meets the requirements of this chapter upon payment of the prescribed fee as set under section 9911. ~~Persons currently registered shall be allowed to continue to practice dietetics until their registration is due for renewal. At that time, they shall be required to meet all the requirements of section 9907 in order to receive the license required for the practice of dietetics.~~

**Sec. Y-6. 32 MRSA §9909, sub-§1**, as amended by PL 1999, c. 257, §4, is further amended to read:

**1. Renewal.** A license expires annually on September 30th or such other time as the commissioner may designate. ~~Notice of expiration must be mailed to each licensee's last known address at least 30 days in advance of the expiration of the license. The notice must include any requests for information necessary for renewal.~~

Licenses may be renewed up to 90 days after the date of expiration upon payment of a late fee of \$10 in addition to together with the additional late fee and renewal fee as set under section 9911. Any person who submits an application for renewal more than 90 days after the licensing renewal date is subject to all requirements governing new applicants under this chapter. ~~In addition, the board may assess penalties for renewals more than 90 days after expiration.~~

**Sec. Y-7. 32 MRSA §9910**, as amended by PL 1989, c. 502, Pt. A, §115 and PL 1999, c. 547, Pt. B, §78 and affected by §80, is repealed and the following enacted in its place:

**§ 9910. Denial or refusal to renew license; disciplinary action**

The board may deny a license, refuse to renew a license or impose the disciplinary sanctions authorized by Title 10, section 8003, subsection 5-A for any of the reasons enumerated in Title 10, section 8003, subsection 5-A, paragraph A.

**Sec. Y-8. 32 MRSA §9911**, as amended by PL 1999, c. 257, §5, is repealed and the following enacted in its place:

**§ 9911. Fees**

The Director of the Office of Licensing and Registration may establish by rule fees for purposes authorized under this chapter in amounts that are reasonable and necessary for their respective purposes, except that the fee for any one purpose may not exceed \$200. Rules adopted pursuant to this section are routine technical rules pursuant to Title 5, chapter 375, subchapter 2-A.

**Sec. Y-9. 32 MRSA §9915, sub-§5, ¶B**, as enacted by PL 1987, c. 313, §9, is amended to read:

B. The program has been reviewed by, consultation is available from and no program change may be initiated without prior approval by:

(1) A licensed dietitian;

(2) A dietitian licensed in another state that has licensure requirements determined by the board to be equal to the requirements of this chapter; or

(3) A dietitian in another state without licensing who is registered by the Commission on Dietetic Registration of the American Dietetic Association or its successor or other organization approved by the board.

## PART Z

**Sec. Z-1. 32 MRSA §12201, sub-§6,** as enacted by PL 1987, c. 489, §2, is amended to read:

**6. Licensee.** "Licensee" means a person who holds a valid permit license issued by the board under section 12251, or a firm ~~which~~that holds a valid permit license issued by the board under section 12252.

**Sec. Z-2. 32 MRSA §12201, sub-§7,** as enacted by PL 1987, c. 489, §2, is repealed.

**Sec. Z-3. 32 MRSA §12201, sub-§10,** as enacted by PL 1987, c. 489, §2, is amended to read:

**10. Report on financial statements.** "Report on financial statements" means any form of language ~~which~~that:

- A. States or implies assurance as to the reliability of any financial statements; and
- B. States or implies that an audit, review or compilation has been performed.

Report on financial statements includes disclaimers of opinions when the disclaimer implies positive assurance as to the reliability of the financial statements. Language ~~which~~that meets this definition includes language asserting or implying that the person has given an opinion upon financial statements or has reviewed or made a compilation of financial statements in accordance with the appropriate standards promulgated by the American Institute of Certified Public Accountants or its successor or other organization approved by the board as adopted by the board by rule or that the person has the capabilities to comply with those standards.

**Sec. Z-4. 32 MRSA §12203** is enacted to read:

### **§ 12203. Fees**

The Director of the Office of Licensing and Registration may establish by rule fees for purposes authorized under this chapter in amounts that are reasonable and necessary for their respective purposes, except that the fee for any one purpose may not exceed \$100. Rules adopted pursuant to this section are routine technical rules pursuant to Title 5, chapter 375, subchapter 2-A.

**Sec. Z-5. 32 MRSA §12213,** as amended by PL 1993, c. 600, Pt. A, §264, is further amended to read:

### **§ 12213. Appointment**

The Board of Accountancy, as established by Title 5, section 12004-A, subsection 1, within the ~~Department of Professional and Financial Regulation~~ department consists of 5 members appointed by the Governor. Each member of the board must be a citizen of the United States and a resident of this State. Three members must be holders of certificates issued under section 12227 and ~~of currently valid permits/licenses~~ issued under section 12251 and must have had, as their principal occupation, active practice as certified public accountants for at least the 5 preceding years. One member must hold a certificate issued under section 12239 and a ~~currently valid permit/license~~ issued under section 12251 and must have had, as a principal occupation, active practice as a noncertified public accountant for at least the 5 preceding years. One member of the board must be a ~~representative of the public~~ member as defined in Title 5, section 12004-A. Appointments are for 3-year terms. Appointments of members must comply with Title 10, section 608009. The Governor may remove a member of the board for cause.

**Sec. Z-6. 32 MRSA §12214, sub-§1**, as amended by PL 1989, c. 483, Pt. A, §53, is repealed and the following enacted in its place:

**1. Meetings; chair; quorum.** The board shall meet at least once a year to conduct its business and to elect a chair, who must be a certified public accountant. Additional meetings must be held as necessary to conduct the business of the board and may be convened at the call of the chair or a majority of the board members. Three members of the board constitute a quorum.

**Sec. Z-7. 32 MRSA §12214, sub-§6**, as enacted by PL 1987, c. 489, §2, is repealed.

**Sec. Z-8. 32 MRSA §12214, sub-§7**, as enacted by PL 1987, c. 489, §2, is repealed.

**Sec. Z-9. 32 MRSA §12214, sub-§9**, as amended by PL 1995, c. 502, Pt. H, §42, is repealed.

**Sec. Z-10. 32 MRSA §12214, sub-§11**, as enacted by PL 1987, c. 489, §2, is repealed.

**Sec. Z-11. 32 MRSA §12228**, as amended by PL 2005, c. 347, Pt. D, §§1 to 3, is further amended to read:

## **§ 12228. Certified public accountants; qualifications**

**1. Certificate grant.** The board shall grant the certificate of "certified public accountant" to any person who makes application to the board and who meets the good character, education, examination and experience requirements of, and who pays the fees ~~prescribed by, this section~~ as set under section 12203, except that no certificate may be granted to a person who has been issued a certificate by another state.

**2. Good character.** "Good character" for the purposes of this section means lack of a history of dishonest or felonious acts. The board may refuse to grant a certificate on the ground of failure to satisfy this requirement only if there is a substantial connection between the lack of good character of the applicant and the professional responsibilities of a licensee and if the finding by the board of lack of good character is supported by clear and convincing evidence. When an applicant is found to be unqualified for a certificate because of a lack of good character, the board shall furnish the applicant a statement containing the findings of the board, a complete record of the evidence upon which the determination was based and a notice of the applicant's right of appeal under the Maine Administrative Procedure Act, Title 5, chapter 375.

**3. Education requirement.** The education requirement for a certificate, which must be met no later than 120 days after an applicant sits for the examination prescribed in subsection 4, is as follows:

B. At least 150 semester hours of education, including a minimum 4-year baccalaureate or higher degree conferred by a college or university acceptable to the board, the total educational program to include basic courses in accounting and auditing determined to be appropriate under board rules. Rules adopted by the board pursuant to this paragraph are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A; and

C. An examination applicant who expects to meet the education requirement within 120 days following the examination is eligible to take the examination. Grades may not be released, nor may credit for the examination or any part of the examination be given to the applicant unless the education requirement is completed within 120 days following the examination or within such time as the board in its sole discretion may determine.

**4. Examination.** An applicant is required to pass an examination ~~administered~~approved by the board to test the applicant's knowledge of the subjects of accounting and auditing and such other related subjects as the board may specify by rule in order to qualify for a certificate. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A. The board may make the use of all or any part of the Uniform Certified Public Accountant Examination and the Advisory Grading Service of the American Institute of Certified Public Accountants or any other examination approved by the board and may contract with 3rd parties to perform such administrative services with respect to the examination as it considers appropriate to assist it in performing its duties under this section.

**6. Examination; credits.** An applicant ~~shall~~must be given credit for any and all parts of an examination passed in another state if that credit would have been given, under then applicable requirements, if the applicant had taken the examination in this State.

**7. Waiver.** The board may, in particular cases, waive or defer any of the requirements of subsection 6 regarding the circumstances in which the various sections of the examination must be passed upon a showing that, by reason of circumstances beyond the applicant's control, the applicant was unable to meet that requirement.

**8. Administration fee.** ~~The board may charge, or provide for a 3rd party administering the examination to charge, each applicant a fee in an amount prescribed by the board by rule for each section of the examination or reexamination taken by the applicant.~~

**9. Out-of-state examination.** ~~The board may charge a fee in an amount prescribed by the board by rule for granting of the certificate of "certified public accountant" to any An applicant who has been given credit for any or all parts of an examination passed in another state as provided in section 12228; subsection 6 must pay the fee as set under section 12203.~~

**10. Experience.** For initial issuance of a certificate under this subsection, an applicant shall demonstrate 2 years of experience under the direction of a certified public accountant licensed by any state or territory of the United States or equivalent direction, as determined by the board, by a licensed professional in another country and must meet the other requirements prescribed by the board by rule. The applicant's experience must include the use of accounting or auditing skills, including the issuance of reports on financial statements, and at least one of the following: the provision of management advisory, financial advisory or consulting services; the preparation of tax returns; the furnishing of advice on tax matters; or equivalent activities defined by the board by rule. Board rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A. To the extent

the applicant's experience is as a revenue agent or in a similar position engaged in the examination of personal and corporate income tax returns for the Bureau of Revenue Services, the applicant receives credit at the rate of 50% toward the experience required by this subsection. To the extent the applicant's experience is as an examiner engaged in financial examinations for the Bureau of Insurance, the applicant receives credit under this subsection if that experience meets the following standards:

A. Examinations are performed in conformity with the Examiners' Handbook published by the National Association of Insurance Commissioners or its successor or other organization approved by the board;

B. Working papers prepared by the examiners are in conformity with generally accepted auditing standards and are subject to a review by a supervisor who must be a certified public accountant;

C. Written reports of examination are prepared in conformity with the Examiners' Handbook published by the National Association of Insurance Commissioners or its successor or other organization approved by the board. All examiners working on the examinations must participate in the preparation of the report;

D. Reports of examination are prepared in accordance with statutory accounting principles. All examiners working on the examinations must participate in the preparation of the financial statements and corresponding note disclosures; and

E. All examiners assigned to an examination must participate in the planning of the examination and the planning phase conforms to the Examiners' Handbook published by the National Association of Insurance Commissioners or its successor or other organization approved by the board and generally accepted auditing standards.

**11. Board discretion.** The members of the board have the full and sole responsibility for the determination of the qualifications of applicants for the certificate of "certified public accountant." Only persons recommended by the board shall be granted the certificate of "certified public accountant."

**12. Substantial equivalency.** The board shall determine the standards for substantial equivalency. The board may rely upon a determination by a qualification appraisal service offered by a national association of state boards of accountancy that an applicant meets the requirements for substantial equivalency.

**13. Foreign designation.** The board shall issue a certificate to a holder of a substantially equivalent foreign designation as long as:

A. The foreign authority that granted the designation makes similar provisions to allow a person who holds a valid certificate issued by this State to obtain that foreign authority's comparable designation;

B. The foreign designation:

(1) Was duly issued by a foreign authority that regulates the practice of public accountancy, and the foreign designation has not expired or been revoked or suspended;

(2) Entitles the holder to issue reports upon financial statements; and

(3) Was issued upon the basis of education, examination and experience requirements established by the foreign authority or by law; and

C. The applicant:

(1) Received the foreign designation, which is based on education and examination standards substantially equivalent to those in effect in this State at the time the foreign designation was granted;

(2) Completed an experience requirement, substantially equivalent to the requirement set out in subsection 10 in the jurisdiction that granted the foreign designation or has completed 4 years of professional experience in this State or meets equivalent requirements prescribed by the board by rule within the 10 years immediately preceding the application; and

(3) Passed a uniform qualifying examination on national standards and an examination on the laws, regulations and code of ethical conduct in effect in this State acceptable to the board.

**14. Action by foreign jurisdiction.** An applicant under subsection 13 shall in an application for a certificate list all jurisdictions, foreign and domestic, in which the applicant has applied for or holds a designation to practice public accountancy. Each holder of a certificate issued under subsection 13 shall notify the board in writing, within 30 days after its occurrence, of any issuance, denial, revocation or suspension of a designation or commencement of a disciplinary or enforcement action by any jurisdiction.

**15. Authority.** The board has the sole authority to interpret the application of subsections 13 and 14.

**Sec. Z-12. 32 MRSA §12229,** as enacted by PL 1999, c. 245, §6, is amended to read:

**§ 12229. Licensees offering or rendering services in another state**

A licensee of this State offering or rendering services or using the title, certified public ~~account~~accountant, in another state is required to register in that state and is subject to disciplinary action in this State for an act committed in another state for which the licensee would be subject to discipline in the other state. Notwithstanding section ~~12227~~12228, subsection 1, the board must investigate any complaint made by a board of accountancy of another state.

**Sec. Z-13. 32 MRSA §12240, sub-§1,** as amended by PL 1989, c. 450, §50, is further amended to read:

**1. Certificate grants.** The board shall grant the certificate of "public accountant" to any person who makes application to the board and who meets the good character, education, examination and experience requirements of, ~~and who pays the fees prescribed by,~~ subsections 2 to 8 ~~and pays the fees as set under section 12203,~~ except that no certificate may be granted to a person who has been issued a certificate by another state.

**Sec. Z-14. 32 MRSA §12240, sub-§4,** as repealed and replaced by PL 2003, c. 204, Pt. E, §4, is further amended to read:

**4. Examination.** An applicant is required to pass an examination ~~administered~~approved by the board to test the applicant's knowledge of the subjects of accounting and auditing and such other related subjects as the board may specify by rule in order to be qualified for a certificate. Rules adopted by the board under this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A. The board may contract with 3rd parties to perform those administrative services with respect to the examination as it considers appropriate to assist it in performing its duties under this section.

**Sec. Z-15. 32 MRSA §12241**, as enacted by PL 1987, c. 489, §2, is further amended to read:

### **§ 12241. Reciprocity**

The noncertified member or members of the board may, in their discretion, waive the examination and upon payment of ~~the fee not to exceed \$50 as set under section 12203~~, issue a certificate of public accountant under section 12240 to any person who is the holder of a similar certificate or license issued under the laws of another state or foreign government, which is then in full force and effect, provided that the requirements in the state or foreign government ~~which~~that has granted the certificate or license to the applicant are, in the opinion of the noncertified member or members of the board, equivalent to those of this State.

**Sec. Z-16. 32 MRSA §12251**, as amended by PL 2005, c. 347, Pt. D, §4, is further amended to read:

### **§ 12251. License; individual**

**1. Licensure.** The board shall grant or renew ~~permits to practice public accountancy a~~ license to persons who make application, ~~pay the fee as set under section 12203~~ and demonstrate their qualifications in accordance with this section. The board shall grant or deny a license application no later than 60 days after a complete application is filed. In any case when the applicant seeks the opportunity to show that issuance or renewal of a license was mistakenly denied or when the board is not able to determine whether it should be granted or denied, the board may issue to the applicant a provisional license, which expires 90 days after its issuance or when the board determines whether or not to issue or renew the license for which application was made, whichever first occurs.

**2. Duration.** ~~Permits shall be initially issued and renewed for a period of one year, but in any event shall expire on the June 30th following issuance or renewal.~~

~~Applications for those permits shall be made in that form, and in the case of applications for renewal, between such dates, as the board shall by rule specify, and the board shall grant or deny any such application no later than 60 days after the application is filed in proper form. In any case where the applicant seeks the opportunity to show that issuance or renewal of a permit was mistakenly denied or where the board is not able to determine whether it should be granted or denied the board may issue to the applicant a provisional permit, which shall expire 90 days after its issuance or when the board determines whether or not to issue or renew the permit for which application was made, whichever shall first occur.~~

**3. Requirements.** An applicant for initial issuance of a ~~permit~~license under this section shall show:

A. That ~~he~~ the applicant holds a valid certificate; and



B. If the applicant's certificate was issued more than 4 years prior to ~~his~~the applicant's application for issuance of an initial ~~permit~~license under this section, that ~~he~~the applicant has fulfilled the requirements of continuing professional education applicable under subsection 5 if ~~he~~the applicant had secured ~~his~~the applicant's initial ~~permit~~license within 4 years of issuance of ~~his~~the applicant's certificate and was now applying under subsection 5 for renewal of that ~~permit~~license.

**4. Out-of-state certificates.** The board shall issue a ~~permit~~license to a holder of a certificate as a certified public accountant or a public accountant issued by another state upon showing that:

B. The applicant:

(1) Meets all current requirements in this State for issuance of a certificate at the time the application is made;

(2) At the time of the issuance of the applicant's certificate in the other state, met all the requirements then applicable in this State; and

(4) Was eligible to take and passed the examination required for issuance of the certificate with grades that would have been passing grades at the time in this State;

C. The applicant meets the requirements of subsection 3, paragraph B; or

D. The applicant had 4 years of experience in the practice of public accountancy or equivalent meeting requirements prescribed by the board by rule, after passing the examination upon which the certificate is based and within the 10 years preceding the submission of the application.

**4-A. Out-of-state certificates; certified public accountants; substantial equivalency.** The board shall issue a ~~permit~~license to a holder of a certificate as a certified public accountant issued by another state if the applicant shows that the applicant:

A. Is eligible under the substantial equivalency standard authorized pursuant to section 12228, subsection 12. The holder of a ~~permit~~license issued under this section may engage in the practice of public accountancy only in a firm that holds a ~~permit~~license issued under section 12252; and

B. Consents, as a condition of the granting of this privilege:

(1) To the jurisdiction of the board;

(2) To comply with this chapter and the board's rules; and

(3) To the appointment of the state board that issued the applicant's certificate as the applicant's agent upon whom process may be served in any action or proceeding by this board against the applicant.

**5. Renewal.** An applicant for renewal of a permitlicense under this section shall show that requirements of continuing professional education consisting of not less than 20 hours in each one-year period and not less than 120 hours in any 3-year period have been fulfilled. The board shall establish by rule the number of hours of continuing professional education required in each one-year period and 3-year period. That education must consist of the general kinds and in subjects that are specified by the board by rule. The board may provide by rule that fulfillment of continuing professional education requirements of other states will be accepted in lieu of the requirements of this subsection. The board may also provide by rule for prorated continuing professional education requirements to be met by applicants whose initial permitslicenses were issued less than one year prior to the renewal date. The board may prescribe by rule special lesser continuing education requirements to be met by applicants for permitlicense renewal whose prior permitslicenses lapsed prior to their applications for renewal. The board, in its discretion, may renew a permitlicense to practice despite failure to furnish evidence of satisfaction of requirements of continuing professional education only upon condition that the applicant follow a particular program or schedule of continuing professional education. In issuing rules and individual orders in respect of requirements of continuing professional education, the board in its discretion may use and rely upon guidelines and pronouncements of recognized educational and professional organizations; may prescribe for content, duration and organization of courses; may take into account any impediments to interstate practice of public accountancy that may result from differences in those requirements in other states; and may provide for relaxation or suspension of those requirements in regard to applicants who certify that they do not intend to engage in the practice of public accountancy.

**6. Prior certification.** Applicants for initial issuance or renewal of permitslicenses under this section shall list in their applications all states in which they have applied for or hold certificates or permitslicenses and each holder of or applicant for a permitlicense under this section shall notify the board in writing, within 30 days after its occurrence, of any issuance, denial, revocation or suspension of a certificate or permitlicense by another state.

**7. Fee.** ~~The board shall charge a fee for each application for initial issuance or renewal of a permit under this section in an amount prescribed by the board by rule.~~

**8. Adjudicatory hearing.** ~~The board shall not refuse to renew a permit for any reason other than failure to pay a required fee, unless it has afforded the licensee an opportunity for an adjudicatory hearing. The board shall hold an adjudicatory hearing at the written request of any person who is denied a certificate or permit without a hearing for any reason other than failure to pay a required fee, provided that the request for hearing is received by the board within 30 days of the applicant's receipt of written notice of the denial of his application, the reasons for the denial of his application and his right to request a hearing.~~

**9. Expiration.** ~~All permits shall expire on June 30th of each year or on such other date as the Licenses are initially issued and renewed for a period of one year, but in any event expire on June 30th following issuance or renewal or on such other date as the commissioner determines may designate. Notices of expiration shall be mailed to each permittee's last known address at least 30 days in advance of the expiration of his permit. The notice shall include any requests for information necessary for renewal.~~

PermitsLicenses may be renewed up to 90 days after the date of expiration upon payment of a late fee of \$10 in addition to the renewal fee as set under section 12203. Any person who submits an application for renewal more than 90 days after the expiration date shall beis subject to all requirements governing new

applicants under this chapter, in addition to fulfilling any continuing educational requirements the board ~~may deem~~considers necessary. The board in its discretion, giving due consideration to the protection of the public, may waive any or all requirements if that renewal application is made within 2 years from the date of that expiration. Any certificate holder whose employment by any government agency prohibits or precludes ~~his~~the practice of public accountancy in this State, by application to the board, ~~shall~~may be excused from paying the annual permit~~license~~ fee during the period of that employment.

**10. Certificates in other states.** An applicant for initial issuance or renewal of a permit~~license~~ under this section shall in the applicant's application list all states in which the applicant has applied for or holds a certificate,or license ~~or~~ permit and list any past denial, revocation or suspension of a certificate,or license ~~or~~ permit. Each holder of or applicant for a permit~~license~~ under this section shall notify the board in writing, within 30 days after its occurrence, of any issuance, denial, revocation or suspension of a certificate,or license ~~or~~ permit by another state.

**Sec. Z-17. 32 MRSA §12252**, as amended by PL 2005, c. 347, Pt. D, §5, is further amended to read:

### **§ 12252. Licenses; firms**

**1. Licensure.** The board shall grant or renew ~~permits to practice public accountancy~~ license to firms that make application, pay the fee as set under section 12203 and demonstrate their qualifications in accordance with this section.

**2. Duration.** ~~Permits shall be~~Licenses are initially issued and renewed for a period of one year, but in any event, ~~expiring~~expire on June 30th following issuance or renewal or on such other date as the commissioner may designate. ~~Applications for permits shall be made in that form and, in the case of applications for renewal, between such dates as the board may by rule specify and the board shall grant or deny any such application no later than 60 days after the application is filed in proper form. The board shall grant or deny a license application no later than 60 days after a complete application is filed.~~ In any case when the applicant seeks the opportunity to show that issuance or renewal of a permit~~license~~ was mistakenly denied or when the board is not able to determine whether it should be granted or denied, the board may issue to the applicant a provisional permit~~license~~, which ~~shall expire~~expires 90 days after its issuance or when the board determines whether or not to issue or renew the permit~~license~~ for which application was made, whichever ~~shall first occur~~occurs.

**3. Firm licenses.** The following provisions apply to the issuance of firm permits~~licenses~~.

A. An applicant for initial issuance or renewal of a permit to practice~~license~~ under this section shall show that a simple majority of the ownership of the firm, in terms of financial interests and voting rights of all partners, officers, shareholders, members or managers, belongs to holders of certificates who are licensed in a state and that all partners, officers, shareholders, members or managers whose principal place of business is in this State or who perform professional services in this State hold valid individual permits~~licenses~~ issued by the board. Firms may include nonlicensee owners in accordance with paragraph B.

B. A certified public accountancy firm or public accountancy firm may include nonlicensee owners as long as:

(1) All nonlicensee owners are individuals who actively participate in the certified public accountancy firm or public accountancy firm; and

(2) The firm complies with such other requirements as the board may impose by rule.

**4. Office registered.** An applicant for initial issuance or renewal of a ~~permit to practice~~license under this section shall be required to register each office of the firm within this State with the board, ~~pay the fee as set under section 12203~~ and to show that each such office is under the charge of a person holding a valid ~~permit to practice~~license issued under section 12251 or the corresponding provision of prior law.

**5. Fee.** ~~The board may charge a fee for each application for initial issuance or renewal of a permit under this section in an amount prescribed by the board by rule.~~

**6. Out-of-state licenses.** Applicants for initial issuance or renewal of ~~permits~~licenses under this section shall in their application list all states in which they have applied for, or hold ~~permits~~licenses to, practice public accountancy and each holder of, or applicant for, a ~~permit~~license under this section shall notify the board in writing, within 30 days after its occurrence, of any change in the identities of partners, officers or shareholders who work regularly within this State, any change in the number or location of offices within this State, any change in the identity of the persons in charge of those offices and any issuance, denial, revocation or suspension of a ~~permit~~license by any other state.

**7. Adjudicatory hearing.** ~~The board shall not refuse to renew a permit for any reason other than failure to pay a required fee, unless it has afforded the applicant an opportunity for an adjudicatory hearing. The board shall hold an adjudicatory hearing at the written request of any applicant who is denied a permit without a hearing for any reason other than failure to pay a required fee, provided that the request for hearing is received by the board within 30 days of the applicant's receipt of written notice of the denial of his application, the reasons for the denial of his application and his right to request a hearing.~~

**8. Peer review for certified public accountancy firms.** As a condition to the granting or renewal of ~~permits~~licenses to certified public accountancy firms, each applicant that provides a defined service other than compilations must successfully participate in an approved peer review program. Participation in such a program is governed by the following.

A. A peer review must be completed within 18 months after the initial granting of the ~~permit~~license. The firm must undergo a peer review every 3 years for as long as it provides a defined service other than compilations.

B. A certified public accountancy firm that does not provide a defined service other than compilations is not required to undergo a peer review if the firm annually confirms in writing to the board that it does not provide a defined service other than compilations. A certified public accountancy firm that subsequently provides a defined service other than compilations must undergo a peer review within 18 months after the fiscal year end of the first defined services engagement other than compilations that it accepts.

The board is authorized to adopt rules to carry out the intent of this subsection. Rules adopted pursuant to this subsection are routine technical rules pursuant to Title 5, chapter 375, subchapter 2-A.

**Sec. Z-18. 32 MRSA §12263,** as enacted by PL 1987, c. 489, §2, is amended to read:

## **§ 12263. Appointment of commissioner as agent**

Application by a person or a firm not a resident of this State for a certificate under section 12228 or 12240 or a ~~permit to practice~~ license under section 12251 or 12252 ~~shall constitute~~ constitutes appointment of the commissioner as the applicant's agent upon whom process may be served in any action or proceeding against the applicant arising out of any transaction or operation connected with or incident to the practice of public accountancy by the applicant within this State.

**Sec. Z-19. 32 MRSA §12273**, as enacted by PL 1987, c. 489, §2 and amended by PL 1999, c. 547, Pt. B, §78 and affected by §80, is repealed.

**Sec. Z-20. 32 MRSA §12273-A** is enacted to read:

### **§ 12273-A. Denial or refusal to renew license; disciplinary action**

In addition to the grounds enumerated in Title 10, section 8003, subsection 5-A, paragraph A, the board may deny a license, refuse to renew a license or impose the disciplinary sanctions authorized by Title 10, section 8003, subsection 5-A for:

**1. Loss of authority in other state.** Cancellation, revocation, suspension or refusal to renew authority to engage in the practice of public accountancy in any other state for any cause;

**2. Failure to maintain compliance.** Failure, on the part of an applicant or a licensee under section 12251 or 12252 to maintain compliance with the requirements for issuance or renewal of that license or to report changes to the board under section 12251, subsection 6 or section 12252, subsection 6;

**3. Revocation or suspension of right to practice.** Revocation or suspension of the right to practice before any state or federal agency;

**4. Dishonesty, fraud, gross negligence, failure to file.** Dishonesty, fraud or gross negligence in the practice of public accountancy or in the filing or failure to file the licensee's own income tax returns;

**5. Fraud.** Performance of any fraudulent act while holding a certificate or license issued under this chapter or prior law; and

**6. Adverse conduct.** Any conduct reflecting adversely upon the licensee's fitness to engage in the practice of public accountancy.

**Sec. Z-21. 32 MRSA §12274, sub-§1**, as amended by PL 1999, c. 547, Pt. B, §74 and affected by §80, is repealed.

**Sec. Z-22. 32 MRSA §12274, sub-§3**, as enacted by PL 1987, c. 489, §2, is amended to read:

**3. Discipline.** In any case when the board renders a decision imposing discipline against a licensee under this section and section 12273, the board shall examine its records to determine whether the licensee holds a certificate or a ~~permit to practice~~ public accountancy license in any other state; and, if so, the board shall notify the board of accountancy of that other state of its decision by mail within 45 days of rendering the decision. The board may also furnish information relating to proceedings resulting in disciplinary action to other public authorities and to private professional organizations having a disciplinary interest in the licensee.

**Sec. Z-23. 32 MRSA §12274, sub-§4,** as enacted by PL 1987, c. 489, §2, is amended to read:

**4. Board; consideration.** The board shall consider applications upon suspension, revocation or refusal to renew according to this subsection.

A. In any case when the board has suspended or revoked a certificate or a permitlicense or refused to renew a permitlicense, the board may modify the suspension or reissue the certificate or permitlicense upon application in writing by the person or firm affected and for good cause shown.

B. The board shall by rule specify the manner in which those applications ~~shall~~must be made, the times within which they ~~shall~~must be made and the circumstances in which hearings will be held.

C. Before reissuing or terminating the suspension of a certificate or permitlicense under this section, and as a condition for reissuance or termination of suspension, the board may require the applicant to show successful completion of specified continuing professional education. The board may make the reinstatement of a certificate or permitlicense conditional and subject to satisfactory completion of a quality review conducted in such fashion as the board may specify.

**Sec. Z-24. 32 MRSA §12275,** as amended by PL 1999, c. 619, §4, is further amended to read:

## **§ 12275. Unlawful acts**

**1. Issuance of reports.** No person or firm not holding a valid permitlicense issued under section 12251 or 12252 may issue a report, including reviews and compilations, on financial statements of any other person, firm, organization or governmental unit. This prohibition does not apply to the following:

A. An officer, partner or employee of any firm or organization affixing ~~his~~that person's signature to any statement or report in reference to the financial affairs of that firm or organization with any wording designating the position, title or office that ~~he~~that person holds in the organization;

B. Any act of a public official or employee in the performance of ~~his~~that person's duties as such; or

C. The performance by any person of other services involving the use of accounting skills, including management advisory or consulting services, the preparation of tax returns, the furnishing of advice on tax matters and the preparation of financial statements without the issuance of reports.

**2. Misuse of title; individual; certified public accountants.** No person not holding a valid certificate issued under section 12227, shall use or assume the title of "certified public accountant," the abbreviation "CPA" or any other title, designation, words, letters, abbreviation, sign, card or device indicating that the person is a certified public accountant.

**3. Use of title.** A firm may not assume or use the title or designation "certified public accountant," the abbreviation "CPA" or any other title, designation, words, letters, abbreviation, sign, card or device indicating that the firm is composed of certified public accountants, unless:

A. The firm holds a valid permitlicense issued under section 12252; and

B. A simple majority of all partners, officers, shareholders, members or managers of the firm hold certificates.

**4. Misuse of title; public accountant.** No ~~person~~person may assume or use the title or designation "public accountant," the abbreviation "PA" or any other title, designation, words, letters, abbreviation, sign, card or device indicating that the person is a public accountant unless ~~he~~that person holds a valid ~~permit~~license issued under section 12251.

**5. Misuse of title; firm; public accountant.** No firm not holding a valid ~~permit~~license issued under section 12252 may assume or use the title or designation "public accountant," the abbreviation "PA" or any other title, designation, words, letters, abbreviation, sign, card or device indicating that the firm is composed of public accountants.

**6. Similar titles prohibited.** No person or firm not holding a valid ~~permit~~license issued under section 12251 or 12252 may assume or use the title or designation "certified accountant," "chartered accountant," "enrolled accountant," "licensed accountant," "registered accountant," "accredited accountant" or any other title or designation likely to be confused with the titles "certified public accountant," "public accountant" or use any of the abbreviations "CA," "LA," "RA," "AA" or similar abbreviations likely to be confused with the abbreviations "CPA" or "PA," provided that a holder of a certificate who does not also hold a ~~permit~~license may use the titles pertaining to that certificate in any manner not prohibited by rules ~~promulgated~~adopted by the board under section 12214, subsection 4.

**7. Similar designation prohibited.** No person or firm not holding a valid ~~permit~~license issued under section 12251 or 12252 may assume or use any title or designation that includes the words "auditor" or "auditing" in connection with any other language, including the language of a report, that implies that the person or firm holds such a ~~permit~~license or has special competence as an auditor, provided that this subsection does not prohibit any officer, partner or employee of any firm or organization from affixing ~~his~~that person's signature to any statement in reference to the financial affairs of that firm or organization with any wording designating the position, title or office that ~~he~~that person holds in the firm or organization or prohibit any act of a public official or employee in the performance of ~~his~~that person's duties.

**8. Unauthorized practice.** No person holding a certificate may engage in the practice of public accountancy, unless ~~he~~that person also holds a valid ~~permit~~license issued under section 12251.

**9. Form of firm.** No person or firm holding a ~~permit~~license may engage in the practice of public accountancy using a professional or firm name or designation that is misleading about the legal form of the firm, about the persons who are partners, officers or shareholders of the firm or about any other matter, ~~provided~~except that the names of one or more former partners or shareholders may be included in the name of a firm or its successor.

**10. Foreign practice.** Subsections 1 to 11 do not apply to a person or firm holding a certificate, designation, degree or license granted in a foreign country entitling the holder to engage in the practice of public accountancy or its equivalent in that country, whose activities in this State are limited to the provision of professional services to persons or firms who are residents of, governments of or business entities of the country in which ~~he~~that person holds that entitlement, who issues no reports with respect to the financial statements of any other persons, firms or governmental units in this State, and who does not use in this State any title or designation other than the one under which ~~he~~that person practices in that country, followed by a translation of that title or designation into the English language, if it is in a different language and by the name of that country.

**11. Employees.** Nothing in this chapter prohibits any person, not a certified public accountant, or public accountant, from serving as an employee of, or an assistant to, a certified public accountant, public accountant, a firm of certified public accountants or of public accountants holding a ~~permit to practice~~ license issued under section 12251 or 12252, provided that the employee or assistant ~~shall~~ may not issue any accounting or financial statements over ~~his~~ the employee's or assistant's name.

**12. Commissions; referral fees.** A licensee, when performing for a client a defined service, may not receive a commission or a referral fee:

- A. For recommending or referring to a client any product or service;
- B. For recommending or referring any product or service to be supplied by a client; or
- C. As a consequence of a decision by a client to purchase or supply a particular product or service.

Notwithstanding paragraphs A, B and C, a licensee may receive a commission or a referral fee if the licensee's compilation report discloses in writing a lack of independence.

This prohibition applies during the period in which the licensee is engaged to perform any of the defined services and the period covered by any historical financial statements involved in the defined services.

A licensee who is not prohibited by this section from receiving a commission or a referral fee shall disclose in writing to any person or entity to whom the licensee recommends or refers a product or service to which the commission or referral fee relates the fact that the licensee has been paid or expects to be paid a commission or referral fee.

**13. Contingency fees.** A licensee or a licensee's firm may not:

A. When involved in providing for a client a defined service:

- (1) Perform for a contingent fee any services for a client; or
- (2) Receive a contingency fee from a client; or

B. Prepare an original or amended tax return or claim for a tax refund for a contingent fee.

Notwithstanding paragraph A, a licensee when providing a defined service may receive a contingency fee if the licensee's compilation report discloses in writing a lack of independence.

The prohibitions apply during the period in which the licensee is engaged to perform any of the services listed in this section and the period covered by any historical financial statements involved in any of the listed services.



As used in this subsection a "contingent fee" or "contingency fee" means a fee established for the performance of any service pursuant to an arrangement in which no fee is charged unless a specified finding or result is attained or in which the amount of the fee is otherwise dependent upon the finding or result of the service. For purposes of this subsection, fees are not regarded as being contingent if fixed by courts or other public authorities or, in tax matters, if determined based on the results of judicial proceedings or the findings of governmental agencies. A licensee's fees may vary depending on the complexity of services rendered.

**Sec. Z-25. 32 MRSA §12276**, as enacted by PL 1987, c. 489, §2 and amended by PL 1999, c. 547, Pt. B, §78 and affected by §80, is repealed.

**Sec. Z-26. 32 MRSA §12277**, as enacted by PL 1987, c. 489, §2, is repealed and the following enacted in its place:

**§ 12277. Unlicensed practice**

A person who violates section 12275 is subject to the provisions of Title 10, section 8003-C.

**Sec. Z-27. Maine Revised Statutes headnote amended; revision clause.** In the Maine Revised Statutes, Title 32, chapter 113, subchapter 5, in the subchapter headnote, the words "permits to practice" are amended to read "licenses" and the Revisor of Statutes shall implement this revision when updating, publishing or republishing the statutes.

**Sec. Z-28. Maine Revised Statutes headnote amended; revision clause.** In the Maine Revised Statutes, Title 32, chapter 113, subchapter 7, in the subchapter headnote, the words "enforcement against holders of certificates and permits" are amended to read "enforcement against holders of certificates and licenses" and the Revisor of Statutes shall implement this revision when updating, publishing or republishing the statutes.

**PART AA**

**Sec. AA-1. 32 MRSA §12502**, as amended by PL 1997, c. 727, Pt. C, §11, is further amended to read:

**§ 12502. Board of Complementary Health Care Providers established**

**1. Membership.** The Board of Complementary Health Care Providers, as established in Title 5, section 12004-A, subsection 8-A, shall regulate the professions of acupuncture and naturopathic medicine according to the provisions of this chapter. The board consists of 7 members appointed by the Governor. The Governor shall make the initial appointments to the board no later than 60 days after the effective date of this section and shall inform the Commissioner of Professional and Financial Regulation of these appointments. The commissioner shall call the first meeting of the board on a date no later than 30 days following notification of appointments by the Governor. All members of the board must be residents of this State. Two members of the board must be acupuncturists licensed in this State. Two members of the board must be practitioners of naturopathic medicine who are eligible for licensure under, or are licensed pursuant to, the requirements of subchapter ~~HH~~3. One member must be a ~~member of the public~~ member as defined in Title 5, section 12004-A. One member must be an allopathic or osteopathic physician who is licensed in this State. One member must be a pharmacist who is licensed in this State.

**2. Terms.** Appointments are for 3-year terms. Appointments of members must comply with Title 10, section 608009. The Governor may remove any member for cause.

**3. Qualifications.** ~~Members of the board must be trustworthy and competent to fulfill the responsibilities imposed by this chapter. Except for initial appointments made under subsection 1, each~~Each board member, other than the public member, must have been engaged in the active practice of the member's profession in the State for a minimum of 3 years prior to appointment.

**4. Vacancy.** ~~Any vacancy in the board must be filled by appointment of a person of the same category as the board member being replaced to hold office for the unexpired term.~~

**5. Quorum.** ~~Four members of the board constitute a quorum for the transaction of business.~~

**6. Meetings; chair; quorum.** ~~The board annually shall elect a chair and a vice-chair from its membership. The board shall meet at least twice~~once a year to conduct its business and elect its officersa chair. Additional meetings ~~may~~must be held as necessary to conduct the business of the board and may be convened at the call of the chair or a majority of the board members. ~~All meetings of the board must be open to the public, except that the board may hold closed sessions to prepare, administer or grade examinations or to prepare or provide a response upon request of an applicant for the review of an examination. The board may form subcommittees to aid in the administration of this chapter.~~Four members of the board constitute a quorum.

**7. Reporting.** ~~No later than August 1st of each year, the board shall submit to the commissioner an annual report of its operations and financial position for the preceding fiscal year ending June 30th, together with such comments and recommendations as the board considers essential.~~

**Sec. AA-2. 32 MRSA §12503**, as amended by PL 2003, c. 666, §2, is further amended to read:

### **§ 12503. Powers and duties of the board**

The board has the following powers and duties in addition to all other powers and duties set forth in this chapter.

**1. Duties.** The board shall:

A. ~~Make and adopt~~Adopt rules necessary to administer this chapter;

B. Set standards of practice for acupuncturists and naturopathic doctors;

D. Ensure that acupuncturists and naturopathic doctors serving the public meet minimum standards of proficiency and competency to protect the health, safety and welfare of the public; and

E. Administer and enforce the provisions of this chapter and any rules adopted by the board under that authority granted in this chapter;

F. ~~Maintain a record of its acts and proceedings including the issuance, refusal, renewal, suspension and revocation of licenses;~~

G. ~~Maintain a roster of all acupuncturists and naturopathic doctors licensed under this chapter that indicates:~~

~~(1) The name of the licensee;~~

~~(2) The licensee's current professional office address;~~

~~(3) The date of issuance and the number of the licensee's license; and~~

~~(4) Whether the licensee is in good standing with the board including:~~

~~(a) Any specialty certification required by the board;~~

~~(b) Any restrictions or limitations to an individual's license;~~

~~(c) A record of any revocations or suspensions; and~~

~~(d) Any information that the board directs must be included in a member's record;~~

~~H. Keep all applications for licensure as a permanent record;~~

~~I. Maintain a permanent record of the results of all the examinations administered by the board;~~

~~J. Keep the records of the board open to public inspection at all reasonable times; and~~

~~K. Adopt and use a seal, the imprint of which, together with the signatures of the chair or vice-chair of the board, evidences its official acts.~~

~~**2. Complaints.** The board shall investigate, or cause to be investigated, all complaints made to it and all cases of noncompliance with this chapter.~~

~~**3. Hearings.** The board may conduct hearings to assist with investigations, to determine whether grounds exist for suspension, revocation or denial of a license or to fulfill its responsibilities under this chapter as the board otherwise determines necessary.~~

~~The board may not refuse to renew a license for any reason other than failure to pay the required fee, unless it has afforded the licensee an opportunity for an adjudicatory hearing. The board shall hold an adjudicatory hearing upon the written request of any person who is denied a license without hearing for any reason other than failure to pay a required fee. The written request for a hearing must be received by the board within 30 days of the applicant's receipt of written notice of the denial of the application. The written notice of denial must set forth the reasons for the denial and the applicant's right to request a hearing. The board must conduct hearings in conformity with the Maine Administrative Procedure Act to the extent applicable.~~

~~**4. Subpoena power; administration of oaths; power to compel production of documents.** The board may subpoena witnesses, administer oaths in any hearing or disciplinary proceedings and compel, by subpoena duces tecum, the production of papers and records.~~

**5. Witness fees.** ~~A witness summoned before the board must be paid the same fee as a witness summoned to appear before the Superior Court and that summons has the same effect as though issued for appearance before the Superior Court.~~

**6. Suspension and revocation.** ~~The board may suspend or revoke a license pursuant to Title 5, section 10004. In addition, the board may refuse to issue or renew or the District Court may suspend, revoke or refuse to renew a license on any of the following grounds:~~

~~A. The practice of fraud or deceit in obtaining a license under this chapter or in connection with services rendered as an acupuncturist or naturopathic doctor;~~

~~B. A legal finding of mental incompetence;~~

~~C. Aiding or abetting a person, not duly licensed under this chapter, in claiming to be an acupuncturist or naturopathic doctor;~~

~~D. Any gross negligence, incompetence or misconduct in the performance of acupuncture or naturopathic medicine;~~

~~E. Subject to the limitations of Title 5, chapter 341, conviction of a Class A, Class B or Class C crime or of a crime that, if committed in this State, would be punishable by one year or more of imprisonment; or~~

~~F. Any other good cause, relevant to qualifications to practice acupuncture or naturopathic medicine.~~

**Sec. AA-3. 32 MRSA §12503-A** is enacted to read:

**§ 12503-A. Denial or refusal to renew license; disciplinary action**

In addition to the grounds enumerated in Title 10, section 8003, subsection 5-A, paragraph A, the board may deny a license, refuse to renew a license or impose the disciplinary sanctions authorized by Title 10, section 8003, subsection 5-A upon a legal finding of mental incompetence.

**Sec. AA-4. 32 MRSA §12505**, as enacted by PL 1995, c. 671, §13 and amended by PL 1999, c. 547, Pt. B, §78 and affected by §80, is repealed.

**Sec. AA-5. 32 MRSA §12505-A** is enacted to read:

**§ 12505-A. Unlicensed practice**

A person who violates section 12504, 12511 or 12521 is subject to the provisions of Title 10, section 8003.

**Sec. AA-6. 32 MRSA §12511, sub-§1**, as enacted by PL 1995, c. 671, §13, is amended to read:

**1. Licensure required.** A person may not practice acupuncture or profess to be practicing as an acupuncturist in this State unless that person holds a current and valid license from the board, except that a student of acupuncture who has completed at least one year of full-time study in a board-approved

acupuncture school may practice acupuncture in a board-approved internship program. The student must be supervised, as defined by rule, by an instructor who is a licensed acupuncturist in this State and be identified as an acupuncture intern when in a clinical setting.

**Sec. AA-7. 32 MRSA §12512**, as corrected by RR 1995, c. 2, §80, is amended to read:

### **§ 12512. Qualifications for acupuncturists**

The eligibility of an applicant for a license to practice acupuncture must be determined in accordance with the following.

**1. Eligibility.** To be eligible to apply for a license to practice acupuncture, an applicant must:

A. Be at least 21 years of age; and

B. Have met requirements regarding education and experience as established by the board. These requirements must include the following:

(1) A baccalaureate degree from an accredited institution of higher learning, a license from the State to practice as a registered professional nurse or successful completion of the training program and any competency examination required by the Board of Licensure in Medicine to be qualified as a physician's assistant;

(2) A minimum of 1,000 hours of classroom instruction in acupuncture and related subjects at an institution approved by the board;

(3) A minimum of 300 hours of clinical experience in the field of acupuncture; and

(4) Certification by the National Commission for the Certification of Acupuncturists and Oriental Medicine, or its successor or other organization approved by the board, or passage of a written examination ~~administered~~approved by the board.

**2. Endorsement.** An applicant who holds a current valid license to practice acupuncture from another state with requirements for licensure at least equal to the requirements under this section must be issued a license by the board.

**Sec. AA-8. 32 MRSA §12516**, as amended by PL 2003, c. 666, §6, is further amended to read:

### **§ 12516. Application for renewal**

**1. Requirements.** Prior to the expiration of a license, a licensee may make an application for renewal upon payment of the ~~required annual~~ renewal fee ~~established as set~~ under section 12514-A and upon satisfactory demonstration of completion of continuing education requirements adopted by the board as a condition of renewal. It is not a condition of renewal that an applicant who qualified for licensure as a licensed registered nurse continue to be licensed as a registered nurse.

**2. Late renewal.** ~~An application for renewal may be made no earlier than 30 days prior to the date of expiration.~~ An application made no more than 90 days past the date of expiration of a license must include a late fee in addition to the renewal fee as set under section 12514-A. An application received more than 90 days past the expiration date is subject to all requirements covering new applicants under this chapter.

**Sec. AA-9. 32 MRSA §12525**, as amended by PL 2003, c. 666, §§7 and 8, is further amended to read:

## **§ 12525. Qualification for licensure**

**1. Qualification for licensure.** To be eligible for a license to practice naturopathic medicine, the applicant must:

A. Be a graduate of an approved naturopathic medical college and pass or have passed a competency-based examination approved by the board, covering the appropriate naturopathic subjects, including basic and clinical sciences;

~~B. Possess a good ethical and professional reputation;~~

B-1. Be trustworthy and competent;

C. Be physically and mentally capable of safely practicing naturopathic medicine with or without reasonable accommodation;

D. Have had no license to practice naturopathic medicine refused, revoked or suspended by any other state or country for reasons that relate to the applicant's ability to skillfully and safely practice naturopathic medicine unless that license has been restored to good standing by that state or country; and

E. File an application and pay the licensing fees established under section 12526.

**2. Conditional licensure.** ~~The board may issue a conditional license to an individual who:~~

~~A. Submits an application and a fee to be determined by the board;~~

~~B. Has graduated from an approved naturopathic medical college; and~~

~~C. Has been practicing naturopathic medicine in this State since January 1, 1994.~~

~~A conditional licensee has 3 years from the effective date of this subsection to fulfill all licensure requirements and obtain full licensure. A conditional license expires 3 years from the effective date of this subsection. The scope of practice for a conditional licensee is limited to those therapeutic practices covered by section 12522, subsections 1, 2 and 3 and those prescriptive practices covered by section 12522, subsection 4, paragraph A. A conditional licensee may not prescribe legend drugs or receive specialty certification.~~

**3. Naturopathic acupuncture specialty certification.** In order to practice naturopathic acupuncture, a naturopathic doctor must obtain a naturopathic acupuncture specialty certification from the board. The board may issue this specialty certification to a naturopathic doctor who has:

- A. Submitted an application and a certification fee established under section 12526;
- B. Completed an acupuncture program approved by the board that includes 1,000 hours of classroom training and 300 hours of supervised clinical training; and
- C. Passed an examination administered by the National Commission for the Certification of Acupuncturists and Oriental Medicine, or its successor or other organization approved by the board.

**4. Disclosures.** Naturopathic doctors shall:

- A. Clearly disclose to each patient and on all printed material that their training is in naturopathic medicine;
- B. Openly display their license, attaching renewals and specialty certifications when applicable; and
- C. When practicing without malpractice insurance, disclose to each patient that they do not have insurance.

**Sec. AA-10. 32 MRSA §12526, sub-§3,** as enacted by PL 1995, c. 671, §13, is amended to read:

**3. Continuing education.** When renewing a license, a naturopathic doctor must ~~submit to the board evidence of~~certify to successful completion of continuing education. The minimum continuing education requirement for license renewal is 25 hours annually, at least 7 hours of which must be in pharmacology. Naturopathic doctors who possess a certification in naturopathic acupuncture must complete an additional 15 hours of board-approved continuing education annually, specific to that specialty. The board may further define and implement these continuing education requirements through rulemaking.

## PART BB

**Sec. BB-1. 32 MRSA §13001, sub-§1-A** is enacted to read:

**1-A. Commission.** "Commission" means the Real Estate Commission.

**Sec. BB-2. 32 MRSA §13001, sub-§1-B** is enacted to read:

**1-B. Director.** "Director" means the director of the Real Estate Commission.

**Sec. BB-3. 32 MRSA §13007** is enacted to read:

### **§ 13007. Fees**

The Director of the Office of Licensing and Registration within the Department of Professional and Financial Regulation may establish by rule fees for purposes authorized under this chapter in amounts that are reasonable and necessary for their respective purposes, except that the fee for any one purpose may not exceed \$100. Rules adopted pursuant to this section are routine technical rules pursuant to Title 5, chapter 375, subchapter 2-A.

**Sec. BB-4. 32 MRSA §13062,** as amended by PL 1997, c. 727, Pt. C, §§12 to 14, is further amended to read:

## **§ 13062. Real Estate Commission; organization**

**1. Real Estate Commission composition.** The Real Estate Commission, established by Title 5, section 12004-A, subsection 37, shall be referred to in this chapter as the "commission." ~~The commission shall consist~~consists of 4 industry members and 2 public members as defined in Title 5, section 12004-A.

**2. Qualifications.** Each industry member of the commission must have been a real estate broker or associate broker by vocation in this State for at least 5 years prior to appointment. ~~The public members, the members' spouses, parents and children must have no professional or financial connection with the real estate brokerage business.~~

**3. Geographic distribution.** ~~There may not be more than one industry member of the commission from any one county at one time.~~

**4. Terms; removal.** Terms of the members of the commission are for 3 years. Members may be removed by the Governor for cause.

**5. Quorum; procedure.** ~~A majority of the~~Four members of the commission ~~constitutes~~constitute a quorum ~~for the transaction of business under this chapter.~~

**6. Appointments.** The members of the commission are appointed by the Governor. Appointments of members must comply with Title 10, section 608009.

**7. Chair.** The commission shall annually elect a chair from its members.

**Sec. BB-5. 32 MRSA §13063,** as enacted by PL 1987, c. 395, Pt. A, §212, is repealed.

**Sec. BB-6. 32 MRSA §13064,** as enacted by PL 1987, c. 395, Pt. A, §212, is repealed.

**Sec. BB-7. 32 MRSA §13065, sub-§1,** as enacted by PL 1987, c. 395, Pt. A, §212, is repealed.

**Sec. BB-8. 32 MRSA §13065, sub-§2,** as enacted by PL 1987, c. 395, Pt. A, §212, is repealed.

**Sec. BB-9. 32 MRSA §13065, sub-§5,** as amended by PL 1997, c. 209, §2, is repealed.

**Sec. BB-10. 32 MRSA §13066,** as amended by PL 1999, c. 129, §4, is repealed.

**Sec. BB-11. 32 MRSA §13067,** as amended by PL 1999, c. 129, §5, is repealed.

**Sec. BB-12. 32 MRSA §13067-A** is enacted to read:

### **§ 13067-A. Denial or refusal to renew license; disciplinary action**

In addition to the grounds enumerated in Title 10, section 8003, subsection 5-A, paragraph A, the commission may deny a license, refuse to renew a license or impose the disciplinary sanctions authorized by Title 10, section 8003, subsection 5-A for:

**1. Lack of trustworthiness.** Lack of trustworthiness and competence to transact real estate brokerage services in such manner as to safeguard the interests of the public;



**2. Misconduct.** Any act or conduct, whether of the same or different character than specified in this chapter, that constitutes or demonstrates bad faith, incompetency, untrustworthiness or dishonest, fraudulent or improper dealings;

**3. Act that constitutes grounds for denial.** Performing or attempting to perform any act or acts for which a license may lawfully be denied to any applicant;

**4. Substantial misrepresentation.** Making any substantial misrepresentation by omission or commission, but not including innocent misrepresentation;

**5. Failure to protect principal.** Failing to act in a reasonably prudent manner in order to protect and promote the interests of the principal with absolute fidelity;

**6. Failure to avoid error, exaggeration or concealment.** Failing to act in a reasonably prudent manner in order to avoid error, exaggeration or concealment of pertinent information;

**7. Liability of agency and designated broker.** Violation of this chapter by a licensed or unlicensed person acting on the agency's behalf if:

A. The designated broker had prior knowledge and did not take reasonable action to prevent the violation;

B. The designated broker permitted or authorized a person to engage in activity for which that person was not properly licensed; or

C. The designated broker failed to exercise a reasonable degree of supervision over employees and independent contractors commensurate with their qualifications and experience;

**8. Unlawful payment.** Offering, promising, allowing, giving or paying, directly or indirectly, any part or share of compensation arising or accruing from a real estate brokerage transaction to any person who is not licensed to perform the service for which the person is or would be compensated, if a license is required under this chapter for performance of that service. A licensee may not be employed by or accept brokerage compensation from any person other than the agency under which the licensee is at the time licensed. An agency may share compensation with a nonresident licensee when the service by the nonresident is performed outside this State;

**9. Suspension or revocation of license.** Having had a professional or occupational license suspended or revoked for disciplinary reasons or an application rejected for reasons related to untrustworthiness within 3 years prior to the date of application; and

**10. Failure to meet professional qualifications; failure to submit complete application.** Failing to meet the professional qualifications for licensure as provided in this subchapter or failing to submit a complete application within 30 days after being notified of the materials needed to complete the application.

**Sec. BB-13. 32 MRSA §13068,** as amended by PL 1999, c. 547, Pt. B, §§75 and 78 and affected by §80, is further amended to read:

**§ 13068. Decisions**

**1. Licensing.** After hearing, the commission may affirm, modify or reverse the director's decision to deny an examination, license or renewal license or, in its discretion, file a complaint in the District Court pursuant to Title 4, chapter 5 and Title 5, section 10051 to determine whether a license may be denied.

**2. Violation of chapter.** If, after hearing, the commission finds that a violation of this chapter has occurred, it may:

- A. Reprimand the person or entity;
- B. Require the person or entity to comply with such terms and conditions as it determines necessary to correct the basis for the violation or prevent further violations by issuing a cease and desist order. Violation of a cease and desist order shall constitute a violation of this chapter;
- C. Assess the violator a fine of no more than \$2,000 a violation;
- D. Suspend or revoke any license issued under this chapter; or
- E. Report its findings and recommendations to the Attorney General or the district attorney recommending prosecution.

**3. Appeals.** ~~Appeals from decisions of the commission shall be to the District Court. Appeals shall be based on questions of law. The procedure for appeals under this section shall be as provided in the Maine Administrative Procedure Act, Title 5, chapter 375, subchapter VII, except that for purposes of this section, all references to the Superior Court shall be construed as references to the District Court. Further appeal shall be directly to the Law Court.~~

Notwithstanding the provisions of Title 10, section 8003, subsection 5-A, revocations ordered by the commission are subject to judicial review exclusively in the Superior Court in accordance with Title 5, chapter 375, subchapter 7.

**Sec. BB-14. 32 MRSA §13069, sub-§4-A,** as amended by PL 1999, c. 687, Pt. F, §9, is repealed.

**Sec. BB-15. 32 MRSA §13069, sub-§6,** as amended by PL 1999, c. 129, §6 and affected by §16, is further amended to read:

**6. Investigations.** The director ~~shall~~may investigate the actions of any licensee under this chapter, or any person or entity who assumes to act in a capacity requiring a license under this chapter, upon receipt of a verified written complaint or in accordance with the guidelines prescribed by commission rule. Upon completion of the investigation, the director shall take one of the following actions:

- A. With the commission's approval, dismiss the complaint;
- B. With the consent of the parties and subject to approval of the commission and commission counsel, execute a consent agreement; or
- C. Issue a staff petition for hearing before the commission, which may include a recommended disposition.

**Sec. BB-16. 32 MRSA §13172,** as enacted by PL 1987, c. 395, Pt. A, §212, is amended to read:

## § 13172. Original application

Each applicant for an original agency license shall submit a ~~properly completed~~an application ~~upon blanks furnished by the director, signed under oath~~ by the authorized agency official, together with the prescribed fee as set under section 13007.

**Sec. BB-17. 32 MRSA §13175**, as enacted by PL 1987, c. 395, Pt. A, §212, is amended to read:

## § 13175. Agency changes

Any change of address, name or other material changes in the conditions or qualifications set forth in the original application ~~shall~~must be reported to the director no later than 10 days after the change. Upon ~~proper~~ application and payment of the ~~prescribed fee as set under section 13007~~, the commission records ~~shall~~must be changed and a new license ~~shall~~must be issued for the unexpired term of the current license, if appropriate.

**Sec. BB-18. 32 MRSA §13181**, as enacted by PL 1987, c. 395, Pt. A, §212, is amended to read:

## § 13181. Contents; display

The director shall issue to each agency a license in the form and size prescribed by the ~~commission~~Commissioner of Professional and Financial Regulation. The license of each broker, associate broker and sales agent ~~shall~~must be delivered or mailed to the designated broker and be kept in the custody and control of the designated broker. It is the duty of the designated broker to conspicuously display the agency license in ~~his~~the broker's place of business.

**Sec. BB-19. 32 MRSA §13182**, as enacted by PL 1987, c. 395, Pt. A, §212, is amended to read:

## § 13182. Agency license renewal

Agency licenses ~~shall~~ expire on December 31st, or at such times as the Commissioner of Professional and Financial Regulation may designate, of each biennial period for which it was issued. Upon ~~proper~~ application and payment of the ~~prescribed fee as set under section 13007~~, a renewal license ~~shall be~~is issued for each ensuing biennial period in the absence of any reason or condition ~~which~~that might warrant denial of a license. The suspension, revocation or expiration of an agency or designated broker's license ~~shall~~ automatically ~~suspend~~suspends every license granted to any person by virtue of ~~his~~the person's employment by the agency whose license has been suspended, revoked or expired pending a change of employer and the issuance of a new license. The new license ~~shall be~~is issued without charge if granted during the same biennial period in which the original was granted.

**Sec. BB-20. 32 MRSA §13191, sub-§1**, as enacted by PL 1987, c. 395, Pt. A, §212, is amended to read:

**1. Application.** Applicants ~~shall~~must submit a ~~properly completed~~an application ~~upon forms furnished by the director, together with the prescribed fee as set under section 13007~~.

**Sec. BB-21. 32 MRSA §13191, sub-§5**, as enacted by PL 1987, c. 395, Pt. A, §212, is amended to read:

**5. Reputation.** The applicant ~~shall~~must have a good reputation for honesty, truthfulness, fair dealing and competency. ~~A recommendation of~~The applicant must furnish recommendations from at least 3 persons; not related to the applicant who have acknowledged before a notary public that they have

known the applicant for at least one year immediately preceding the date of the application and by their signature attest that the applicant has such a reputation, ~~shall be a rebuttable presumption of meeting that qualification.~~

**Sec. BB-22. 32 MRSA §13192**, as amended by PL 1991, c. 53, §§6 and 7, is repealed.

**Sec. BB-23. 32 MRSA §13194**, as enacted by PL 1987, c. 395, Pt. A, §212, is amended to read:

### **§ 13194. License renewal**

Licenses shall expire on December 31st, or at such other times as the Commissioner of Professional and Financial Regulation may designate, of each biennial period for which it was issued, except those licenses issued under section 13200. The director shall issue a renewal license for each ensuing biennial period in the absence of any reason or condition ~~which~~that might warrant the refusal of granting a license, upon receipt of the written request of the applicant, the biennial fee as set under section 13007 for the license and upon the applicant presenting evidence of compliance with the requirements of section 13197. The director shall deny a renewal license to any applicant whose license has lapsed for more than 90 days, unless the renewal license applicant passes the license examination designated by commission rule for this purpose.

**Sec. BB-24. 32 MRSA §13195**, as amended by PL 1999, c. 129, §9 and affected by §16, is further amended to read:

### **§ 13195. Changes**

Any change of address, name or other material change in the conditions or qualifications set forth in the original application, including but not limited to criminal convictions or suspension or revocation of any professional license, must be reported to the director no later than 10 days after the change. Upon ~~proper~~ application and payment of the ~~prescribed~~ fee as set under section 13007, the commission records must be changed and a new license issued for the unexpired term of the current license, if appropriate.

**Sec. BB-25. 32 MRSA §13196**, as amended by PL 2005, c. 378, §7 and affected by §29, is further amended to read:

### **§ 13196. Inactive licenses**

**1. Placement on inactive status.** Any licensee who does not desire to perform any of the activities described in section 13001 and who wants to preserve the license while not engaged in any brokerage activity may ~~surrender that license~~apply to the commission for ~~placement on~~ inactive status upon payment of the fee as set under section 13007. The commission may place the license on inactive status and issue an inactive license only upon ~~proper~~ application by the licensee. During inactive status, the licensee is required to renew the license biennially, but is not required to maintain a place of business or meet the educational provisions of section 13197.

**2. Reinstatement to active status.** Licensees ~~who have surrendered their licenses pursuant to this section and~~ who have remained on inactive status for 6 years or more may have their licenses reinstated to active status by submitting ~~proper~~an application and fee and by successfully passing a license examination designated by commission rule for this purpose. Licensees who activate within 6 years of the initial inactive license may activate by successfully completing the designated examination or by completing continuing education courses that meet commission approved clock hours as follows:

A. For those applicants remaining inactive from the issuance of the inactive licenses up to 2 years, 21 clock hours of continuing education completed within the previous biennium;

B. For those applicants remaining inactive for more than 2 years but less than 4 years, 28 clock hours of continuing education completed within the previous biennium; or

C. For those applicants remaining inactive for more than 4 years but less than 6 years, 36 clock hours of continuing education completed within the previous biennium.

**Sec. BB-26. 32 MRSA §13197, sub-§2,** as enacted by PL 1987, c. 395, Pt. A, §212, is amended to read:

**2. Program approval.** Each application for approval of a continuing education program ~~shall~~must be submitted according to the guidelines prescribed by the commission, together with the ~~required~~application fee as set under section 13007. The fee ~~shall be~~is retained whether or not the application is approved, except that the commission may waive the application fee for any program or course for the purpose of promoting the intent of this section and ~~which~~that meets the standards prescribed by rule.

**Sec. BB-27. 32 MRSA §13198, sub-§3,** as enacted by PL 1987, c. 395, Pt. A, §212, is amended to read:

**3. Acts authorized.** Each broker license granted ~~shall entitle~~entitles the holder to perform all of the acts contemplated under this chapter ~~in~~on behalf of an agency, including being designated by the agency to act for it or as a branch office manager.

**Sec. BB-28. 32 MRSA §13199, sub-§3,** as enacted by PL 1987, c. 395, Pt. A, §212, is amended to read:

**3. Acts authorized.** Each associate broker license granted ~~shall entitle~~entitles the holder to perform all of the acts contemplated by this chapter, ~~in~~on behalf of an agency, except serving as a designated broker or a branch office manager.

## PART CC

**Sec. CC-1. 32 MRSA §13501, 2nd ¶,** as amended by PL 2001, c. 166, §2, is further amended to read:

Appointments are for 3-year terms. Appointments of members must comply with Title 10, section 8009. A member may be removed by the Governor for cause.

**Sec. CC-2. 32 MRSA §13503,** as amended by PL 2001, c. 166, §4, is further amended to read:  
**§ 13503. Meetings; chair; quorum**

The commission shall meet at least once a year to conduct its business and to elect a chair. Additional meetings ~~may~~must be held as necessary to conduct the business of the commission and may be convened at the call of the chair or a majority of the board members. ~~A majority of the~~Three members of the commission ~~constitutes~~constitute a quorum ~~for all purposes.~~

**Sec. CC-3. 32 MRSA §13505,** as enacted by PL 1987, c. 395, Pt. A, §212, is repealed.

**Sec. CC-4. 32 MRSA §13507, sub-§2-A**, as enacted by PL 2001, c. 166, §8, is amended to read:

**2-A. Report filed by commission member.** ~~The commissioner~~commission member supervising an event, exhibit or show subject to the requirements of this chapter shall file an event report with the department within 48 hours of the event. Event reports must include:

- A. The promoter's identity and license number;
- B. The participants' identities and license numbers;
- C. The facility at which the event was held;
- D. A detailed factual description of any incident that required the immediate intervention of the attending commissioner during an event, including stopping the event or taking disciplinary action;
- E. A recommendation to the commission regarding any need for disciplinary action; and
- F. A certification that the officials, participants and event conformed to the requirements of the statutes and rules of the commission.

**Sec. CC-5. 32 MRSA §13507, sub-§3**, as enacted by PL 1987, c. 395, Pt. A, §212, is repealed.

**Sec. CC-6. 32 MRSA §13514, 2nd ¶**, as amended by PL 1991, c. 338, §6, is further amended to read:

On the day the contest or exhibition is held, the promoter or promoters shall either tender the tax to the ~~commissioner~~commission member in attendance or provide a surety bond acceptable to the commission in the amount of \$10,000 payable to the Treasurer of State and conditioned for payment of the tax and any penalties imposed under this section. In its discretion, the commission may require that the bond be posted at a time prior to a contest or exhibition that the commission determines adequate. This tax must be paid to the Treasurer of State within 15 days of the date on which the contest or exhibition is held, in the event a bond is provided. Upon failure to pay the tax to the Treasurer of State, the promoter or promoters are liable to pay a penalty of 25% of the amount of the tax due, the penalty and the tax due must be recovered by a civil action upon the bond brought in the name of the commission, and the penalty and the tax due must be paid to the Treasurer of State to be credited to the Athletic Commission Fund.

**Sec. CC-7. 32 MRSA §13516**, as enacted by PL 1987, c. 395, Pt. A, §212 and amended by PL 1999, c. 547, Pt. B, §78 and affected by §80, is repealed and the following enacted in its place:

**§ 13516. Denial or refusal to reissue license; disciplinary action**

The commission may deny a license, refuse to renew a license or impose the disciplinary sanctions authorized by Title 10, section 8003, subsection 5-A for any of the reasons enumerated in Title 10, section 8003, subsection 5-A, paragraph A.

**Sec. CC-8. 32 MRSA §13517**, as enacted by PL 1987, c. 395, Pt. A, §212 and amended by PL 1999, c. 547, Pt. B, §78 and affected by §80, is further amended to read:

**§ 13517. Penalties; injunction**

**1. Penalties.** Any person, club, association or corporation, or any member or officer of a club, association or corporation who promotes, competes or otherwise engages in a boxing or kick-boxing contest or exhibition or wrestling match, show or exhibition without ~~first obtaining~~holding a valid license as required by this chapter, ~~or after the license has expired or has been suspended, revoked or temporarily suspended or revoked,~~ is guilty of a Class E crime is subject to the provisions of Title 10, section 8003-C.

**2. Injunction.** ~~The State may bring an action in Superior Court to enjoin any person from violating this chapter, regardless of whether proceedings have been or may be instituted in the District Court or whether criminal proceedings have been or may be instituted.~~

## PART DD

**Sec. DD-1. 32 MRSA §13702,** as amended by PL 2005, c. 430, §6, is repealed.

**Sec. DD-2. 32 MRSA §13702-A** is enacted to read:

### § 13702-A. Definitions

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

**1. Automated pharmacy systems.** "Automated pharmacy systems" means mechanical systems that perform operations or activities, other than compounding, relative to the storage, packaging, labeling, dispensing or distribution of medications, and systems that collect, control and maintain all transactional information.

**2. Board.** "Board" means the Maine Board of Pharmacy.

**3. Commissioner.** "Commissioner" means the Commissioner of Professional and Financial Regulation.

**4. Compounding.** "Compounding" means the preparation, mixing, assembling, packaging or labeling of a drug or device by a pharmacist for the pharmacist's patient either for dispensing as the result of a practitioner's prescription drug order, or for the purpose of, or as an incident to, research, teaching or chemical analysis and not for sale or dispensing. "Compounding" includes the preparation of drugs or devices in anticipation of prescription drug orders to be received by the pharmacist based on routine, regularly observed prescribing patterns.

**5. Dangerous substance.** "Dangerous substance" means a substance described in section 13731, subsection 2.

**6. Deliver or delivery.** "Deliver" or "delivery" means the actual, constructive or attempted transfer of a drug or device from one person to another, whether or not for a consideration.

**7. Department.** "Department" means the Department of Professional and Financial Regulation.

**8. Device.** "Device" means an instrument, apparatus, implement, machine, contrivance, implant, in vitro reagent or other similar or related article, including any component part or accessory, that is required under federal or state law to be prescribed by a practitioner and dispensed by a pharmacist.

**9. Dispense or dispensing.** "Dispense" or "dispensing" means the preparation and delivery of a prescription drug in a suitable container appropriately labeled for subsequent administration to or use by a patient or other individual entitled to receive the prescription drug pursuant to a lawful order of a practitioner.

**10. Distribute.** "Distribute" means the delivery of a drug other than by administering or dispensing.

**11. Drug.** "Drug" means:

A. Articles recognized as drugs in the official United States Pharmacopeia and National Formulary, other drug compendiums or any supplement to any of them;

B. Articles intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease in humans or other animals;

C. Articles, other than food, intended to affect the structure or any function of the body of humans or other animals; and

D. Articles intended for use as a component of any articles specified in paragraphs A to C.

**12. Electronic transmission.** "Electronic transmission" means transmission of information in electronic form or the transmission of the exact visual image of a document by way of electronic equipment.

**13. Free clinic.** "Free clinic" means an incorporated nonprofit health facility that provides health care to people at no charge.

**14. Generic and therapeutically equivalent drug.** "Generic" and "therapeutically equivalent drug" means any drug that has identical amounts of the same active ingredients in the same dosage form and in the same concentration that, when administered in the same amounts, will produce or can be expected to have the same therapeutic effect as the drug prescribed.

**15. Labeling.** "Labeling" means the process of preparing and affixing a label to the outside of any drug container, exclusive of the labeling by a manufacturer, packer or distributor of a nonprescription drug or commercially packaged legend drug or device. Any such label must include all information required by federal law or regulation and state law or rule.

**16. Mail order contact lens supplier.** "Mail order contact lens supplier" means a person or entity, other than an optometrist or physician licensed in this State, that fills contact lens prescriptions by mail or carrier for a patient who resides in this State.

**17. Mail order prescription pharmacy.** "Mail order prescription pharmacy" means an entity that dispenses prescription medications by mail or carrier from a facility not located in this State to a patient who resides in this State.

**18. Manufacture.** "Manufacture" means the production, preparation, propagation, compounding, conversion or processing of a device or drug, either directly or indirectly, by extraction from substances of natural origin or independently by means of chemical synthesis or by a combination of



extraction and chemical synthesis and includes any packaging or repackaging of the substances or labeling or relabeling of its container, except that manufacture does not include the preparation or compounding of a drug by an individual for personal use or the preparation, compounding, packaging or labeling of a drug:

A. By a pharmacist or practitioner incidental to administering or dispensing a drug in the course of professional practice; or

B. By a practitioner or by authorization under the practitioner's supervision for the purpose of or incidental to research, teaching or chemical analysis and not for sale.

**19. Manufacturer.** "Manufacturer" means a person engaged in the manufacture of prescription drugs.

**20. Nonprescription drugs.** "Nonprescription drugs" means nonnarcotic drugs that may be sold without a prescription and that are prepackaged for use by the consumer and labeled in accordance with the requirements of the laws and rules of this State and the Federal Government.

**21. Person.** "Person" means an individual, corporation, partnership, association or any other legal entity.

**22. Pharmacist.** "Pharmacist" means an individual licensed by this State to engage in the practice of pharmacy.

A. "Chain pharmacist" means an individual who is engaged in the practice of pharmacy within a chain; that is, where there is a corporate grouping of 4 or more pharmacies.

B. "Hospital pharmacist" means an individual who is engaged in the practice of pharmacy in a hospital setting.

C. "Independent pharmacist" means an individual who is engaged in the practice of pharmacy in an independent pharmacy; that is, where there are fewer than 4 pharmacies under the same ownership.

D. "Qualified assistant pharmacist" means an individual licensed by this State as a qualified assistant apothecary, qualified assistant or assistant pharmacist, provided that the license is in full force and effect, except for the right to serve as a pharmacist in charge.

**23. Pharmacist in charge.** "Pharmacist in charge" means the pharmacist who is responsible for the licensing of the pharmacy.

**24. Pharmacy.** "Pharmacy" means:

A. Any pharmacy or drug outlet located in a retail store, mail order business, free clinic or rural health center with facilities located in this State that is engaged in dispensing, delivering or distributing prescription drugs; or

B. Any mail order prescription company, or wholesaler, with facilities located in this State or doing business in this State that is engaged in dispensing, delivering or distributing prescription drugs.

**25. Pharmacy technician.** "Pharmacy technician" means a person employed by a pharmacy who works in a supportive role to, and under the direct supervision of, a licensed pharmacist.

**26. Physician.** "Physician" means an allopathic physician or osteopathic physician.

**27. Poison.** "Poison" means an agent that when ingested, inhaled or otherwise absorbed by a living organism is capable of producing a deleterious response seriously injuring function or producing death.

**28. Practice of pharmacy.** "Practice of pharmacy" means the interpretation and evaluation of prescription drug orders; the compounding, dispensing, labeling of drugs and devices, except labeling by a manufacturer, packer or distributor of nonprescription drugs and commercially packaged legend drugs and devices; the participation in drug selection and drug utilization reviews; the proper and safe storage of drugs and devices and the maintenance of proper records for these drugs and devices; the responsibility for advising, when necessary or regulated, of therapeutic values, content, hazards and use of drugs and devices; and the offering or performing of those acts, services, operations or transactions necessary in the conduct, operation, management and control of a pharmacy.

**29. Practitioner.** "Practitioner" means an individual who is licensed, registered or otherwise authorized in the appropriate jurisdiction to prescribe and administer drugs in the course of professional practice.

**30. Prescription drug or legend drug.** "Prescription drug" or "legend drug" means a drug that:

A. Under federal law is required, prior to being dispensed or delivered, to be labeled with either of the following statements:

(1) "Caution: Federal law prohibits dispensing without prescription."; or

(2) "Caution: Federal law restricts this drug to use by or on the order of a licensed veterinarian.";  
or

B. Is required by an applicable federal or state law or rule to be dispensed on prescription only or is restricted to use by practitioners only.

**31. Prescription drug order.** "Prescription drug order" means a lawful written or oral order of a practitioner for a drug or device. Written orders may be issued on a prescription form or by electronic transmission.

**32. Rural health center.** "Rural health center" means an incorporated nonprofit health facility that provides comprehensive primary health care to citizens in rural areas.

**33. Targeted methamphetamine precursor.** "Targeted methamphetamine precursor" means any product containing any amount of ephedrine, pseudoephedrine or phenylpropanolamine or their salts, isomers or salts of isomers, either alone or in combination with other ingredients:

A. In dry or solid nonliquid form; or

B. In liquid, liquid-filled capsule or glycerin matrix form if designation as a targeted methamphetamine precursor has been completed by rule adopted pursuant to section 13795, subsection 5, paragraph A.

**34. Wholesaler.** "Wholesaler" means a person who buys prescription drugs for resale and distribution to persons other than consumers.

**Sec. DD-3. 32 MRSA §13712,** as enacted by PL 1987, c. 710, §5, is amended to read:

### **§ 13712. Membership**

The board ~~shall consist~~consists of 7 members, two of whom ~~shall~~must be representatives of the public ~~members as defined in Title 5, section 12004-A~~ and the remainder of whom ~~shall~~must be licensed pharmacists who possess the qualifications specified in section 13713. At the time of the appointment, at least one of the licensed pharmacists must be a hospital pharmacist, at least one must be a chain pharmacist and at least one must be an independent pharmacist.

**Sec. DD-4. 32 MRSA §13715-A, sub-§1,** as enacted by PL 1993, c. 600, Pt. A, §269, is amended to read:

**1. Length.** Members of the board are appointed for terms of 3 years. Appointments of members must comply with Title 10, section 608009.

**Sec. DD-5. 32 MRSA §13716,** as amended by PL 1995, c. 397, §108, is further amended to read:

### **§ 13716. Organization**

**1. Officers.** The board shall elect from its members a president and other officers as it ~~deems~~considers appropriate and necessary to conduct its business. ~~The president of the board shall preside at all meetings of the board and shall be responsible for the performance of all of the duties and functions of the board required or permitted by this Act. Each additional officer elected by the board shall perform those duties normally associated with that position and those other duties assigned from time to time by the board.~~

**2. Terms of office.** Officers elected by the board shall serve terms of one year commencing with the day of their elections ~~and ending upon elections of their successors and shall serve no more than 3 consecutive full terms in each office to which elected.~~

**Sec. DD-6. 32 MRSA §13718,** as enacted by PL 1987, c. 710, §5, is amended to read:

### **§ 13718. Meetings**

**1. Number.** The board shall meet at least once every ~~2 months~~a year to transact its business, ~~which includes the election of officers and the reorganization of the board. The December meeting shall be designated as the annual meeting and shall be for the purpose of electing officers and for the reorganization of the board.~~ The board shall meet at additional times as it may determine. Additional meetings may be called by the president or by 2/3 of the members of the board.

**2. Place.** ~~The board shall meet at such place as it may from time to time determine. The place for each meeting shall be determined prior to giving notice of the meeting and shall not be changed after the notice is given without adequate subsequent notice.~~

**3. Notice.** ~~Notice of all meetings of the board shall be given in the manner and pursuant to requirements prescribed by the State's applicable laws and rules.~~

**4. Quorum.** ~~A majority of the Four members of the board constitutes constitute a quorum for the conduct of a board meeting and, except when a greater number is required by this Act or by any rule of the board, all actions of the board shall be by a majority of a quorum.~~

**5. Open meeting.** ~~All board meetings and hearings shall be open to the public. The board may conduct portions of its meetings in executive session pursuant to the freedom of access laws, Title 1, section 405.~~

**Sec. DD-7. 32 MRSA §13721, sub-§1, ¶E,** as enacted by PL 1987, c. 710, §5, is amended to read:

E. The ~~registration~~licensing of any ~~drug outlet~~pharmacy as set out in section 13751 and any manufacturer or wholesaler whose products are distributed in this State;

**Sec. DD-8. 32 MRSA §13721, sub-§1, ¶H,** as amended by PL 2005, c. 262, Pt. B, §1, is further amended to read:

H. The ~~registration~~licensing of pharmacy technicians, including the required fee as set under section 13724, and adoption of rules governing the training, qualification and employment of pharmacy technicians.

**Sec. DD-9. 32 MRSA §13722, sub-§1, ¶D,** as enacted by PL 1987, c. 710, §5, is amended to read:

D. Issue and renew ~~certificates of registration~~licenses for purposes of ascertaining those persons engaged in the manufacture and distribution of drugs;

**Sec. DD-10. 32 MRSA §13723,** as amended by PL 2005, c. 262, Pt. B, §2, is further amended to read:

## **§ 13723. Other duties, powers and authority**

The board has such other duties, powers and authority as may be necessary to enforce this Act and the board may adopt rules pursuant to this Act, which include, but are not limited to, the following.

**1. Professional associations.** The board may join professional organizations and associations organized exclusively to promote the improvement of the standards of the practice of pharmacy for the protection of the health and welfare of the public and whose activities assist and facilitate the work of the board.

**2. Bond.** In addition to any statutory requirements, the board may require such surety bonds as it ~~deems~~considers necessary to guarantee the performance and discharge of the duties of any officer or employee receiving and disbursing funds.

**3. Seal.** ~~The executive director of the board or the secretary of the board shall keep the seal of the board at the department and shall affix it only in such manner as may be prescribed by the board.~~

**4. Reports.** ~~The board shall submit to the commissioner no later than August 1st of each year a report summarizing its proceedings and activities during the fiscal year, together with a report of all money received and disbursed by the board.~~

**6. Grants.** The board may receive and expend funds, in addition to its annual allocation, from parties other than the State, ~~provided that as long as:~~

A. The funds are awarded for the pursuit of a specific objective ~~which that~~ the board is authorized to accomplish by this Act or ~~which that~~ the board is qualified to accomplish by reason of its jurisdiction or professional expertise;

B. The funds are expended for the pursuit of the objective for which they are awarded;

C. Activities connected with or occasioned by the expenditures of the funds do not interfere with or impair the performance of the board's duties and responsibilities and do not conflict with the exercise of the board's powers as specified by this Act;

D. The funds are kept in a separate, special state account; and

E. Periodic reports are made to the commissioner concerning the board's receipt and expenditure of the funds.

**7. Investigatory powers.** The board shall notify the Department of the Attorney General upon receipt of a complaint. Upon receipt of the notifications, the Attorney General shall notify the department within a timely period if the alleged violation requires criminal investigation. If a case does not require criminal investigation, the board or its authorized representatives may investigate and gather evidence concerning alleged violations of this Act or of the rules of the board. The board or an ~~officer~~ authorized representative pursuant to paragraph A may remove from any premises authorized for inspection pursuant to section 13721, subsection 1, paragraph D certain original records relating to scheduled drugs or controlled substances, including, but not limited to, prescription records, shipping and delivery records, patient profiles, inventories and other drug records for the purposes of analysis, duplication and furthering the investigation. A signed inventory receipt of any records being removed must be furnished to the premises by the board or an authorized ~~officer~~representative. When a means of producing legible photocopies is readily available at the site of the records being removed, an authorized ~~officer~~representative removing the records shall leave photocopies of the records as part of an inventory receipt in accordance with this subsection. Except when photocopies are left as part of an inventory receipt, the board or an authorized ~~officer~~representative removing records from the premises shall, within 48 hours from the time of removal, provide to a representative of the premises photocopies of any removed records, together with a certificate identifying the agency in possession of the records, or return the original records. Inventory receipts and photocopies of any removed records provided by the board or an authorized ~~officer~~representative are admissible as evidence if offered by any representative of the premises to prove compliance with any rule of the board or requirement of law.

A. Prescriptions, orders and records required by this chapter and stocks of prescription and legend drugs are open only to the board, the board's ~~inspectors and investigators~~authorized representatives, federal and state law enforcement officers whose duty it is to enforce the laws of this State or of the

United States relating to scheduled drugs or controlled substances and other law enforcement officers authorized by the board or the Attorney General for the purposes of inspecting, investigating and gathering evidence of violations of law or any rule of the board. No ~~officer~~person having knowledge by virtue of the ~~officer's~~person's office of any such prescription, order or record may divulge that knowledge, except before a licensing ~~or registration~~ board or ~~officer~~representative or in connection with a prosecution or proceeding in court.

B. The Bureau of Health, the board, their officers, agents, inspectors and representatives, all peace officers within the State and all prosecuting attorneys shall enforce all provisions of this chapter, except those specifically delegated, and shall cooperate with all agencies charged with the enforcement of the laws of the United States, of this State and of all other states relating to prescription or legend drugs or their equivalent.

**8. Embargo.** The board may embargo certain drugs or devices as follows.

A. Notwithstanding anything in this Act to the contrary, if a duly authorized representative of the board finds or has probable cause to believe that any drug or device is adulterated or misbranded within the meaning of the United States Food and Drug Act, the board representative shall affix to the drug or device a tag or other appropriate marking giving notice that the article is or is suspected of being adulterated or misbranded and has been detained or embargoed, and warning all persons not to remove or dispose of the article by sale or otherwise until provision for removal or disposal is given by the board, its ~~agent~~representative or the court. No person may remove or dispose of the embargoed drug or device by sale or otherwise without the permission of the board or its ~~agent~~representative or, after summary proceedings have been instituted, without permission from the court.

B. When a drug or device detained or embargoed under paragraph A has been declared by a representative of the board to be adulterated or misbranded, the board shall, as soon as practical, report the declaration to the Attorney General's office, along with sufficient information to permit the Attorney General to bring a petition for an injunction to the judge of the court in whose jurisdiction the article is detained or embargoed. If the judge determines that the drug or device so detained or embargoed is not adulterated or misbranded, the board shall direct the immediate removal of the tag or other marking.

C. If the court finds the detained or embargoed drug or device is adulterated or misbranded, that drug or device, after entry of the decree, shall be destroyed at the expense of the owner under the supervision of the board representative and all court costs and fees, storage and other proper expense shall be borne by the owner of the drug or device. When the adulteration or misbranding may be corrected by proper labeling or processing of the drug or device, the court, after entry of the decree and after the costs, fees and expenses have been paid and a good and sufficient bond has been posted, may direct that the drug or device be delivered to the owner for labeling or processing under the supervision of a board representative. The expense of the supervision shall be paid by the owner. The bond shall be returned to the owner of the drug or device on representation to the court by the board that the drug or device is no longer in violation of the embargo and the expense of supervision has been paid.

**10. Procedure.** Except as otherwise provided, the board shall exercise all of its duties, powers and authority in accordance with the Maine Administrative Procedure Act, Title 5, chapter 375.

**11. Exemption.** The board may exempt a free clinic from all fees, in whole or in part, ~~required~~ set under this chapter.

**Sec. DD-11. 32 MRSA §13724,** as enacted by PL 2005, c. 262, Pt. B, §3, is amended to read:

### **§ 13724. Fees**

The Director of the Office of Licensing and Registration ~~within the Department of Professional and Financial Regulation~~ may establish by rule fees for purposes authorized under this chapter in amounts that are reasonable and necessary for their respective purposes, except that the fee for any one purpose may not exceed \$325. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A. ~~All fees received by the board must be paid to the Treasurer of State and used to carry out this chapter. Any balance of these fees may not lapse but must be carried forward as a continuing account to be expended for the same purposes in the following years.~~

**Sec. DD-12. 32 MRSA §13731, sub-§2,** as enacted by PL 1987, c. 710, §5, is amended to read:

**2. Authorization to deal with dangerous substances.** Practitioners, drug jobbers, drug wholesalers, drug manufacturers, pharmacists and pharmacies ~~registered~~ licensed under this chapter and approved animal shelters as provided in Title 7, section 3913, are authorized to deal professionally with dangerous substances. A dangerous substance is:

- A. Any substance listed under the Federal Uniform Controlled Substance Act, sections 1 through 5; or
- B. Anything deemed to be dangerous by the Federal Drug Administration, other federal agency, or the Attorney General of the United States.

**Sec. DD-13. 32 MRSA §13732, sub-§2, ¶B,** as enacted by PL 1987, c. 710, §5, is repealed.

**Sec. DD-14. 32 MRSA §13733,** as amended by PL 2005, c. 262, Pt. B, §§6 to 8, is further amended to read:

### **§ 13733. Qualifications for licensure by endorsement**

**1. Requirements.** To obtain a license as a pharmacist by reciprocity an applicant for licensure must:

- A. Have submitted a written application ~~in the form prescribed by the board~~ together with the required fee as set under section 13724;
- B. Have attained the age of 21 years;
- C. Have demonstrated ~~good moral character and temperate habit~~ trustworthiness and competency;
- D. Have possessed at the time of initial licensure as a pharmacist such other qualifications necessary to have been eligible for licensure at that time in this State, except that if the state requirement of graduation from a pharmacy degree program accredited by the American Council on Pharmaceutical Education applies, this requirement may be waived for an applicant who, notwithstanding paragraph E, has graduated from a college of pharmacy in the United States prior to June 1, 1985, has engaged

in the practice of pharmacy within the United States for a period of at least 5 years within the 10 years immediately preceding the application and who has passed the national pharmacy examination prepared by the National Association of Boards of Pharmacy;

E. Have engaged in the practice of pharmacy for a period of at least one year or have met the internship requirements of this State within the one-year period immediately previous to the date of the application;

F. Have passed the state pharmacy law exam as ~~administered~~approved by the board; and

G. Have presented to the board proof of initial licensure by examination and proof that the license and any other license or licenses granted to the applicant by any other state or states have not been suspended, revoked, canceled or otherwise restricted for any reason except nonrenewal or the failure to obtain required continuing education credits in any state where the applicant is licensed, but not engaged in the practice of pharmacy. If an otherwise qualified applicant for licensure by reciprocity has had a license suspended, revoked, cancelled or otherwise restricted for any reason, the board may assess the prior disciplinary event and in its discretion issue the license.

**2. Eligibility.** ~~No applicant is eligible for licensure by reciprocity unless the state in which the applicant was initially licensed as a pharmacist also grants reciprocal licensure to pharmacists duly licensed by examination in this State under like circumstances and conditions.~~

**Sec. DD-15. 32 MRSA §13734**, as amended by PL 2005, c. 262, Pt. B, §9, is further amended to read:

## **§ 13734. Renewal of licenses**

**1. Renewal.** A license expires on the date set by the ~~Commissioner of Professional and Financial Regulation~~commissioner pursuant to Title 10, section 8003, subsection 4 for the licensing period for which the license was issued. A renewal license is issued for each ensuing licensing period in the absence of any reason or condition that might warrant the refusal to grant a license, upon receipt by the board of the written request of the applicant and the ~~required~~ fee for the license as set under section 13724 and upon the applicant's presenting evidence of compliance with the requirements of section 13735.

Licenses may be renewed up to 90 days after the date of expiration upon payment of a late fee as set under section 13724 in addition to a ~~required~~the renewal fee as set under section 13724. Any person who submits an application for renewal more than 90 days after the license renewal date is subject to all requirements governing new applicants under this chapter, including a late fee, renewal fee and ~~filing~~additional late fee as set under section 13724, except that the board may, giving due consideration to the protection of the public, waive examination if that renewal application is made within 2 years from the date of that expiration.

**2. Inactive renewal license.** ~~Every registered~~A licensed pharmacist not practicing pharmacy within this State shall pay, on or before the expiration date as determined by the commissioner, a renewal fee as set under section 13724, in return for which a ~~nonactive~~inactive renewal ~~registration~~license must be issued.



~~Every registered~~A licensed pharmacist holding a ~~nonactive~~inactive renewal ~~registration~~license who desires to practice pharmacy in this State is required to submit proof satisfactory to the board that, during the calendar year preceding application for active ~~registration~~licensure, the pharmacist has participated in not less than 15 hours of approved courses of continuing professional pharmaceutical education as defined in section 13735. The board may make exceptions ~~from the operation of~~to the continuing education requirement of this section in emergency or hardship cases.

If any person fails or neglects to procure the annual ~~nonactive~~inactive renewal ~~registration~~license, notice of that failure ~~having been mailed to that person's last known address by the board~~, after the expiration of 30 days ~~following the issue of notice~~, that person's original ~~registration~~license expires. That person, in order to regain ~~registration~~licensure, is required to pay one renewal fee as set under section 13724 in addition to the sum of all fees that person may be in arrears.

**Sec. DD-16. 32 MRSA §13735**, as amended by PL 2005, c. 262, Pt. B, §10, is further amended to read:

### **§ 13735. Continuing pharmacy education**

An annual renewal ~~certificate~~license may not be issued by the board until the applicant ~~submits proof satisfactory~~certifies to the board that, during the calendar year preceding an application for renewal, the applicant has participated in not less than 15 hours of approved courses of continuing professional pharmaceutical education as set out in this section. The continuing professional pharmaceutical educational courses consist of postgraduate studies, institutes, seminars, workshops, lectures, conferences, extension studies, correspondence courses or such other forms of continuing professional pharmaceutical education as may be approved by the board.

These courses ~~shall~~ consist of subject matter pertinent to the following general areas of professional pharmaceutical education: The socioeconomic and legal aspects of health care; the properties and actions of drugs and dosage forms; and the ideology, characteristics and therapeutics of the disease state. The specific subject matter of the courses may include, but is not limited to, pharmacology, biochemistry, physiology, pharmaceutical chemistry, pharmacy administration, pharmacy jurisprudence, public health and communicable diseases, pharmaceutical marketing, professional practice management, anatomy, histology and such other subject matter as represented in curricula of accredited colleges of pharmacy. The content of each course offered for credit under this continuing professional educational program must be approved in advance of the course by ~~a committee composed of equal representation from the board, hospital pharmacy and retail pharmacy within the State. The number and members of the committee shall be selected by the board and shall serve for a period of 2 years~~the board or its representative. The board may make exceptions ~~from the operation of~~to this section in emergency or hardship cases.

Each application for approval of a continuing education program or course must be submitted according to the guidelines prescribed by rule by the board, together with a ~~required~~ fee as set under section 13724.

**Sec. DD-17. 32 MRSA §13741**, as amended by PL 1999, c. 130, §9, is further amended to read:

### **§ 13741. Informal conference**

~~The board shall investigate civil complaints regarding noncompliance with or violation of this chapter or of any rules adopted by the board.~~

The board shall notify the licensee of the content of a complaint filed against the licensee as soon as possible, but in no event later than within 60 days of receipt of this information. The licensee shall respond within 30 days. 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 conference may be conducted in executive session of the board, pursuant to Title 1, section 405. Statements made at the conference may not be introduced at a subsequent formal hearing unless all parties consent.

If the board finds that the factual basis of the complaint is true and is of sufficient gravity to warrant further action, it may take any of the following actions it deems appropriate as set forth in Title 10, section 8003, subsection 5 and including:

1. **Warning.** ~~Warning, censuring or reprimanding the licensee;~~
2. **Consent agreement.** ~~With the consent of the licensee, entering into a consent agreement which 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;~~
3. **Negotiate stipulations.** ~~In consideration for acceptance of a voluntary surrender of the license, negotiating stipulations, including terms and conditions for reinstatement which ensure protection of the public health and safety and which serve to rehabilitate or educate the licensee. These stipulations shall be set forth only in a consent agreement signed by the board, the licensee and the Attorney General's office; or~~
4. **Adjudicatory hearing.** ~~If the board concludes that modification or nonrenewal of the license might be in order, holding an adjudicatory hearing in accordance with the Maine Administrative Procedure Act, Title 5, chapter 375, subchapter IV.~~

**Sec. DD-18. 32 MRSA §13742,** as amended by PL 1999, c. 130, §10, is repealed.

**Sec. DD-19. 32 MRSA §13742-A** is enacted to read:

**§ 13742-A. Denial or refusal to renew license; disciplinary sanctions; crimes; criminal prosecutions**

**1. Disciplinary action.** In addition to the grounds enumerated in Title 10, section 8003, subsection 5-A, paragraph A, the board may deny a license, refuse to renew a license or impose the disciplinary sanctions authorized by Title 10, section 8003, subsection 5-A for:

A. Habitual substance abuse that has resulted or is foreseeably likely to result in the applicant or licensee performing duties in a manner that endangers the health or safety of patients;

B. A professional diagnosis of a mental or physical condition that has resulted or may result in the applicant or licensee performing duties in a manner that endangers the health or safety of patients;

C. Engaging in unprofessional conduct by violating any standard of professional behavior, including but not limited to a breach of confidentiality of health care information pursuant to state law, that has been established in the practice for which the licensee is licensed; or

D. Engaging in false, misleading or deceptive advertising.

This subsection applies to all types of licenses issued by the board.

**2. Crime in course of business.** If any licensed pharmacist is convicted in state or federal court of a crime that is committed during the course of duties performed as a licensed pharmacist or committed through the use of the pharmacy in which the pharmacist is employed, or that the pharmacist owns or operates, and that demonstrates unfitness to practice as a pharmacist, including, but not limited to, convictions for defrauding the Medicaid program and for illegally distributing prescription drugs, the pharmacist's license is subject to disciplinary action as set forth in subsection 1.

**3. Criminal prosecutions.** Nothing in this chapter bars criminal prosecution for any violation of this chapter when that violation is a criminal offense under the laws of this State or of the United States.

**Sec. DD-20. 32 MRSA §13743,** as enacted by PL 1987, c. 710, §5, is amended to read:

### **§ 13743. Reinstatement**

**1. Penalties.** ~~Upon finding grounds for discipline of any person holding a license or seeking a license or a renewal of a license under this chapter, the board may take one or more of the following actions:~~

~~A. Request the Attorney General's office to institute appropriate judicial proceedings which may lead to suspension or revocation of license;~~

~~B. Restrict the offender's license to prohibit the offender from performing certain acts or engaging in the practice of pharmacy in a particular manner for a term to be determined by the board; or~~

~~C. Hold an adjudication hearing which may result in:~~

~~(1) Refusal to renew offender's license; or~~

~~(2) Placement of the offender on probation and supervision by the board for a period to be determined by the board.~~

**2. Reinstatement.** Any person whose license to practice pharmacy in this State has been suspended, revoked or restricted pursuant to this chapter, whether voluntarily or by action of the board, may at reasonable intervals petition the board for reinstatement of the license. The petition must be made in writing in a form prescribed by the board. Upon investigation and hearing, the board may grant or deny the petition or it may modify its original finding to reflect any circumstances which have changed sufficiently to warrant those modifications.

**3. Criminal prosecutions.** ~~Nothing in this chapter bars criminal prosecution for any violation of this chapter where that violation is a criminal offense under the laws of this State or of the United States.~~

**4. Judicial review.** ~~All final decisions by the board are subject to judicial review pursuant to the Maine Administrative Procedure Act, Title 5, chapter 375.~~

**Sec. DD-21. 32 MRSA §13751, sub-§1,** as amended by PL 1997, c. 117, §10, is further amended to read:

**1. Licensure.** ~~All drug outlets~~pharmacies, manufacturers, wholesalers and mail order contact lens suppliers shall annually register ~~with~~obtain a license from the board.

**Sec. DD-22. 32 MRSA §13751, sub-§2,** as amended by PL 1999, c. 42, §§4 and 5, is further amended to read:

**2. Classifications.** ~~Drug outlets shall~~Pharmacies must be registeredlicensed in classifications set out in this subsection.

Each ~~drug outlet~~pharmacy must apply for a ~~certificate of registration~~license in one of the following classifications:

- A. Retail ~~drug outlet~~pharmacy;
- B. Mail order prescription ~~drug outlet~~pharmacy;
- C. Wholesale ~~drug outlet~~pharmacy;
- D. Rural health center; or
- E. Free clinic.

**Sec. DD-23. 32 MRSA §13751, sub-§3,** as enacted by PL 1987, c. 710, §5, is amended to read:

**3. Rules.** The board shall establish by rule the criteria ~~which~~that each ~~drug outlet~~pharmacy must meet to qualify for ~~registration~~licensure in each classification designated in subsection 2. The board may issue various types of ~~certificates~~licenses with varying restrictions to the ~~outlets~~pharmacies referred to in subsection 2, paragraph A when the board determines it necessary by reason of the type of ~~drug outlet~~pharmacy requesting a ~~certificate~~license.

**Sec. DD-24. 32 MRSA §13752,** as amended by PL 2005, c. 262, Pt. B, §§12 to 14, is further amended to read:

## **§ 13752. Application**

**1. Procedures.** The board shall specify by rule the ~~registration~~licensing procedures to be followed, including, but not limited to, specification of forms for use in applying for ~~registration~~licensure and the times and places for filing an application.

**2. Required information.** Applications for ~~certificates of registration~~licenses must include the ~~required~~ fee as set under section 13724 and the following information about the proposed ~~drug outlet~~pharmacy and pharmacist in charge:

A. Ownership of the ~~outlet~~pharmacy;

B. Location of the ~~outlet~~pharmacy;

C. Identity of the pharmacist licensed to practice in the State who will be the pharmacist in charge of the ~~drug outlet~~pharmacy, when one is required by this chapter, and such further information as the board may determine necessary. A pharmacist may be the pharmacist in charge for only one ~~drug outlet~~pharmacy, except upon the pharmacist applying for and receiving written authorization from the board. The position of pharmacist in charge may not be held by a qualified assistant pharmacist; and

D. A certification by the pharmacist identified as the pharmacist in charge that the pharmacist has read and understands the requirements and duties of a pharmacist in charge set forth in board rules.

**3. Transferability.** ~~Certificates of registration~~Licenses issued by the board pursuant to this chapter are not transferable or assignable.

**4. Professional responsibility.** The board shall specify by rule minimum standards for the professional responsibility in the conduct of any ~~drug outlet~~pharmacy that has employees or personnel engaged in the practice of pharmacy. The board may require that the portion of the facility to which the ~~certificate of registration~~license applies be operated only under the direct supervision of no less than one pharmacist licensed to practice in this State and not otherwise and to provide such other special requirements as necessary. A change in the pharmacist in charge who is responsible for the ~~drug outlet~~pharmacy must be reported to the board together with the ~~required~~ fee as set under section 13724.

**5. Minimum inventory.** The board shall ascertain that the applicant has a sufficient amount of prescription inventory on location to respond appropriately to prescription orders.

**Sec. DD-25. 32 MRSA §13752-A**, as enacted by PL 1999, c. 130, §12, is amended to read:

### **§ 13752-A. Site inspection required**

**1. Opening facility.** ~~Successful applicants for registration of a drug outlet~~Pharmacies licensed pursuant to this subchapter may open and operate the ~~approved~~ facility only:

A. Upon the ~~completion of a site inspection of the facility by a member~~approval of the board or its representative; or

B. Upon the pharmacist in charge certifying to the board, on forms prescribed by the board, that the facility is secure, suitable for operation as a ~~drug outlet~~pharmacy and in compliance with applicable federal and state laws, rules and regulations governing the practice of pharmacy.

**2. Facility inspection.** ~~Registered drug outlets~~Licensed pharmacies that open and operate pursuant to subsection 1, paragraph B must be inspected by a member of the board or ~~an inspector for the board~~its representative within 30 days of opening. Facilities that are found to be insecure, not suitable for operation as a ~~drug outlet~~pharmacy or not in compliance with applicable federal and state laws, rules and

regulations governing the practice of pharmacy are subject to a board-ordered emergency revocation of ~~registration~~the license. The ~~outlet~~pharmacy may not operate after revocation. The emergency revocation is a final agency action and is not subject to judicial review, but a new application for ~~registration~~licensure may be submitted pursuant to section 13752, and if approved, a site inspection must be performed pursuant to subsection 1, paragraph A.

**Sec. DD-26. 32 MRSA §13753, sub-§1**, as enacted by PL 1987, c. 710, §5, is amended to read:

**1. Changes.** All ~~registered drug outlets~~licensed pharmacies shall report to the board, by registered mail ~~or fax~~, the occurrence of any of the following changes:

- A. Permanent closing which requires 14 days' prior notice to the public and to the board;
- B. Change of ownership which requires 7 days' prior notice to the board;
- C. Change of pharmacist in charge which requires notice no later than 7 days after the change; and
- D. Any other matters and occurrences as the board may require by rule.

**Sec. DD-27. 32 MRSA §13754**, as enacted by PL 1987, c. 710, §5, is amended to read:

### **§ 13754. Violations and penalties**

**1. Unlicensed practice.** No ~~drug outlet~~registered pharmacy licensed pursuant to section 13751 may be operated until a ~~certificate of registration~~license has been issued to that facility by the board. ~~Upon the finding of a violation of this section, the board may impose one or more of the penalties enumerated in section 13731 or 13743.~~Any person who violates this section is subject to the provisions of Title 10, section 8003-C.

**2. Reinstatement.** Reinstatement of a ~~certificate~~license that has been suspended, revoked or restricted by the board may be granted in accordance with the procedures specified by section 13743, subsection 2.

**Sec. DD-28. 32 MRSA §13758**, as amended by PL 2005, c. 262, Pt. B, §15, is further amended to read:

### **§ 13758. Licensure**

**1. Purpose; statement of intent.** The purpose of this section is to require ~~registration~~licensure of manufacturers and wholesalers ~~without facilities in this~~within or outside the State. The intent of the Legislature is that the board ~~shall~~may not ~~promulgate~~adopt rules regarding companies without wholesale facilities or manufacturers' facilities located in this State ~~which~~that are more restrictive than federal law or regulation.

**2. Licensure, manufacturers and wholesalers.** All manufacturers and wholesalers whose products are distributed in the State in any manner ~~shall register with~~must be licensed by the board.

**3. Licensure, individuals.** ~~No~~An individual who is employed by a manufacturer or wholesaler ~~which~~that is ~~registered~~licensed under this subchapter need ~~register~~not obtain licensure under this subchapter.

**4. Form.** Registration License forms ~~shall~~must state: Applicant's name; address; day phone; 24-hour phone; ownership status; manufacturer or wholesaler designation; Drug Enforcement Agency and Federal Drug Administration numbers; and date executed. Registration License forms ~~shall~~must be executed by an owner or officer of the entity, providing printed name and title.

**5. Fees.** Each ~~registrant~~licensee shall pay a ~~required~~ fee as set under section 13724.

**6. Violations.** It ~~shall be~~is unlawful for manufacturers or wholesale companies to distribute prescription drugs in this State unless ~~registered~~licensed under the provisions of this subchapter or subchapter ~~V~~5.

**Sec. DD-29. 32 MRSA §13762, sub-§2,** as amended by PL 2005, c. 262, Pt. B, §17, is further amended to read:

**2. Renewal.** A license expires on the date set by the ~~Commissioner of Professional and Financial Regulation~~commissioner pursuant to Title 10, section 8003, subsection 4 for the licensing period for which the license was issued. A renewal license is issued for each ensuing licensing period in the absence of any reason or condition that might warrant the refusal to grant a license and upon receipt by the board of the written request of the applicant and the required fee for the license as set under section 13724.

Licenses may be renewed up to 90 days after the date of expiration upon payment of a late fee in addition to a ~~required~~renewal fee, ~~both of which areas~~ set under section 13724. Any person who submits an application for renewal more than 90 days after the license renewal date is subject to all requirements governing new applicants under this chapter, including a late fee, renewal fee and ~~filing~~additional late fee as set under section 13724.

**Sec. DD-30. 32 MRSA §13782-A, sub-§1,** as enacted by PL 1997, c. 245, §15, is amended to read:

**1. Price disclosure required.** A pharmacist or pharmacy technician employed by a ~~drug outlet~~pharmacy shall disclose upon the request of any person making an inquiry in person or by telephone the price of any brand or generic drug sold by that ~~drug outlet~~pharmacy.

**Sec. DD-31. 32 MRSA §13789,** as enacted by PL 1987, c. 710, §5, is amended to read:

### **§ 13789. Possession of drug samples**

No person may purchase manufacturers' drug samples from any person for purposes of resale. If those samples are given gratuitously to a ~~registered~~licensed pharmacist, qualified assistant pharmacist or medical practitioner, any such sample may be given to any person, ~~provided that any such as long as the~~ sample is kept in containers suitably labeled to conform to the Federal Food and Drug Act and the state food and drug laws and ~~provided that this gift shall be~~is subject to the laws relating to the sale of drugs.

**Sec. DD-32. 32 MRSA §13796, sub-§1, ¶B,** as enacted by PL 2005, c. 430, §8 and affected by §10, is amended to read:

B. "Retailer" or "retail store" means a person or business entity engaged in this State in the business of selling products to the general public on a retail basis, including ~~drug outlets~~ pharmacies.

**Sec. DD-33. 32 MRSA §13796, sub-§3, ¶C**, as enacted by PL 2005, c. 430, §8 and affected by §10, is amended to read:

C. Except with regard to single-dose packages of not more than 60 milligrams that are kept within 30 feet and in direct line of sight of a staffed cash register or store counter, the sale of targeted methamphetamine precursors must be completed by:

(1) A licensed pharmacist or ~~registered~~licensed pharmacy technician; or

(2) An employee of the retailer who accepts payment for the targeted methamphetamine precursor as long as:

(a) The employee works under the direct supervision of a pharmacist in the pharmacy area of the retail store; and

(b) A licensed pharmacist or ~~registered~~licensed pharmacy technician has given individual, express approval for the purchase.

**Sec. DD-34. Maine Revised Statutes headnote amended; revision clause.** In the Maine Revised Statutes, Title 32, chapter 117, subchapter 5, in the chapter headnote, the words "registration of pharmacy facilities" are amended to read "pharmacy facilities" and the Revisor of Statutes shall implement this revision when updating, publishing or republishing the statutes.

**Sec. DD-35. Maine Revised Statutes headnote amended; revision clause.** In the Maine Revised Statutes, Title 32, chapter 117, subchapter 6, in the chapter headnote, the words "manufacturers and wholesalers without facilities in this state" are amended to read "manufacturers and wholesalers" and the Revisor of Statutes shall implement this revision when updating, publishing or republishing the statutes.

## PART EE

**Sec. EE-1. 32 MRSA §13851, sub-§1-A** is enacted to read:

**1-A. Board.** "Board" means the Board of Counseling Professionals Licensure, established in section 13852.

**Sec. EE-2. 32 MRSA §13852**, as amended by PL 1999, c. 790, Pt. B, §4, is further amended to read:

### **§ 13852. Board of Counseling Professionals Licensure; establishment; compensation**

**1. Establishment.** The Board of Counseling Professionals Licensure within the ~~Department of Professional and Financial Regulation~~department as established by Title 5, section 12004-A, subsection 9-C, shall carry out the purposes of this chapter.



**2. Members.** The board consists of 9 members, 8 of them appointed by the Governor. Each member must be a citizen of the United States and a resident of this State. Six members must be licensed counseling professionals under this chapter, 2 of whom must be professional counselors, 2 must be clinical professional counselors, one must be a marriage and family therapist and one must be a pastoral counselor. Each counselor member must have been, for at least 5 years immediately preceding appointment, actively engaged as a practitioner, educator or researcher. Two members must be representatives of the general public members as defined in Title 5, section 12004-A and may not be currently practicing counseling or receiving compensation for counseling services. One of the 2 public members must be a consumer of counseling services. One member, appointed by the Chancellor of the University of Maine System, must be a member of the university faculty involved in the training of counselors.

**3. Officers.** ~~The board shall elect a chair and secretary at its first meeting of each year, provided that no person may serve as chair for more than 3 years.~~

**4. Terms of office.** Appointments are for terms of 3 years each. Appointments of members must comply with Title 10, section 608009.

**5. Removal.** The Governor may remove any member of the board for cause and the reason for the termination of each appointment must be communicated to each member so terminated. The appointment of any member of the board must be terminated if a member is absent for 6 consecutive board meetings without good and just cause that is communicated to the chair.

**7. Meetings; chair; quorum.** The board shall ~~hold~~meet at least 2 regular meetings each ~~once~~ a year to conduct its business and to elect a chair. Additional meetings ~~may~~must be held ~~upon~~as necessary to conduct the business of the board and may be convened at the call of the chair or the secretary or ~~upon the written request of any 2~~a majority of the board members. Five members of the board constitute a quorum.

**Sec. EE-3. 32 MRSA §13853,** as amended by PL 1995, c. 397, §114, is further amended to read:

### **§ 13853. Powers and duties of the board**

The board shall ~~have~~has the following powers and duties in addition to all other powers and duties otherwise set forth in this chapter.

**1. Standards.** The board shall administer and enforce this chapter, set forth education and examination standards and evaluate the qualifications for licensure.

**2. Rules.** The board may adopt, in accordance with the ~~Maine Administrative Procedure Act~~, Title 5, chapter 375, rules necessary to carry out the purposes of this chapter.

**3. Complaints.** ~~The board shall investigate or cause to be investigated all complaints made on its own motion or on written complaint filed with the board and all cases of noncompliance with or violation of this chapter or any rules adopted by the board.~~

**4. Records.** ~~The board shall keep records and minutes as are necessary to the ordinary dispatch of its functions.~~

**5. Reports.** ~~The board shall submit to the commissioner its annual report of its operations for the preceding fiscal year no later than August 1st of each year.~~

**8. Register.** ~~The department shall make available, at cost, a register that shall contain the names of all individuals licensed by the board.~~

**10. Officers.** The board shall elect from among its members officers as it determines necessary. The secretary shall keep records and minutes of all activities and meetings.

**11. Code of ethics.** The board shall adopt a code of ethics generally in keeping with standards established by the national professional associations concerned with the areas of board responsibility.

**12. Hearings.** ~~The board shall conduct hearings to assist with investigations and to determine whether grounds exist for suspension, revocation or denial of a license, or as otherwise deemed necessary to the fulfillment of its responsibilities under this chapter.~~

**13. Disclosure statements.** Under this chapter all licensees and registrants are required to provide disclosure statements to clients prior to treatments. The board may adopt, by rule, a standard disclosure statement. This disclosure statement must include, but not be limited to, the name and address of the licensee or registrant, the original date and the expiration date of the license, the proposed course of treatment and financial arrangements for clients.

~~The board may not refuse to renew a license for any reason other than failure to pay a required fee, unless it has afforded the licensee an opportunity for an adjudicatory hearing. The board shall hold an adjudicatory hearing at the written request of any person who is denied a license without a hearing for any reason other than failure to pay a required fee, provided that the request for a hearing is received by the board within 30 days of the applicant's receipt of a written notice of the denial of the application, the reasons for and the right to request a hearing. Hearings must be conducted in conformity with the Maine Administrative Procedure Act, Title 5, chapter 375, subchapter IV, to the extent applicable.~~

**14. Issue licenses.** The board shall issue licenses as necessary to implement this chapter.

**15. Client bill of rights.** The board shall specify the information that counselors are to include in a client bill of rights that is to be provided to all clients by all counselors.

**Sec. EE-4. 32 MRSA §13854, sub-§3,** as amended by PL 2001, c. 421, Pt. B, §103 and affected by Pt. C, §1, is further amended to read:

**3. Unlicensed practice.** A person who violates any provision of this chapter for which a penalty is not specifically provided commits a civil violation for which a forfeiture of not more than \$1,000 may be adjudged. subsection 1 is subject to the provisions of Title 10, section 8003-C. The State may bring an action in Superior Court to enjoin any person from violating this chapter, regardless of whether other administrative, civil or criminal proceedings have been or may be instituted.

**Sec. EE-5. 32 MRSA §13858, first ¶,** as amended by PL 1999, c. 386, Pt. T, §2, is further amended to read:

To be eligible for a license to practice counseling at any level, an applicant must be at least 18 years of age and satisfactorily pass any examination as the board may prescribe by its rules. Each applicant must demonstrate trustworthiness and competence to engage in the practice of counseling in such a manner as to safeguard the interests of the public. Each applicant must submit an application and pay the fee as set under section 13859. The license categories "licensed clinical professional counselor," "licensed pastoral counselor" and "licensed marriage and family therapist" are of equivalent clinical status. Clinical status grants the ability to diagnose and treat mental health disorders.

**Sec. EE-6. 32 MRSA §13859**, as amended by PL 1989, c. 895, §15 and affected by PL 1991, c. 263, §§5 and 6, is repealed and the following enacted in its place:

**§ 13859. Fees**

The Director of the Office of Licensing and Registration within the department may establish by rule fees for purposes authorized under this chapter in amounts that are reasonable and necessary for their respective purposes, except that the fee for any one purpose may not exceed \$300. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

**Sec. EE-7. 32 MRSA §13860, sub-§1**, as enacted by PL 1989, c. 465, §3, is amended to read:

**1. Biennial renewal.** Licenses shall expire biennially on December 31st or on such other date as the commissioner ~~determines~~may determine. ~~Notice of expiration shall be mailed to each licensee's last known address at least 30 days in advance of the expiration of the license. The notice shall include any requests for information necessary for renewal.~~

Licenses may be renewed up to 90 days after the date of expiration upon payment of a late fee of \$10 in addition to the renewal fee as set under section 13859. Any person who submits an application for renewal more than 90 days after the license renewal date ~~shall be~~is subject to all requirements governing new applicants under this chapter, except that the board may, giving due consideration to the protection of the public, waive examination if that renewal examination is ~~made~~received, together with the late fee and renewal fee, within 2 years from the date of that expiration.

**Sec. EE-8. 32 MRSA §13861**, as amended by PL 1993, c. 600, Pt. A, §274, is repealed.

**Sec. EE-9. 32 MRSA §13861-A** is enacted to read:

**§ 13861-A. Denial or refusal to renew license; disciplinary action; reinstatement**

**1. Disciplinary action.** In addition to the grounds enumerated in Title 10, section 8003, subsection 5-A, paragraph A, the board may deny a license, refuse to renew a license or impose the disciplinary sanctions authorized by Title 10, section 8003, subsection 5-A for:

A. Habitual substance abuse or abuse of other drugs listed as controlled substances by the federal Drug Enforcement Administration that has resulted or is foreseeably likely to result in the applicant's or licensee's performing services in a manner that endangers the health or safety of patients;

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.

**2. Reinstatement.** Any individual whose license or registration has been denied, suspended or revoked may apply to the board for licensure or registration reinstatement one year after the date of the board's original action. A competency review is a condition of reinstatement. The board shall determine the nature of this review.

**Sec. EE-10. 32 MRSA §13864,** as enacted by PL 1997, c. 128, §2, is amended to read:

### **§ 13864. Inactive status license**

~~Any~~A licensee, who does not perform any of the activities described in section 13851, subsection 8 and who wants to preserve the license while not engaged in any counseling activity, may ~~surrender that license to the board for placement on~~apply for an inactive status license pursuant to Title 10, section 8003, subsection 5-A, paragraph D, subparagraph (5). The fee for inactive status licensure is set under section 13859. ~~The board may place the license on inactive status only upon proper application by the licensee. During inactive status, the licensee must renew the license biennially and pay the renewal fee as set under section 13859, but is not required to meet the continuing education requirements under section 13860, subsection 2. The board shall adopt rules by which a license in an inactive status license may be reactivated/reinstated.~~ Rules adopted pursuant to this section are routine technical rules as defined by Title 5, chapter 375, subchapter H-A2-A.

## **PART FF**

**Sec. FF-1. 32 MRSA §13902,** as amended by PL 1995, c. 397, §115, is further amended to read:

### **§ 13902. Board of Licensure for Professional Land Surveyors; establishment; compensation**

**1. Establishment and membership.** As established in Title 5, section 12004-A, the Board of Licensure for Professional Land Surveyors ~~shall exist~~exists within the ~~Department of Professional and Financial Regulation~~department. The board ~~shall consist~~consists of 7 members appointed by the Governor, of which 5 ~~shall~~must be professional land surveyors and 2 ~~shall~~must be public members as defined in Title 5, section 12004-A. Each member of the board ~~shall~~must be a citizen of the United States and a resident of this State, and all land surveyor members ~~shall~~must be licensed professional land surveyors and ~~shall~~must have been licensed as professional land surveyors for ~~not less than~~at least 10 years. ~~A public member may not be or have been a professional land surveyor.~~

**2. Terms of appointment; removal.** Appointments are for 5-year terms. Appointments of members must comply with Title 10, section 608009.

The Governor may remove a member of the board for cause.

**4. Meetings; chair; quorum.** The board shall meet at least once a year to conduct its business and to elect its officers a chair. Additional meetings ~~shall~~ must be held as necessary to conduct the business of the board and may be convened at the call of the chair or a majority of the board members. Four members of the board constitute a quorum.

~~The board shall elect or appoint annually a chair, a vice-chair and a secretary. A quorum of the board shall consist of not less than 4 members. The board may adopt and have an official seal.~~

**Sec. FF-2. 32 MRSA §13903, sub-§1,** as enacted by PL 1989, c. 346, §3, is amended to read:

**1. Powers.** The board shall administer and enforce this chapter and evaluate the qualifications of applicants for licensing. ~~The board may examine witnesses and administer oaths and shall investigate or cause to be investigated any complaints made to it of any cases of noncompliance with or violations of this chapter.~~

**Sec. FF-3. 32 MRSA §13903, sub-§3,** as enacted by PL 1989, c. 346, §3, is repealed.

**Sec. FF-4. 32 MRSA §13903, sub-§6,** as enacted by PL 1989, c. 346, §3, is repealed.

**Sec. FF-5. 32 MRSA §13904, sub-§2,** as enacted by PL 1989, c. 346, §3, is amended to read:

**2. Individual licenses.** Only an individual may be licensed under this chapter, ~~except that a firm, partnership, corporation or joint stock association may practice or offer to practice land surveying as long as the practice of land surveying is performed by professional land surveyors licensed in this State.~~

**Sec. FF-6. 32 MRSA §13904, sub-§3,** as enacted by PL 1989, c. 346, §3, is amended to read:

**3. Penalty.** A person who violates this section is ~~guilty of a Class E crime~~ subject to the provisions of Title 10, section 8003-C.

**Sec. FF-7. 32 MRSA §13905, sub-§1, ¶F,** as amended by PL 1991, c. 509, §40, is repealed.

**Sec. FF-8. 32 MRSA §13905, sub-§1, ¶G,** as amended by PL 1991, c. 509, §40, is repealed.

**Sec. FF-9. 32 MRSA §13905, sub-§2, ¶C,** as enacted by PL 1989, c. 346, §3, is repealed.

**Sec. FF-10. 32 MRSA §13905, sub-§2, ¶D,** as enacted by PL 1989, c. 346, §3, is repealed.

**Sec. FF-11. 32 MRSA §13907, first ¶,** as amended by PL 2005, c. 262, Pt. C, §2, is further amended to read:

The board shall issue a license, upon payment of a ~~required~~ fee as set under section 13910-A, to any applicant who, ~~in the opinion of the board,~~ has satisfactorily met the requirements of this chapter. The license authorizes the practice of land surveying.

**Sec. FF-12. 32 MRSA §13908,** as amended by PL 2005, c. 262, Pt. C, §3, is further amended to read:

### **§ 13908. Term of license**

**1. License renewal.** A license expires on the date set by the Commissioner of Professional and Financial Regulation pursuant to Title 10, section 8003, subsection 4 for the licensing period for which the license was issued. A renewal license is issued for each ensuing licensing period in the absence of

any reason or condition that might warrant the refusal to grant a license, upon receipt by the board of the written request of the applicant and the required fee for the license as set under section 13910-A and upon the applicant's presenting evidence of compliance with the requirements of section 13908, subsection 4.

Licenses may be renewed up to 90 days after the date of expiration upon payment of a late fee as set under section 13910-A in addition to a ~~required~~renewal fee as set under section 13910-A. Any person who submits an application for renewal more than 90 days after the licensure renewal date is subject to all requirements governing new applicants under this chapter, including a late fee, renewal fee and ~~filin~~additional late fee as set under section 13910-A, except that the board may waive examination, giving due consideration to the protection of the public.

**2. Refusal to renew license.** ~~The board shall hold an adjudicatory hearing at the written request of any person who is denied a license without a hearing for any reason other than failure to pay a required fee, provided the request for hearing is received by the board within 30 days of the applicant's receipt of written notice of the denial and the right of the applicant to request a hearing. Hearings shall be conducted in conformity with the Maine Administrative Procedure Act, Title 5, chapter 375. To the extent applicable, the board may subpoena witnesses, records and documents in any hearing it conducts.~~

**3. Exemptions from expiration and renewal fees.** Any person holding a valid license under this chapter on the date of entering employment in the Armed Forces of the United States during a period of war or employment in any wartime service outside the continental United States or any of its allied nations ~~shall be~~ exempt, for the duration of that employment, from the payment of all renewal fees and that person's license ~~shall remain~~remains in effect until the next regular expiration date following the termination of that employment.

**4. Continuing education.** An applicant for license renewal as a professional land surveyor ~~shall~~must present evidence of having completed 12 hours of professional development in the previous biennium. This subsection does not apply to a person 65 years of age or older who practices less than 160 hours a year. Credit for development hours may be earned as follows.

A. At least 6 hours must be in courses in surveying practice or in courses in at least one of the following areas:

- (1) General business administration or management;
- (2) Land use regulation;
- (3) Other related land use fields, including, but not limited to, civil or environmental engineering, site evaluation for septic system design, soils, landscape architecture, geology, forestry, title examination and insurance, and other legal issues related to real estate;
- (4) Computer application skills or programming;
- (5) Communication, including, but not limited to, speech and technical writing; or

(6) Other subject matters the understanding of which appreciably aids a land surveyor in the performance of professional duties.

B. One hour of professional development may be earned for every 900 hours of survey practice during the past biennium and one hour may be earned for each 3 years of full-time surveying practice as a registered or licensed surveyor during the time preceding the past biennium.

C. The applicant may acquire professional development credit through the following professional activities.

(1) Credit may be earned by membership and participation in surveying organizations as follows.

(a) Membership in a surveying organization entitles the licensee to one credit hour.

(b) Holding a leadership position in a surveying organization entitles the licensee to an additional credit hour per biennium.

(c) Active participation in an active committee of a surveying organization entitles the licensee to an additional credit hour.

(d) Chairing an active committee of a surveying organization entitles the licensee to an additional credit hour.

(e) Attendance at a minimum of 50% of the general membership meetings of a surveying organization entitles the licensee to an additional credit hour.

(2) The licensee is entitled to 1 credit hour for membership in other associations, societies, boards or clubs related to a subject matter described in paragraph A.

(3) A licensee is entitled to one credit hour for each article, column or other significant work relevant to subject matter described in subsection 4, paragraph A that is published in a professional journal, magazine or other similar publication. Credit hours for works written by multiple authors must be divided pro rata.

The board may waive requirements of this subsection in cases of undue hardship and may accept for credit worthy professional development activities as determined by the board not specified in this subsection. The board shall adopt any rules necessary to implement this subsection.

~~The provisions of this subsection must be reviewed by the joint standing committee of the Legislature having jurisdiction over business legislation matters by March 1, 1999.~~

**Sec. FF-13. 32 MRSA §13909**, as enacted by PL 1989, c. 346, §3, is repealed and the following enacted in its place:

**§ 13909. Denial or refusal to renew license; disciplinary action**

The board may deny a license, refuse to renew a license or impose the disciplinary sanctions authorized by Title 10, section 8003, subsection 5-A for any of the reasons enumerated in Title 10, section 8003, subsection 5-A, paragraph A.

**PART GG**

**Sec. GG-1. 32 MRSA §14003**, as enacted by PL 1999, c. 185, §5, is amended to read:

**§ 14003. License required**

Except as provided in section 14004, it is unlawful for a person to prepare, for a fee or other valuable consideration, an appraisal or appraisal report relating to real estate or real property in this State without first obtaining a real estate appraisal license. Only an individual may be licensed under this chapter. This section does not apply to individuals who do not render significant professional assistance in arriving at a real estate appraisal analysis, opinion or conclusion. Nothing in this chapter prohibits any person who is licensed to practice in this State under any other law from engaging in the practice for which that person is licensed.

**Sec. GG-2. 32 MRSA §14006**, as corrected by RR 2001, c. 1, §42, is amended to read:

**§ 14006. Violation**

~~A person who violates any provision of this chapter for which a penalty has not been prescribed commits a civil violation for which a forfeiture of not more than \$1,000 may be adjudged~~section 14003 is subject to the provisions of Title 10, section 8003-C. ~~The State may bring action in Superior Court to enjoin a person from violating this chapter, regardless of whether other administrative, civil or criminal proceedings have been or may be instituted.~~

**Sec. GG-3. 32 MRSA §14011**, as enacted by PL 1999, c. 185, §5, is amended to read:

**§ 14011. Board of Real Estate Appraisers; establishment**

**1. Establishment.** The Board of Real Estate Appraisers is established within the department pursuant to Title 5, section 12004-A, subsection 9-B and shall carry out the purposes of this Act.

**2. Members.** The board consists of 7 members appointed by the Governor. Each member must be a ~~citizen of the United States and~~ a resident of this State. The board consists of:

A. Two public members as defined in Title 5, section 12004-A; and

B. Five members who hold valid appraiser licenses, including at least one member who holds a certified general license.

**3. Geographic distribution.** ~~The Governor, in making appointments, shall consider the desirability of having a broad geographic distribution of representation.~~



**4. Terms; removal.** Terms of the members of the board are for 3 years. Appointments of members must comply with Title 10, section 8009. Members may be removed by the Governor for cause.

**5. Meetings; chair; quorum.** The board shall ~~hold~~meet at least ~~4~~regular meetings eachonce a year to conduct its business and to elect a chair. Additional meetings ~~may~~must be held ~~upon~~as necessary to conduct the business of the board and may be convened at the call or ~~upon the written request of 2~~of the chair or a majority of the board members. ~~A majority of the~~Four members of the board ~~constitutes~~constitute a quorum for the ~~transaction of business under this Act.~~

**6. Election of officers.** ~~The board shall annually elect a chair and other officers as it determines necessary.~~

**Sec. GG-4. 32 MRSA §14012, sub-§1,** as enacted by PL 1999, c. 185, §5, is repealed.

**Sec. GG-5. 32 MRSA §14012, sub-§2,** as enacted by PL 1999, c. 185, §5, is repealed.

**Sec. GG-6. 32 MRSA §14013,** as amended by PL 1999, c. 687, Pt. F, §10, is repealed.

**Sec. GG-7. 32 MRSA §14014,** as enacted by PL 1999, c. 185, §5, is repealed.

**Sec. GG-8. 32 MRSA §14014-A** is enacted to read:

**§ 14014-A. Denial of or refusal to renew license; disciplinary action**

In addition to the grounds enumerated in Title 10, section 8003, subsection 5-A, paragraph A, the board may deny a license, refuse to renew a license or impose the disciplinary sanctions authorized by Title 10, section 8003, subsection 5-A for:

**1. Lack of trustworthiness.** Lack of trustworthiness and competence to conduct real estate appraisal activity in a manner that safeguards the interests of the public;

**2. Misconduct.** The commission of an act or omission in the practice of real estate appraising that constitutes dishonesty, fraud or misrepresentation with the intent to benefit the licensee or another person or with the intent to injure another person;

**3. Court judgment.** The entry of a final civil or criminal judgment against a licensee on grounds of fraud, misrepresentation or deceit in the making of an appraisal of real estate;

**4. Unauthorized payment.** Payment of a finder's fee or a referral fee to a person who does not have an appraiser license in this State in connection with an appraisal of real estate or real property in this State;

**5. Misrepresentation of professional qualifications.** Making a false or misleading statement in that portion of a written appraisal report that deals with professional qualifications or in any testimony concerning professional qualifications;

**6. Predetermined appraisal result.** Accepting a fee for performing an independent appraisal service when, in fact, the fee is or was contingent upon the appraiser's reporting a predetermined analysis, opinion or conclusion or is or was contingent upon the analysis, opinion, conclusion or valuation reached or upon the consequences resulting from the appraisal assignment;

**7. Lack of diligence.** Failure or refusal, without good cause, to exercise reasonable diligence in developing an appraisal, preparing an appraisal report or communicating an appraisal;

**8. Negligence or incompetence.** Negligence or incompetence in developing an appraisal, preparing an appraisal report or communicating an appraisal;

**9. Breach of confidentiality.** A violation of the confidential nature of individual, business or governmental records to which a licensee or applicant gained access through employment or engagement as an appraiser;

**10. Suspension or revocation of license.** Having had a professional or occupational license suspended or revoked for disciplinary reasons or an application rejected for reasons related to untrustworthiness within 3 years prior to the date of application; and

**11. Failure to meet professional qualifications; failure to submit complete application.** Failure to meet the professional qualifications for licensure as provided in this subchapter or failure to submit a complete application within 30 days after being notified of the materials needed to complete the application.

**Sec. GG-9. 32 MRSA §14021, sub-§5,** as enacted by PL 1999, c. 185, §5, is amended to read:

**5. Reputation.** The applicant must have a good reputation for honesty, truthfulness, fair dealing and competency. ~~The recommendation of applicant shall furnish recommendations from~~ at least 3 persons not related to the applicant who ~~have acknowledged before a notary public that they have known the applicant for at least one year immediately preceding the date of the application and by their signature attest that the applicant has such a reputation creates a rebuttable presumption that the applicant meets that qualification.~~

**Sec. GG-10. 32 MRSA §14023,** as enacted by PL 1999, c. 185, §5, is repealed.

**Sec. GG-11. 32 MRSA §14025, 2nd ¶,** as amended by PL 2005, c. 262, Pt. D, §4, is further amended to read:

The board shall deny a renewal license to any applicant whose license has lapsed for more than 90 days; unless the applicant satisfies the provisions governing new applicants under this subchapter, except that the board may waive the education and examination requirements for new applicants; if the renewal application is received, together with a late fee, renewal fee and ~~filing~~additional late fee as set under section 14012-A, within 2 years from the date of that expiration.

**Sec. GG-12. 32 MRSA §14026,** as enacted by PL 1999, c. 185, §5, is repealed.

**Sec. GG-13. 32 MRSA §14029,** as enacted by PL 1999, c. 185, §5, is repealed.

## PART HH

**Sec. HH-1. 32 MRSA §14202, sub-§10-A** is enacted to read:

**10-A. School.** "School" means a school or learning institution where a program of study in cosmetology, barbering, aesthetics or manicuring or the instruction of cosmetology, barbering, aesthetics or manicuring is offered or taught.

**Sec. HH-2. 32 MRSA §14202, sub-§13**, as renumbered by RR 1993, c. 2, §35, is amended to read:

**13. Trainee.** "Trainee" means any person who ~~is registered with the board and~~, under the direct supervision of a person licensed under this chapter in the same category as the training performed and in accordance with board rules, is engaged in learning and acquiring a knowledge of the practice of:

- A. Cosmetology;
- B. Barbering;
- C. Aesthetics; or
- D. Manicuring.

**Sec. HH-3. 32 MRSA §14203, sub-§2**, as amended by PL 1997, c. 210, §§18 to 20 and PL 2003, c. 689, Pt. B, §6, is further amended to read:

**2. Exceptions.** The practice of cosmetology, barbering, aesthetics or manicuring may be carried on only by persons duly licensed to practice in this State and only in an establishment licensed by the board, except as provided in this subsection. Duly licensed persons may practice their respective practices:

- A. On patients in hospitals or nursing homes;
- B. On residents of summer camps;
- C. On inmates or residents of institutions of the Department of Health and Human Services;
- D. On invalids or handicapped persons in those persons' places of residence;
- E. On residents of nursing homes;
- F. On hotel or motel occupants in their hotel or motel rooms;
- G. On persons in their residences;
- H. On persons in their private businesses; and
- I. On human remains in licensed funeral establishments.

~~The exceptions listed in this subsection do not permit the practice of barbering, cosmetology, manicuring or aesthetics in food establishments or food preparation areas.~~

**Sec. HH-4. 32 MRSA §14204, 2nd ¶**, as amended by PL 1997, c. 210, §21, is further amended to read:

The board shall adopt rules for the qualification and examination of applicants for licensure as instructors of barbering ~~or~~, cosmetology, aesthetics or manicuring in accordance with Title 5, chapter 375, subchapter H~~2~~.

**Sec. HH-5. 32 MRSA §14204, 3rd ¶**, as amended by PL 1999, c. 386, Pt. U, §1, is further amended to read:

Upon satisfactory completion of an instructor examination, the applicant must pay at the fee as set under section 14238 to be authorized to instruct.

**Sec. HH-6. 32 MRSA §14205**, as amended by PL 1993, c. 630, Pt. B, §14 and PL 1999, c. 547, Pt. B, §78 and affected by §80, is further amended to read:

### **§ 14205. Violations**

**1. Penalties.** A person ~~commits a Class E crime~~ is subject to the provisions of section 14236-A and Title 10, section 8003-C if that person:

- A. Practices barbering, cosmetology, manicuring or aesthetics in this State without having obtained a license as provided by this chapter;
- B. Employs a person to practice barbering, cosmetology, manicuring or aesthetics who does not have a license, unless that person is a trainee within the meaning of this chapter; or
- C. Falsely professes to be qualified to practice barbering, cosmetology, manicuring or aesthetics under this chapter.

**2. Court action.** ~~The State may bring an action in Superior Court to enjoin any person from violating this chapter, regardless of whether proceedings have been or may be instituted in the District Court or whether criminal proceedings have been or may be instituted.~~

**Sec. HH-7. 32 MRSA §14211-A**, as amended by PL 2005, c. 235, §§5 and 6, is further amended to read:

### **§ 14211-A. Board**

**1. Membership.** The Board of Barbering and Cosmetology, as established by Title 5, section 12004-A, subsection 6, consists of 8 members appointed by the Governor. Two members must be ~~representatives of the public~~ members as defined in Title 5, section 12004-A; 2 must be licensed and practicing cosmetologists; one must be a licensed and practicing barber; one must be a licensed instructor that has at least 3 years of instructing experience and no current affiliation with any school currently licensed in the State; one must be a licensed and practicing manicurist; and one must be a licensed and practicing aesthetician.

**2. Term.** Appointments are for 3-year terms and must comply with Title 10, section 608009. A member may be removed by the Governor for cause.

**3. Qualifications.** Each member of the board must be a ~~citizen of the United States and~~ a resident of this State. The cosmetologist and barber members must be currently licensed by the State and have engaged in active practice of their profession for at least 4 years immediately prior to appointment. ~~The cosmetologist and barber members must hold valid licenses and must be actively engaged in the practice of cosmetology or barbering while serving on the board.~~

**4. Meetings; chair; quorum.** The board shall meet at least once a year to conduct its business and to elect a chair. Additional meetings ~~may~~ must be held as necessary to conduct the business of the board and may be convened at the call of the chair or a majority of the board members. ~~A majority~~ Five members of the board constitutes constitute a quorum ~~for all purposes~~.

**Sec. HH-8. 32 MRSA §14212**, as amended by PL 2001, c. 599, §2, is further amended to read:

**§ 14212. Powers and duties**

The board has the following powers and duties, in addition to those otherwise set forth in this chapter.

**1. Board to administer, coordinate and enforce.** The board shall administer, coordinate and enforce this chapter; ~~and~~ evaluate the qualifications and ~~supervise~~ approve the examinations ~~of~~ taken by applicants for licensure under this chapter and, ~~at its discretion, investigate allegations of violations of this chapter.~~ The board shall keep such records and minutes as necessary to the ordinary dispatch of its functions.

~~A member of the board or a department employee may enter and make reasonable examination of any licensed establishment during business hours for the purpose of ascertaining whether or not this chapter and board rules are being observed.~~

**2. Rules.** The board shall adopt, in accordance with the Maine Administrative Procedure Act, rules necessary to carry out the purposes of this chapter.

The rules must address, but are not limited to, the following:

- A. The proper use of appliances, apparatus, and electrical and nonelectrical machines used in connection with the practice of cosmetology, barbering, manicuring and aesthetics;
- B. Construction and safety of establishments;
- C. Reasonable requirements, including sanitary and safety standards, to govern the practice of cosmetology, barbering, manicuring and aesthetics within licensed establishments as well as for persons practicing outside of licensed establishments as authorized by section 14203; and
- D. Requirements for licenses consistent with this chapter.

A copy of these rules must be kept posted in a conspicuous place within licensed establishments so as to be easily read by customers. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

**3. Hearings.** ~~Hearings may be conducted by the board to assist with investigations, to determine whether grounds exist for suspension, revocation or denial of a license, or as the board otherwise determines necessary to fulfill its responsibilities under this chapter.~~

~~The board may not refuse to renew a license for any reason other than failure to pay the required fee, unless it has afforded the licensee an opportunity for an adjudicatory hearing. The board shall hold an adjudicatory hearing at the written request of any person who is denied a license without hearing for any reason other than failure to pay a required fee, as long as the request for hearing is received by the board within 30 days of the applicant's receipt of written notice of the denial of the application, the reasons for~~

~~the denial and the right to request a hearing. Hearings must be conducted in conformity with the Maine Administrative Procedure Act, to the extent applicable. The board may subpoena witnesses, records and documents in any hearing it conducts.~~

**4. Diseases.** A person who has a communicable disease may not give service to members of the public, including service within licensed establishments or schools licensed by the board. The board has the right to require the physical examination of any person who is suspected of having any communicable disease. Failure to submit to such an examination is grounds for suspension or revocation of the person's registration, certification, permit or license.

**6. Reports.** ~~The board shall submit to the commissioner, no later than August 1st of each year, an annual report of its operations and financial position for the preceding fiscal year ending June 30th, together with those comments and recommendations that the board determines essential.~~

**8. Complaints.** ~~The board shall investigate or cause to be investigated all complaints made on its own motion or on written complaint filed with the board and all cases of noncompliance with or violation of this chapter or any rules adopted by the board.~~

**9. Officers.** ~~The board shall elect annually from among its members a chair, vice-chair and other officers as it determines necessary. The board shall appoint a person to serve as complaint officer.~~

**11. Inspections.** The board or its agents shall conduct random inspections of licensed establishments and booths as considered necessary for compliance with the applicable requirements of this chapter and the applicable rules of the board adopted pursuant to this chapter. A member of the board or a department employee or representative may enter and make reasonable examination of any licensed establishment during business hours for the purpose of ascertaining whether or not the provisions of this chapter and board rules are being observed.

**Sec. HH-9. 32 MRSA §14213,** as enacted by PL 1991, c. 397, §6, is repealed.

**Sec. HH-10. 32 MRSA §14224,** as amended by PL 1999, c. 386, Pt. U, §2 and PL 2003, c. 689, Pt. B, §6, is further amended to read:

## **§ 14224. General provisions; licenses**

**1. Practice; license required.** A person may not practice cosmetology, barbering, manicuring or aesthetics in this State unless that person has first obtained a license as provided in this chapter or unless that person is acting within the scope of employment as a trainee.

**2. Operation of shop; license required.** A person, firm or corporation may not provide services in, operate or cause to be operated a shop where cosmetology, barbering, manicuring or aesthetics is practiced unless that shop has been duly licensed by the board. A license issued pursuant to this subsection authorizes the operation of the establishment only at the location for which the license is issued. Operation of the establishment at any other location is unlawful unless a license for the new location has been obtained in compliance with this chapter and applicable board rules.

The board shall furnish to each licensed cosmetologist, barber, manicurist or aesthetician a license certifying that the holder of that license is entitled to practice in this State. The licensee shall post the license in a conspicuous place where it may be readily seen and read by all persons served. The reproduction, altering or defacing of any license is prohibited.

Booths attached to or within a licensed shop that are operated independently are subject to licensure, fees and applicable rules in the same manner as independent shops. The board may establish rules for the operation of booths.

Shop licenses ~~are issued on July 1st and~~ must be renewed biennially unless otherwise provided by the commissioner. The renewal fee is payable to the board set under section 14238.

The exceptions listed in section 14203, subsection 3 do not permit the practice of cosmetology, barbering, manicuring or aesthetics in food establishments or food preparation areas.

**2-A. Operation of tanning device; public access.** An establishment in which a tanning device as that term is defined in rules adopted by the Department of Health and Human Services is operated on the effective date of this subsection is not required to partition off the working area of the establishment or maintain a separate entrance in order to provide public access to the tanning device. If such an establishment undergoes a material alteration or adds more tanning devices, then the establishment may be prohibited from providing public access to the tanning device through the working area.

**2-B. Change of ownership; change of location.** The owner of a new shop is required to apply to the board for licensure of that shop. The owner of a licensed shop that undergoes a change in location is required to reapply to the board for licensure. The owner or owners of a licensed shop that undergoes a change in ownership shall notify the board within 7 days of the change. If a shop has more than one owner and the change in ownership results from the death or divorce of one of the owners, the notice must be provided to the board as set forth in subsection 2-C. Whenever there is a change of ownership, the shop license is valid for 30 days from the transaction date to allow the new owner to comply with this section.

**2-C. Ownership changes resulting from death or divorce of an owner.** If a licensed shop has more than one owner and ownership changes as a result of the death or divorce of one of the owners, the board shall reissue the license for the remaining license period as long as a remaining owner is named on the existing license and the board is notified within 30 days of the divorce decree or the date of death. A shop license is valid for 60 days following the death of the person in whose name the shop is licensed.

**2-D. Special inspections.** A shop that requires a special inspection, such as a new shop or a shop that changes location or ownership, may be assessed a separate inspection fee.

**3. Trainee.** A trainee cosmetologist, barber, manicurist or aesthetician ~~registered~~licensed pursuant to section 14232 may not independently conduct a practice but may, as a trainee, do any or all acts constituting the practice under the immediate personal supervision of a person duly licensed and approved by the board in a licensed shop. ~~Only one trainee may be employed in any licensed shop at any time.~~

**4. Student license required.** A student enrolled in the study of cosmetology, barbering, manicuring or aesthetics must be ~~registered~~licensed with the board pursuant to section 14233.

A person who violates this section is subject to the provisions of section 14236-A and Title 10, section 8003-C.

**Sec. HH-11. 32 MRSA §14225, first ¶,** as enacted by PL 1991, c. 397, §6, is amended to read:

The board may, subject to section 14112, adopt rules authorizing the issuance of special mobile shop licenses, including requirements for mobile shops, locations for these shops and any other rules that the board considers necessary. The fee for a special mobile shop license is set under section 14238.

**Sec. HH-12. 32 MRSA §14226, sub-§4,** as amended by PL 1997, c. 210, §§25 and 26, is further amended to read:

**4. Examination.** Has satisfactorily passed an examination approved by the board in subjects the board considers necessary to determine the fitness of the applicant to practice. The board ~~shall~~may establish the passing score for all examinations.

~~B. Within 90 days of notification of passing an examination, the applicant must pay a the fee established by the board as set under section 14238 to receive a first license. The first license is valid until the next renewal period. The board has the authority to waive the 90-day time period for extenuating circumstances. If not successful, the applicant may take subsequent examinations held within a period of one year from the date of the applicant's first examination. An applicant who fails to pass an examination within one year from the applicant's first examination may take another examination at a time and under the conditions that the board determines.~~

**Sec. HH-13. 32 MRSA §14227, sub-§4,** as amended by PL 1997, c. 210, §§29 and 30, is further amended to read:

**4. Examination.** Has satisfactorily passed an examination approved by the board in subjects the board considers necessary to determine the fitness of the applicant to practice. The board ~~shall~~may establish the passing score for all examinations.

~~B. Within 90 days of notification of passing an examination, the applicant must pay a the fee established by the board as set under section 14238 to receive a first license. The first license is valid until the next renewal period. The board has the authority to waive the 90-day time period for extenuating circumstances. If not successful, the applicant may take subsequent examinations held within a period of one year from the date of the applicant's first examination. Any applicant who fails to pass an examination within one year from the applicant's first examination may take another examination at a time and under the conditions that the board determines.~~

**Sec. HH-14. 32 MRSA §14228, sub-§4,** as amended by PL 1997, c. 210, §§33 and 34, is further amended to read:

**4. Examination.** Has satisfactorily passed an examination approved by the board in subjects the board considers necessary to determine the fitness of the applicant to practice. The board ~~shall~~may establish the passing score for all examinations.



~~B. Within 90 days of notification of passing an examination, the applicant must pay athe fee established by the boardas set under section 14238 to receive a first license. The first license is valid until the next renewal period. The board has the authority to waive the 90-day time period for extenuating circumstances. If not successful, the applicant may take subsequent examinations held within a period of one year from the date of the applicant's first examination. Any applicant who fails to pass an examination within one year from the applicant's first examination may take another examination at a time and under the conditions that the board determines.~~

**Sec. HH-15. 32 MRSA §14229, sub-§4**, as amended by PL 1997, c. 210, §§36 and 37, is further amended to read:

**4. Examination.** Has satisfactorily passed an examination approved by the board in subjects the board considers necessary to determine the fitness of the applicant to practice. The board ~~shall~~may establish the passing score for all examinations.

~~B. Within 90 days of notification of passing an examination, the applicant must pay athe fee established by the boardas set under section 14238 to receive a first license. The first license is valid until the next renewal period. The board has the authority to waive the 90-day time period for extenuating circumstances. If not successful, the applicant may take subsequent examinations held within a period of one year from the date of the applicant's first examination. Any applicant who fails to pass an examination within one year from the applicant's first examination may take another examination at a time and under the conditions that the board determines.~~

**Sec. HH-16. 32 MRSA §14229-A** is enacted to read:

#### **§ 14229-A. First license; reexamination**

Within 90 days of notification of passing an examination, the applicant must pay a fee as set under section 14238 to receive a first license. The first license is valid until the next renewal period. The board has the authority to waive the 90-day time period for extenuating circumstances. If not successful, the applicant may take subsequent examinations held within a period of one year from the date of the applicant's first examination. An applicant who fails to pass an examination within one year from the applicant's first examination may take another examination at a time and under the conditions that the board determines.

**Sec. HH-17. 32 MRSA §14230**, as amended by PL 1997, c. 210, §38, is further amended to read:

#### **§ 14230. Temporary permit**

If an applicant to practice cosmetology, barbering, manicuring or aesthetics qualifies for examination, the board may issue to that applicant a permit to practice under the direct supervision of a qualified supervisor, as determined by board rules, within a licensed shop. The applicant must pay a ~~permi~~the fee in an amount established by the board~~as~~ set under section 14238. A permit expires 6 months from the date of issuance and is not renewable. The applicant is not considered a trainee.

**Sec. HH-18. 32 MRSA §14231**, as amended by PL 1993, c. 287, §1, is further amended to read:

#### **§ 14231. Endorsement**

The board ~~shall~~may waive the examination and grant a license to any applicant who presents proof of being authorized to practice by another state or other jurisdiction of the United States or another country that maintains professional standards considered by the board to be equivalent to or higher than those set forth in this chapter, as long as no cause exists for denial of a license under section ~~14236~~14236-A. Such an applicant must pay the fee as provided in section 14238.

**Sec. HH-19. 32 MRSA §14232**, as amended by PL 1993, c. 630, Pt. B, §23, is further amended to read:

## **§ 14232. Trainees**

**1. License.** Each trainee must submit an application for ~~registration~~license to the board ~~on a form prescribed and supplied by the board~~. The application must be accompanied by a ~~registration fee as set by the board~~registration fee under section 14238. The ~~registration~~license for each type of training expires as indicated below.

- A. A cosmetology trainee ~~registration~~license expires 18 months from date of issuance.
- B. A barber trainee ~~registration~~license expires 18 months from date of issuance.
- C. A manicurist trainee ~~registration~~license expires 6 months from date of issuance.
- D. An aesthetician trainee ~~registration~~license expires 12 months from date of issuance.

~~The board shall furnish to each registered trainee a trainee registration. A trainee registration is renewable upon payment of the registration fee. The registration must be displayed as provided for licenses in section 14235. The term "trainee" must appear in conspicuous print upon the registration. To obtain a license, a trainee, upon completion of the required training in accordance with this chapter, must file application for examination at the next examination held by the board.~~

**2. Filing with the board.** Before beginning training, a trainee must file with the board:

- A. The employer's name, shop name and address;
- B. The date that the training will begin;
- C. The type of training, such as cosmetology, barbering, manicuring or aesthetics;
- D. Evidence of age; ~~and~~
- E. Evidence of satisfactory completion of the 10th grade or its equivalent; and
- F. The name of the licensee who will directly supervise the trainee in compliance with section 14224, subsection 3.

~~Trainees who change their place of employment must notify the board, within 510 days of the change; of the name and place of business of the new employer and the date of the change and must file a new trainee application.~~

**3. Courses of instruction.** A trainee may take courses of instruction in a licensed school without having to register as a student as provided in this chapter. Hours or time accumulated in a school ~~may not be combined with the required~~ be applied to the training hours and time program in accordance with rules adopted by the board.

**4. Renewal; display; examination.** The board shall furnish a trainee license to each trainee. A trainee license is renewable upon payment of the fee as set under section 14238. The license must be displayed as provided for licenses in section 14224. The term "trainee" must appear in conspicuous print on the license. To be licensed as a cosmetologist, barber, aesthetician or manicurist, a trainee, upon completion of the required training in accordance with this chapter, must pass an examination approved by the board.

**Sec. HH-20. 32 MRSA §14233**, as amended by PL 1999, c. 386, Pt. U, §4, is further amended to read:

### **§ 14233. Licensed students**

Schools licensed by the board shall ~~register~~ license students in accordance with rules ~~established~~ adopted by the board and upon payment of the fee as set under section 14238.

To be eligible for ~~registration~~ licensure, the student must be at least 16 years of age and have satisfactorily completed the 10th grade or its equivalent. Evidence of the student's eligibility and enrollment in the school must be provided on a form provided by the board.

All training or services rendered to a member of the public by a student must be under the direct supervision of a duly licensed instructor in a licensed school or as otherwise proved by rule.

**Sec. HH-21. 32 MRSA §14234**, as repealed and replaced by PL 1995, c. 80, §2, is amended to read:

### **§ 14234. Demonstrators**

A person may not perform demonstrations unless licensed by the board and upon payment of the fee as set under section 14238. The board shall adopt rules that describe the articles, machines or techniques that may be demonstrated outside the licensed establishment. All demonstrations must be performed in a safe and sanitary manner for the protection of the public. Licenses must be renewed ~~on or before July 1st~~ biennially or at such other times as the commissioner may designate. A license is not required for persons who perform demonstrations in a licensed establishment or solely to licensed persons.

**Sec. HH-22. 32 MRSA §14235**, as enacted by PL 1991, c. 397, §6, is amended to read:

### **§ 14235. Licenses; renewal**

~~The board shall furnish to each licensed cosmetologist, barber, manicurist or aesthetician a license certifying that the holder of that license is entitled to practice in this State. The holder of a license shall post it in a conspicuous place where it may be readily seen and read by all persons served. The reproduction, altering or defacing of any license is prohibited.~~

Licenseses must renew their licenses on or before July 1st biennially by filing an application ~~prescribed by the board and payment of the required~~ paying the renewal fee as set forth ~~in~~ under section 14238. The expiration dates for licenses issued under this chapter may be established by the commissioner.

A license may be renewed up to 90 days after the date of its expiration upon payment of a late fee as set forth ~~in~~under section 14238 in addition to the renewal fee. Any person who submits an application for renewal more than 90 days after the license expiration date is subject to all requirements governing new applicants under this chapter, including a late fee, renewal fee and additional late fee as set under section 14238, except that the board, after giving due consideration to the protection of the public, may waive requirements. ~~The board may assess a penalty fee for a renewal more than 90 days after a license expiration date.~~

Notwithstanding any other provision of this chapter, the board must waive examination if a renewal application is made by a person within 90 days after separation from the United States Armed Forces, under conditions other than dishonorable, if that person failed to renew a license because of active duty in the armed forces. The waiver of examination may not be granted if the person served more than 4 years in the armed forces, unless the board is presented with satisfactory evidence that the applicant was required by law to serve that period.

**Sec. HH-23. 32 MRSA §14236**, as enacted by PL 1991, c. 397, §6, is repealed.

**Sec. HH-24. 32 MRSA §14236-A** is enacted to read:

**§ 14236-A. Denial or refusal to renew license; disciplinary action; reinstatement**

**1. Disciplinary action.** In addition to the grounds enumerated in Title 10, section 8003, subsection 5-A, paragraph A, the board may deny a license, refuse to renew a license or impose the disciplinary sanctions authorized by Title 10, section 8003, subsection 5-A for:

- A. Addiction, as confirmed by professional diagnosis, to the use of alcohol or other drugs that has resulted or may result in the licensee's being unable to perform duties or being unable to perform those duties in a manner that would not endanger the health or safety of the public to be served;
- B. A professional diagnosis of mental incompetence;
- C. Engaging in false, misleading or deceptive advertising;
- D. Employing a person to practice cosmetology, barbering, manicuring or aesthetics who does not hold a valid license, unless that person is a trainee within the meaning of this chapter; or
- E. Any negligence or misconduct in any of the practices licensed under this chapter.

**2. Reinstatement.** The board may reissue a license to any person whose license has been revoked if 5 or more members of the board vote in favor of that reissuance.

**Sec. HH-25. 32 MRSA §14237**, as enacted by PL 1991, c. 397, §6, is repealed.

**Sec. HH-26. 32 MRSA §14238**, as amended by PL 1999, c. 386, Pt. U, §5, is repealed and the following enacted in its place:

**§ 14238. Fees**

The Director of the Office of Licensing and Registration within the department may establish by rule fees for purposes authorized under this chapter in amounts that are reasonable and necessary for their respective purposes, except that the fee for licensure of a school may not exceed \$500 and the fee for any other purpose may not exceed \$100. Rules adopted pursuant to the section are routine technical rules pursuant to Title 5, chapter 375, subchapter 2-A.

**Sec. HH-27. 32 MRSA §14245**, as amended by PL 1997, c. 771, §10, is further amended to read:

### **§ 14245. License required; penalties**

**1. Requirement of license.** Any person, partnership, association or corporation located either within or outside the State must obtain a license as specified under section 14246 from the board before operating or maintaining any school of barbering or school of cosmetology within the State or before collecting any tuition, fee or other charge for operating or maintaining such a school within the State.:

A. Operating, maintaining or instructing at a school within the State; or

B. Collecting any tuition, fee or other charge for education, instruction or other services provided or to be provided by a school.

**2. Unlicensed practice.** Any person, partnership, association or corporation that operates or maintains a school of barbering or school of cosmetology in violation of this subchapter, or represents itself as operating and maintaining such a school, is subject to a civil penalty of not more than \$5,000, payable to the State, to be recovered in a civil action. violates subsection 1 is subject to the provisions of Title 10, section 8003-C, except that, notwithstanding Title 10, section 8003-C, such a person, partnership, association or corporation is subject to a fine of not less than \$100 but not more than \$5,000 for each violation.

**Sec. HH-28. 32 MRSA §14246, sub-§1**, as amended by PL 1997, c. 771, §11, is further amended to read:

**1. Application requirements; licensing; bonding and revocation of license.** The application for a license required by this subchapter must be made on forms furnished by the board and be accompanied by an application fee not to exceed \$100 as set under section 14238 and a surety bond. For applicants that participate in state or federal financial aid programs, except the Federal Direct Student Loan Program under the federal Higher Education Act of 1965, 20 United States Code, Section 1087a et seq., the bond must be in favor of the Finance Authority of Maine. For all other applicants, the bond must be in favor of the board. The amount of the bond for a new applicant is \$20,000. For renewal applicants, the amount of the bond must be equal to the greater of 10% of the applicant's gross receipts from tuition in the 12 months prior to the application for renewal or \$20,000.

A. A license is valid for the calendar year in which it is issued a period of 12 months from the date of issuance or as otherwise determined by the commissioner.

B. The bond must be continuous and must provide indemnification to any student suffering loss as a result of any fraud, misrepresentation, violation of this subchapter or rules adopted under this subchapter or breach of contract. The bond must provide for written notification by the surety to the board in the event of cancellation. Cancellation of the bond by the surety, or payment under the

bond by the surety to the board or the Finance Authority of Maine, results in the revocation of the license. The bond must also specifically provide that proceeds are available to pay tuition refunds to students or to student loan lenders on behalf of students eligible for those refunds pursuant to the policies of the school or state or federal law, rule or regulation.

C. If one or more students notify the board or the Finance Authority of Maine of a claim the student has against the school for fraud, misrepresentation, breach of contract or refund due, or that the school has violated the provisions of this subchapter or applicable rules, or if any such event is discovered by the board or the Finance Authority of Maine from other sources and the holder of the bond has reason to believe the claim is valid, the holder may make a claim against the bond on behalf of the student or students affected, or on behalf of the board. The board and the Finance Authority of Maine have the concurrent right at any time to review the school's operations and all its records to determine if the school is in compliance with this subchapter and rules adopted under this subchapter, or to determine if any claim of a student against the school is valid.

**Sec. HH-29. 32 MRSA §14246, sub-§2,** as amended by PL 1997, c. 771, §11, is further amended to read:

**2. License fee; renewal fee; renewal requirements.** A fee not to exceed \$500 as set under section 14238 is charged for the initial license and for the annual renewal of a license. Each submission for a license renewal must include the school's most recent financial audit conducted by a certified public accountant unaffiliated with the school. When a school does not participate in federal or state financial aid programs, internally prepared financial statements signed by the applicant are acceptable. Every renewal application must include a bond in the required amount. The board shall provide copies of the audit or financial statements and, in cases in which the bond is not in favor of the board, the original bond to the Finance Authority of Maine and may provide financial information regarding the school to other state agencies with an interest in the operation of the school. When a school applies for renewal of a license the school must certify that:

A. The school has included information in all school brochures and handbooks provided to students, and has posted information in a location in the school frequented by students advising students of their rights to receive refunds and where to direct any complaints the students have concerning their education; and

B. The school is in compliance with all applicable federal and state laws and regulations.

**Sec. HH-30. 32 MRSA §14247,** as amended by PL 1997, c. 771, §12, is further amended to read:

### **§ 14247. Rules**

The board shall adopt rules for the licensing of persons, partnerships, associations or corporations to maintain and operate schools of ~~barbering and schools of cosmetology~~. The rules must include standards relating to educational programs, instructor qualifications, records and record keeping, health and sanitation, safety and physical facilities, payment of refunds; and notices and information to be provided to students. Rules adopted pursuant to this chapter are routine technical rules pursuant to Title 5, chapter 375, subchapter ~~H-A2-A~~.

**Sec. HH-31. 32 MRSA §14249,** as amended by PL 1997, c. 771, §13 and PL 1999, c. 547, Pt. B, §78 and affected by §80, is further amended to read:

## **§ 14249. Complaints**

The board may investigate complaints involving a school including any allegation of noncompliance with or violation of this subchapter and applicable rules. The board shall promptly notify the Finance Authority of Maine of any complaints involving student financial assistance. After a hearing in conformance with Title 5, chapter 375, subchapter IV~~4~~, the board may amend or modify any license and may suspend or refuse to renew a license as provided in Title 5, section 10004.

A board member may not participate in any on-site evaluation, complaint, hearing or license-related action that involves a school ~~of barbering or a school of cosmetology~~ with which the board member has or has had a direct relationship as a student, instructor, administrator or director or in which the board member has a direct pecuniary interest ~~in the school~~.

~~The District Court may suspend or revoke the license of any person, partnership, association or corporation found to have violated any provision of this subchapter or any lawful order or rule issued by the board.~~

**Sec. HH-32. 32 MRSA §14250**, as enacted by PL 1997, c. 266, §18, is repealed and the following enacted in its place:

### **§ 14250. Denial or refusal to renew school license; disciplinary action**

The board may deny a school license, refuse to renew a school license or impose the disciplinary sanctions authorized by Title 10, section 8003, subsection 5-A for any of the reasons enumerated in Title 10, section 8003, subsection 5-A, paragraph A.

## **PART II**

**Sec. II-1. 32 MRSA §14302, sub-§3**, as enacted by PL 1991, c. 403, §1, is repealed.

**Sec. II-2. 32 MRSA §14302, sub-§4**, as enacted by PL 1991, c. 403, §1, is repealed.

**Sec. II-3. 32 MRSA §14302, sub-§5**, as amended by PL 1997, c. 681, §2, is repealed.

**Sec. II-4. 32 MRSA §14302, sub-§6**, as amended by PL 1997, c. 681, §2, is repealed.

**Sec. II-5. 32 MRSA §14306-D**, as amended by PL 2001, c. 323, §31, is further amended to read:

### **§ 14306-D. Qualifications; massage therapists**

Each applicant for licensure must demonstrate competence to engage in the practice of massage therapy in a manner that safeguards the interests of the public.

**1. Requirements.** The following requirements are considered minimum evidence satisfactory to the department that an applicant is qualified for licensure under this chapter. An applicant must:

A. Pass the examination sponsored by the National Certification Examination Board for Therapeutic Massage and Bodywork administered by the Psychological Corporation or the Federation of State Massage Therapy Boards or its ~~their~~ successor organization or other organizations approved by the department; or demonstrate completion of a course of training consisting of 500 or more hours approved by the department;

B. Be 18 years of age or older;

C. Possess a high school diploma or its equivalent; and

~~D. Furnish to the department a signed photograph of the applicant. The photograph must be a minimum of 5 inches by 3 inches; and~~

~~E. Pay a one-time an application fee and an annual licensing fee as set under section 14306-G. All fees are nonrefundable.~~

~~**2. Existing certified massage therapists.** Upon renewal of duly issued certification as a massage therapist, a person who remits appropriate fees within one year after the effective date of this section may be issued a license by the department.~~

**Sec. II-6. 32 MRSA §14306-E**, as amended by PL 2001, c. 323, §32, is repealed.

**Sec. II-7. 32 MRSA §14306-F, sub-§1**, as amended by PL 2001, c. 323, §33, is further amended to read:

**1. Renewal.** ~~Each individual who applies for licensure shall fill out a form designated by the department. A license expires annually on the date of the individual's initial licensure or on such other date as the commissioner determines.~~ renewal fee as set under section 14306-G must be paid by the licensee. Notice of expiration must be mailed to a licensed massage therapist's last known address at least 30 days before the expiration of the license. The notice must include requests for any information necessary for renewal. A late fee is assessed on any license renewal that is postmarked later than the anniversary date of the individual's initial licensure. Licenses issued under this chapter expire annually on their anniversary date or as otherwise provided by the commissioner. Any license not renewed by its date of expiration automatically expires. Licenses may be renewed up to 90 days after the date of expiration upon payment of a late fee in addition to the renewal fee as set under section 14306-G. If, after 90 days from the anniversary date, an individual has not renewed the license, the individual must reapply for licensure.

**Sec. II-8. 32 MRSA §14308**, as corrected by RR 1997, c. 2, §56, is repealed.

**Sec. II-9. 32 MRSA §14308-A** is enacted to read:

**§ 14308-A. Denial or refusal to renew license; disciplinary action**

In addition to the grounds enumerated in Title 10, section 8003, subsection 5-A, paragraph A, the commissioner may deny a license, refuse to renew a license or impose the disciplinary sanctions authorized by Title 10, section 8003, subsection 5-A for:

**1. Habitual substance abuse.** Habitual substance abuse that has resulted or is foreseeably likely to result in the applicant's or licensee's performing services in a manner that endangers the health or safety of clients;

**2. Mental incompetence.** A current medical finding of mental incompetence that affects the applicant's or licensee's ability to perform that person's occupation in a healthy and safe manner; or



**3. Revocation or denial.** Revocation in any state of a professional or occupational license, certification or registration for disciplinary reasons or rejection of any application for reasons related to untrustworthiness, within 3 years of the date of application.

**Sec. II-10. 32 MRSA §14309**, as amended by PL 2001, c. 421, Pt. B, §105 and affected by Pt. C, §1, is further amended to read:

### **§ 14309. Unlicensed practice**

~~A person who violates any provision of this chapter for which a penalty has not been prescribed commits a civil violation for which a forfeiture of not more than \$1,000 may be adjudged~~section 14306-C is subject to the provisions of Title 10, section 8003-C. The State may bring an action in Superior Court to enjoin any person from violating this chapter, regardless of whether other administrative, civil or criminal proceedings have been or may be instituted.

**Sec. II-11. 32 MRSA §14311**, as enacted by PL 1993, c. 245, §10, is repealed.

## **PART JJ**

**Sec. JJ-1. 32 MRSA §14351**, as enacted by PL 1995, c. 275, §1, is amended to read:

### **§ 14351. Purpose**

The Legislature finds that the practice of athletic training affects the public health, safety and welfare and is subject to regulation and control in the public interest. The purpose of this chapter is to protect the public from the unqualified use of the term "athletic trainer"unlicensed persons professing to be "athletic trainers" and from unprofessional conduct by persons licensed to use the term "athletic trainer."

**Sec. JJ-2. 32 MRSA §14353**, as enacted by PL 1995, c. 275, §1, is amended to read:

### **§ 14353. Commissioner; powers and duties**

The commissioner or the commissioner's designee has the following powers and duties in addition to all other powers and duties set forth in this chapter.

- 1. Standards.** The commissioner shall administer and enforce the standards under this chapter.
- 2. Rules.** The commissioner shall adopt rules in accordance with the Maine Administrative Procedure Act necessary to carry out the purposes of this chapter.
- 3. Complaints.** ~~The commissioner shall investigate all complaints and cases of noncompliance concerning violations of this chapter or rules adopted by the department, made on the commissioner's own motion or on written complaint filed with the department.~~
- 4. Contracts.** ~~The commissioner may enter into contracts to carry out the commissioner's responsibilities under this chapter.~~
- 5. Hearings.** ~~The commissioner may conduct hearings to assist with investigations and to determine whether grounds exist for denial of reregistration, suspension of registration or other action necessary to the fulfillment of the commissioner's responsibilities under this chapter.~~

**6. Advisory council.** The commissioner shall select members of the athletic training community to serve on an advisory council and to consult with the commissioner concerning the regulation of athletic trainers. ~~The council membership must represent each of the following categories: high schools, clinical or industrial organizations, colleges or universities and professional sports. The department shall solicit recommendations from the council relative to rules involving athletic trainers and may solicit the council's advice on any other matter. The council may submit recommendations to the department concerning any matter and the department shall~~may consider the recommendations in making its decisions. Membership on the council is not a conflict of interest regardless of the occupations or associations of the members.

**7. Employees.** ~~The commissioner may appoint, subject to the Civil Service Law, employees necessary to carry out this chapter and those employees are considered to be under the department.~~

**8. Budget.** ~~The commissioner shall prepare a budget in accordance with Title 5, section 1665 to carry out the purposes of this chapter.~~

**Sec. JJ-3. 32 MRSA §14355**, as enacted by PL 1995, c. 275, §1 and amended by PL 1999, c. 547, Pt. B, §78 and affected by §80, is further amended to read:

### **§ 14355. License violations**

~~Beginning January 1, 1996 a~~A person who violates section 14354 ~~or employs an unlicensed person in violation of that section is guilty of a Class E crime~~is subject to the provisions of Title 10, section 8003-C.

~~The State may bring an action in Superior Court to enjoin any person from violating this chapter, regardless of whether procedures have been instituted in the District Court or whether criminal proceedings have been introduced.~~

**Sec. JJ-4. 32 MRSA §14357, sub-§1, ¶B**, as enacted by PL 1995, c. 275, §1, is amended to read:

B. Be a graduate of a college or university approved by the department and have successfully completed that college's or university's curriculum in athletic training or other curricula acceptable to the department and have completed an athletic training education program approved by the National Athletic Trainers' Association or its successor or other organization approved by the department or a program of practical training in athletic training acceptable to the department; and

**Sec. JJ-5. 32 MRSA §14357, sub-§1, ¶C**, as enacted by PL 1995, c. 275, §1, is amended to read:

C. Have passed the National Athletic Trainers' Association Board of Certification examination or be currently certified by the National Athletic Trainers' Association and/or its successor or other organization approved by the department.

**Sec. JJ-6. 32 MRSA §14358**, as amended by PL 1999, c. 685, §23, is further amended to read:

### **§ 14358. Fees**

~~An applicant for initial licensure must submit a written application with supporting documents to the department on forms provided by the department. The applicant must pay a nonrefundable application fee established by the department by rule in an amount not to~~The Director of the Office of Licensing and Registration within the department may establish by rule fees for purposes authorized under this chapter

in amounts that are reasonable and necessary for their respective purposes, except that the fee for any one purpose may not exceed \$300 annually. Rules adopted pursuant to this section are routine technical rules pursuant to Title 5, chapter 375, subchapter H-A2-A.

~~The department may license an applicant who meets the requirements of this chapter and pays the licensure fee as specified in section 14359. The original license and the renewal license for the current year must be conspicuously displayed at the place of employment of the licensee.~~

**Sec. JJ-7. 32 MRSA §14359**, as amended by PL 1999, c. 685, §24, is further amended to read:

### **§ 14359. Renewal**

~~All licenses must be renewed annually on or before March 31st of each year or such other times as the commissioner may designate. The annual licensure renewal fee must be established by the department by rulemaking and may not exceed \$300. The commissioner shall notify each licensee, at the licensee's last known address, 30 days in advance of the expiration of the license. Renewal notices must be on forms provided by the department. A license not renewed by March 31st automatically expires. The department may renew an expired license if the renewal application is returned within 90 days after the license expiration date and upon payment of a late fee of \$50 in addition to the renewal fee. A license renewal fee as set under section 14358 must be paid by the licensee. Licenses issued under this chapter expire annually on their anniversary date or as otherwise provided by the commissioner. Any license not renewed by its date of expiration automatically expires. Licenses may be renewed up to 90 days after the date of expiration upon payment of a late fee in addition to the renewal fee as set under section 14358. A person who submits an application for renewal more than 90 days after the license expiration date is subject to all requirements governing new applicants under this chapter, except that the department may in its discretion, giving consideration to the protection of the public, waive examination if the renewal application is made received, together with the late fee and renewal fee, within 2 years from the date of that expiration. Rules adopted pursuant to this section are routine technical rules pursuant to Title 5, chapter 375, subchapter H-A2-A.~~

~~For the purposes of satisfying the continuing education requirements, each application for license renewal must include current certification by the National Athletic Trainers' Association certification or its successor or other organization approved by the department.~~

**Sec. JJ-8. 32 MRSA §14360**, as enacted by PL 1995, c. 275, §1, is amended to read:

### **§ 14360. Temporary licenses**

~~A temporary permitlicense may be granted to a person who has completed the education and experience requirements of this chapter and has submitted the license fee as set under section 14358. This permitlicense allows the person to use the title "student athletic trainer" when practicing under the direction of a licensed athletic trainer. This permitlicense becomes invalid after 6 months or upon failure by the permitteelicensee of the National Athletic Trainers' Association Board of Certification examination, whichever event occurs first. The permitlicense may not be renewed.~~

**Sec. JJ-9. 32 MRSA §14361**, as enacted by PL 1995, c. 275, §1 and amended by PL 1999, c. 547, Pt. B, §78 and affected by §80, is repealed.

**Sec. JJ-10. 32 MRSA §14361-A** is enacted to read:

### **§ 14361-A. Denial or refusal to renew license; disciplinary action**

In addition to the grounds enumerated in Title 10, section 8003, subsection 5-A, paragraph A, the department may deny a license, refuse to renew a license or impose the disciplinary sanctions authorized by Title 10, section 8003, subsection 5-A for:

**1. Addiction.** Addiction to alcohol or other drugs resulting in the licensed athletic trainer's inability to perform that trainer's duties safely and competently;

**2. Incompetency.** A court finding of mental incompetency;

**3. Accomplice.** Aiding a person not duly licensed as an athletic trainer in misrepresentation as an athletic trainer; or

**4. Unethical conduct.** A finding by the National Athletic Trainers' Association's Ethics Committee of a violation of the National Athletic Trainers' Association's Code of Ethics or a finding by the National Athletic Trainers' Association's Board of Certification's Professional Practice and Discipline Committee of a violation of the Board of Certification's Standards of Professional Practice or findings by successor or other organizations with respect to codes of ethics approved by the department.

**Sec. JJ-11. 32 MRSA §14362**, as enacted by PL 1995, c. 275, §1 and amended by PL 1995, c. 502, Pt. H, §48, is repealed.

## PART KK

**Sec. KK-1. 32 MRSA §14504**, as repealed and replaced by PL 2003, c. 452, Pt. R, §11 and affected by Pt. X, §2, is amended to read:

### § 14504. License required

**1. License required.** A transient seller of home repair services must ~~register with~~ be licensed by the department and acquire a door-to-door sales ~~registration~~ license in the manner ~~as set forth in~~ under section 14505 before engaging in the door-to-door sales of home repair services. The ~~registration~~ licensing requirement under this section is in addition to the licensing requirements applicable to the occupation, trade or profession for which a license is required. A transient seller who solicits sales during the course of a municipal or state repair contract is exempt from this requirement.

**2. Penalty.** The following penalties apply to violations of this section.

A. A person who violates this section commits a Class E crime, which is a strict liability crime as defined in Title 17-A, section 34, subsection 4-A.

B. A person who intentionally violates this section commits a Class D crime.

**3. Enforcement.** This section is enforceable by either the Department of the Attorney General or a district attorney.

**Sec. KK-2. 32 MRSA §14505**, as amended by PL 2001, c. 324, §7, is further amended to read:

### § 14505. Evidence of licensure

Upon ~~registration~~licensure, the department shall issue to a transient seller of home repair services a door-to-door sales ~~registration~~license that indicates that the person whose name appears on the ~~registration~~license is a ~~registered~~licensed transient seller of home repair services under this subchapter. The ~~registration~~license must also include the name of the seller's company.

**Sec. KK-3. 32 MRSA §14506**, as repealed and replaced by PL 2003, c. 452, Pt. R, §12 and affected by Pt. X, §2, is amended to read:

### **§ 14506. Disclosure of license number**

**1. Disclosure required.** A contract for door-to-door sales of home repair services by a transient seller of home repair services must include the seller's door-to-door sales ~~registration~~license number in the following manner: State door-to-door sales ~~registration~~license #: (fill in number).

**2. Penalty.** The following penalties apply to violations of this section.

A. A person who violates this section commits a Class E crime, which is a strict liability crime as defined in Title 17-A, section 34, subsection 4-A.

B. A person who intentionally violates this section commits a Class D crime.

**3. Enforcement.** This section is enforceable by either the Department of the Attorney General or a district attorney.

**Sec. KK-4. 32 MRSA §14507**, as enacted by PL 1993, c. 444, §1, is amended to read:

### **§ 14507. Application**

An application for ~~registration~~licensure under this chapter must ~~be sworn to and~~ must include:

**1. Application information.** The name, local and permanent business and residential address or addresses, date of birth and social security number of the home repair seller;

**2. Employees of the seller.** The names and addresses of employees of the seller, their dates of birth and social security numbers;

**3. Statement.** At the time of making the application, a statement of all civil judgments or criminal convictions secured or outstanding against the seller that arises out of home repair services during the 4 years prior to making the application, all criminal and civil suits pending against the seller that arise out of home repair services and all criminal convictions and criminal suits pending for theft against the seller.

The seller shall promptly notify the department of all changes or additions in the information required by this section.

Knowingly, intentionally or recklessly making a false statement in an application is grounds for denial of the application or revocation of the ~~registration~~license; and

**4. Photograph.** A recent photograph of the home repair seller.

**Sec. KK-5. 32 MRSA §14508**, as amended by PL 2001, c. 324, §8, is further amended to read:

**§ 14508. Renewal application**

An annual renewal application must be filed by the seller on October 31st or at such other times as the department designates. The renewal application must include changes or additions to the information required by section 14507. ~~The department shall mail notice to the transient seller's last known address 30 days in advance of the expiration date.~~ The renewal application must be accompanied by the required renewal fee as set under section 14509.

**Sec. KK-6. 32 MRSA §14509**, as amended by PL 2001, c. 324, §9, is further amended to read:

**§ 14509. License fee**

~~A transient seller must pay to the department required original and renewal license fees established by the department by rule in an amount not to exceed the amount established by rule within the department may establish by rule fees for purposes authorized under this chapter in amounts that are reasonable and necessary for their respective purposes, except that the fee for any one purpose may not exceed \$300 annually. Rules adopted pursuant to this section are routine technical rules pursuant to Title 5, chapter 375, subchapter H-A2-A.~~

**Sec. KK-7. 32 MRSA §14511**, as amended by PL 2001, c. 324, §10, is repealed.

**Sec. KK-8. 32 MRSA §14512, sub-§3**, as amended by PL 2001, c. 324, §11, is further amended to read:

**3. Unfair trade practice.** A transient seller of home repair services who fails to register obtain a license in violation of this subchapter commits an unfair trade practice in violation of Title 5, section 207.

**Sec. KK-9. 32 MRSA §14512, sub-§4**, as enacted by PL 1993, c. 444, §1, is amended to read:

**4. Revocation.** In any action under this section the court may also revoke the seller's registration license to engage in the door-to-door sale of home repair services.

**Sec. KK-10. 32 MRSA §14513** is enacted to read:

**§ 14513. Denial or refusal to renew license; disciplinary action**

The board may deny a license, refuse to renew a license or impose the disciplinary sanctions authorized by Title 10, section 8003, subsection 5-A for any of the reasons enumerated in Title 10, section 8003, subsection 5-A, paragraph A.

**Sec. KK-11. 32 MRSA §14702**, as repealed and replaced by PL 2003, c. 452, Pt. R, §14 and affected by Pt. X, §2, is amended to read:

**§ 14702. Licensure**

**1. License required.** A person who engages in the business of a transient seller of consumer merchandise, including a self-employed person or a person who employs one or more transient sellers of consumer merchandise, ~~shall~~must apply to the department and acquire a registration license in the manner set forth in section 14706 before engaging in sales of consumer merchandise in this State.

**2. Penalty.** The following penalties apply to violations of this section.

A. A person who violates this section commits a Class E crime, which is a strict liability crime as defined in Title 17-A, section 34, subsection 4-A.

B. A person who intentionally violates this section commits a Class D crime.

**Sec. KK-12. 32 MRSA §14703**, as amended by PL 2003, c. 452, Pt. R, §15 and affected by Pt. X, §2, is further amended to read:

### **§ 14703. Licenses**

**1. Issuance.** The department shall issue to each transient seller of consumer merchandise and employee of that transient seller a registrationlicense that, among other things, must indicate that the person whose name appears on the registrationlicense is a registeredlicensed seller or employee of a registeredlicensed seller under this subchapter.

**2. Possession and presentation.** Every transient seller of consumer merchandise and each of the seller's employees must have a valid registrationlicense, as required by this subchapter, in the seller's or employee's immediate possession at all times when engaging in sales of consumer merchandise in this State and shall present the registrationlicense for inspection upon request of any person.

**3. Penalty.** The following penalties apply to violations of this section.

A. A person who violates subsection 2 commits a Class E crime, which is a strict liability crime as defined in Title 17-A, section 34, subsection 4-A.

B. A person who intentionally violates subsection 2 commits a Class D crime.

**Sec. KK-13. 32 MRSA §14704**, as amended by PL 2003, c. 452, Pt. R, §16 and affected by Pt. X, §2, is further amended to read:

### **§ 14704. Disclosure of license number and permanent place of business**

**1. License number and permanent place of business disclosed in advertisements.**

Every time a transient seller of consumer merchandise advertises in this State for the sale of merchandise, whether in print or electronic media, the advertisement must disclose the transient seller's registrationlicense number in the following manner: "State Department of Professional and Financial Regulation Transient Seller's RegistrationLicense Number: (Fill in number)" and must disclose the address of the seller's permanent place of business.

**2. License number and place of business disclosed in written receipt.** Every time a transient seller of consumer merchandise sells merchandise to a consumer in this State, the transient seller shall provide the purchaser with a written receipt, at the time of sale, disclosing the transient seller's registrationlicense number in the following manner: "State Department of Professional and Financial Regulation Transient Seller's RegistrationLicense Number: (Fill in number)" and disclosing the transient seller's name and permanent place of business.

**3. Penalty.** The following penalties apply to violations of this section.

A. A person who violates this section commits a Class E crime, which is a strict liability crime as defined in Title 17-A, section 34, subsection 4-A.

B. A person who intentionally violates this section commits a Class D crime.

**Sec. KK-14. 32 MRSA §14706, first ¶**, as enacted by PL 2001, c. 324, §12, is amended to read:

Each application for a transient seller of consumer merchandise registration license required by section 14702 ~~must be made upon a form prescribed by the department, must be sworn to and must include:~~

**Sec. KK-15. 32 MRSA §14706, last ¶**, as enacted by PL 2001, c. 324, §12, is amended to read:

Any false statement in an application, either original or supplementary, for a registration license subjects the applicant to the same penalty as if the applicant had no registration license.

**Sec. KK-16. 32 MRSA §14707**, as enacted by PL 2001, c. 324, §12, is amended to read:

### **§ 14707. Renewal application**

A renewal application made under this subchapter ~~and made upon a form prescribed by the department~~ must be filed by the applicant on ~~October 31st~~ April 30th annually or at such other times as the Commissioner of Professional and Financial Regulation may designate. The renewal application must include all changes or additions in the information required by section 14706. ~~Notice must be mailed to each applicant's last known address 30 days in advance of the expiration date of the applicant's current registration.~~ The renewal application must be accompanied by the renewal fee, ~~as provided in~~ as set under section 14708.

**Sec. KK-17. 32 MRSA §14708**, as enacted by PL 2001, c. 324, §12, is amended to read:

### **§ 14708. License fee and security deposit**

**1. Fees.** ~~The department shall establish fees by rule for applications, registrations and renewals under this subchapter in an amount not to~~ Director of the Office of Licensing and Registration within the department may establish by rule fees for purposes authorized under this subchapter in amounts that are reasonable and necessary for their respective purposes, except that the fee for any one purpose may not exceed \$300 annually for any one purpose. Rules adopted pursuant to this subsection are routine technical rules pursuant to Title 5, chapter 375, subchapter ~~H-A2-A~~.

**2. Dedicated revenues.** ~~All fees received under this subchapter must be paid to the Treasurer of State to be used for carrying out this subchapter. Any balance of these fees may not lapse, but must be carried forward as a continuing account to be expended for the same purpose in the following fiscal year.~~

**3. Security deposit.** Every person that engages in the business of transient sellers of consumer merchandise, including the self-employed or those who employ one or more transient sellers of consumer merchandise, shall also make a security deposit of \$10,000 or of a sum equal to the anticipated yearly gross revenues in this State, whichever is less, with the department for the protection of consumers as



described in section 14712. The security deposit may be made by a bond as drawn by the department and as secured by a surety approved by the department. Only one security deposit is required of each person engaged in transient sales of consumer merchandise.

**4. License issued.** The department shall issue to a transient seller of consumer merchandise and to employees of that transient seller a ~~registration~~license upon receipt of a completed application in proper form with ~~required~~the fees as set under subsection 1 and ~~at~~the security deposit required by subsection 3.

**Sec. KK-18. 32 MRSA §14711**, as enacted by PL 2001, c. 324, §12, is amended to read:

### **§ 14711. Expiration**

**1. Licenses.** ~~Registrations~~Licenses issued under section 14703 expire:

A. On the date that the ~~registrant~~licensee establishes a permanent place of business and surrenders the ~~registrant's registration~~licensee's license to the department;

B. When the ~~registrant~~licensee fails to file a renewal application as required by section 14707; or

C. Upon the surrender of the ~~registration~~license for cancellation.

**Sec. KK-19. 32 MRSA §14712**, as enacted by PL 2001, c. 324, §12, is amended to read:

### **§ 14712. Security deposit subject to claims; order of preference; return of security deposit**

Each security deposit made under section 14708 is subject, soas long as it remains in the hands of the department, to the attachment and execution in behalf of consumers whose claims arise in connection with the transient sale of consumer merchandise in this State. The department may be impleaded as a trustee in any civil action brought against any ~~registrant~~licensee and shall pay over, under order of court, such sum of money as the department may be found chargeable. The security deposit is subject to the payment of any fines and penalties incurred by the ~~registrant~~licensee through any of the provisions of this subchapter, and the clerk of the court in which that fine or penalty is imposed shall notify the department of the name of the ~~registrant~~licensee against whom that fine or penalty is adjudged and of the amount of that fine or penalty. The department, if it has in its possession a sufficient sum deposited by that ~~registrant~~licensee, shall pay the sum so specified to the clerk. If the department does not have a sufficient sum so deposited, it shall make payment of soas much as it has in its possession. All claims upon the deposit must be satisfied after judgment, fine and penalty, in the order in which the order of court is entered in the respective suits, until all claims are satisfied or the security deposit is exhausted. A security deposit may not be paid over by the department to a ~~registrant~~licensee as long as there are any outstanding claims or notices of claims that are subject of suit against the ~~registrant~~licensee, in which case the department shall retain only such sum of the security deposit as is subject of claim.

The security deposit required under section 14708 must be returned to the person so designated pursuant to section 14706, subsection 5 in the ~~registrant's~~licensee's application for ~~registration~~licenseure made under section 14702 12 months following the expiration of the ~~registration~~license.

**Sec. KK-20. 32 MRSA §14715**, as enacted by PL 2001, c. 324, §12, is repealed and the following enacted in its place:

### **§ 14715. Denial or refusal to renew license; disciplinary action**

In addition to the grounds enumerated in Title 10, section 8003, subsection 5-A, paragraph A, the department may deny a license, refuse to renew a license or impose the disciplinary sanctions authorized by Title 10, section 8003, subsection 5-A for:

**1. Misrepresentations.** Misrepresentation of any material fact relating to the terms or conditions of sale;

**2. False impressions.** Creation of an impression that is false or that the transient seller of consumer merchandise does not believe to be true; or

**3. False promises.** Promising of performance that the transient seller of consumer merchandise does not intend to perform or believes will not be performed.

## PART LL

**Sec. LL-1. 32 MRSA §14802, sub-§7,** as amended by PL 1999, c. 386, Pt. V, §3, is repealed and the following enacted in its place:

**7. License.** "License" means:

A. A propane and natural gas technician license issued pursuant to this chapter containing one or more of the following endorsements: delivery technician; plant operator; tank setter and outside piping technician; appliance connection and service technician up to 500,000 BTUs per appliance; and large equipment connection and service technician over 500,000 BTUs per appliance;

B. A license issued to a dispensing station; and

C. A license issued to a propane and natural gas helper.

**Sec. LL-2. 32 MRSA §14802, sub-§10, ¶C,** as enacted by PL 1999, c. 133, §1, is amended to read:

C. Is operated by the general public at a registered licensed propane or natural gas installation;

**Sec. LL-3. 32 MRSA §14803,** as amended by PL 2003, c. 420, §1, is further amended to read:

### **§ 14803. Board established**

There is established within the department the Propane and Natural Gas Board for the oversight of propane and natural gas licensure and the enforcement of the provisions of this Act.

**1. Membership; appointment.** The board consists of 9 members who serve for 3-year terms, except that of the initial appointees 3 of the members serve a 3-year term, 2 of the members serve a 2-year term and 2 of the members serve a one-year term. With the exception of the fire chief member representing fire chiefs, the member representing from a labor organization and the public member as defined in Title 5, section 12004-A, all members must have at least 10 consecutive years of active experience in the propane or the natural gas industry immediately preceding appointment. Industry members must hold a valid license at the time of appointment, except that the initial industry member appointees must be

licensed on or before July 1, 1997. The Governor shall appoint all industry and public members. The propane and natural gas industries in this State may make recommendations to the Governor concerning these appointments. Membership is as follows:

- A. Five members ~~representing from~~ industry, 3 of whom represent the propane industry, one of whom is a mechanical contractor and one of whom represents the natural gas industry;
- B. One member ~~representing Maine fire chiefs~~ Maine fire chief, who may be recommended to the Governor by the Maine Fire Chiefs Association;
- C. One public member ~~representing the general public who is not related, either directly or indirectly, to either the natural gas industry or the propane industry~~ as defined in Title 5, section 12004-A;
- C-1. One member ~~representing from~~ a labor organization in the building and construction industry; and
- D. One nonvoting member appointed by the Commissioner of Public Safety.

Appointments of members must comply with Title 10, section 608009. Members may be removed from office by the Governor for cause.

**2. Officers.** ~~At its first meeting, the board shall choose a chair and a vice-chair, who serve terms of one year. The vice-chair serves as chair the following year unless unwilling or unable. The board may elect other officers that it finds necessary.~~

**3. Compensation.** ~~Members of the board serve without per diem compensation but are entitled to reimbursement for expenses.~~

**Sec. LL-4. 32 MRSA §14804**, as amended by PL 2003, c. 204, Pt. F, §1, is further amended to read:

### **§ 14804. Board powers**

The board has the following powers.

**1. Rules.** The board shall adopt rules necessary for the proper performance of its duties pursuant to the Maine Administrative Procedure Act to implement the licensure requirements established by this Act, which may include the following:

- A. Reasonable standards regarding education or its equivalent and experience requirements for applicants for licensure; and
- B. Reasonable standards for license renewal.

The board shall adopt technical standards for the proper installation and servicing of propane and natural gas equipment by rule. The board may adopt by rule national or other technical standards, in whole or in part, it considers necessary to carry out the mandates of this chapter.

**2. Meetings; chair; quorum.** ~~The board shall hold meetings at least twice each~~ meet at least once a year to conduct its business and to elect a chair. Additional meetings ~~may~~ must be held as necessary to conduct the business of the board and may be convened at the call of the chair or ~~4~~ a majority of the members of the board. ~~A quorum of the board is 4 members. The board shall keep minutes that clearly reflect all acts and decisions made by the board, which must be available to the public upon request.~~ Four members of the board constitute a quorum.

**3. Licenses.** The board shall evaluate the qualifications of applicants for licensure under this chapter.

**4. Hearings.** ~~Hearings may be conducted by the board to assist with investigations to determine whether grounds exist for suspension or denial of a license or as otherwise necessary to the fulfillment of its responsibilities under this chapter.~~

~~The board may not refuse to renew a license for any reason other than failure to pay a required fee unless it has afforded the licensee an opportunity for an adjudicatory hearing. The board shall hold an adjudicatory hearing at the written request of any person who is denied a license without a hearing for any reason other than failure to pay a required fee, provided that the request for hearing is received by the board within 30 days of the applicant's receipt of written notice of the license denial, the reason for the denial and the applicant's right to request a hearing. Hearings must be conducted in conformity with the Maine Administrative Procedure Act to the extent applicable. The board may subpoena witnesses, records and documents in any hearing it conducts.~~

**5. Contracts.** ~~The board may enter into contracts to carry out its statutory responsibilities.~~

**6. Budgets.** ~~The board shall submit to the commissioner its budgetary requirements.~~

**7. Personnel.** ~~The commissioner shall appoint any employees necessary to carry out this Act. Any person so employed is an employee of the department and under the administrative and supervisory direction of the commissioner.~~

**8. Inspection of aboveground and underground propane and natural gas storage facilities and rooftop installations of ASME containers.** The board shall inspect and issue permits to aboveground and underground propane and natural gas storage facilities and rooftop installations of ASME containers. The cost of inspection under this subsection and the permit may not exceed \$50.

**Sec. LL-5. 32 MRSA §14805, sub-§4,** as enacted by PL 1995, c. 389, §4, is repealed.

**Sec. LL-6. 32 MRSA §14805, sub-§5,** as enacted by PL 1995, c. 389, §4, is repealed.

**Sec. LL-7. 32 MRSA §14805, sub-§8,** as repealed and replaced by PL 2003, c. 452, Pt. R, §18 and affected by Pt. X, §2, is amended to read:

**8. Penalties.** The following penalties apply to violations of this chapter.

A. A person, firm or corporation who makes a propane or natural gas installation without being licensed as provided by this chapter ~~commits a Class E crime~~ is subject to the provisions of Title 10, section 8003-C.

~~B. A person, firm or corporation in the propane or natural gas installation business who employs an unlicensed person, unless the work is exempted under this chapter, commits a Class E crime.~~

~~C. A person who procures any license as provided in this chapter wrongfully or by fraud commits a Class E crime.~~

**Sec. LL-8. 32 MRSA §14805, sub-§10**, as enacted by PL 2003, c. 452, Pt. R, §19 and affected by Pt. X, §2, is repealed.

**Sec. LL-9. 32 MRSA §14806**, as enacted by PL 1995, c. 389, §4 and amended by PL 1999, c. 547, Pt. B, §78 and affected by §80, is repealed and the following enacted in its place:

**§ 14806. Denial or refusal to renew license; disciplinary action**

The board may deny a license, refuse to renew a license or impose the disciplinary sanctions authorized by Title 10, section 8003, subsection 5-A for any of the reasons enumerated in Title 10, section 8003, subsection 5-A, paragraph A.

A license that is suspended or revoked must be immediately surrendered to the board and held during any period of suspension or, if revoked, until reinstated as provided in this Act.

A person whose license is suspended or revoked for more than 90 days must establish that all requirements governing new applicants under this Act are met as a condition of reinstatement or return of the license, except that the board, in its discretion and giving due consideration to the protection of the public, may waive examination if the period of suspension is less than 2 years or, in the case of the revocation of a license, the applicant is both eligible and has made application for reinstatement of the license within 2 years of the effective date of that revocation.

**Sec. LL-10. 32 MRSA §14806-A** is enacted to read:

**§ 14806-A. Employing unlicensed person**

A person, firm or corporation in the propane or natural gas installation business who employs an unlicensed person, unless the work is exempted under this chapter, commits a Class E crime.

**Sec. LL-11. 32 MRSA §14807**, as amended by PL 1999, c. 790, Pt. B, §5, is further amended to read:

**§ 14807. Licensure; requirements; persons**

**1. Establish propane and natural gas technician license.** The board shall establish one propane and natural gas technician license with endorsements described in this section that conform to the education and certification requirements of the National Propane Gas Association's certified employee training program or other propane or natural gas programs approved by the board, as follows:

A. "Delivery technician" is a person who delivers propane at a customer's location. A license established by the board is not required for a delivery technician to operate a motor vehicle;

B. "Plant operator" is a person who works at a bulk plant and handles propane and propane equipment;

C. "Tank setter and outside piping technician" is a person who sets and maintains propane tanks and outside piping;

D. "Appliance connection and service technician" is a person who installs and services propane and natural gas appliances and indoor piping up to 500,000 BTUs per appliance; and

E. "Large equipment connection and service technician" is a person who installs and services propane and natural gas appliances and indoor piping over 500,000 BTUs per appliance.

**2. License; valid.** The license established in this section is valid for 2 years from the date of issuance or as otherwise established by the commissioner.

**3. Appropriate endorsement.** The board shall issue a license with the appropriate endorsement to the prospective licensee who has successfully passed an examination as prescribed by the board and who has filed the required application and fee as set under section 14813.

**3-A. License required.** A person may not perform the functions governed by this Act ~~after July 1, 1997~~ without first being licensed by the board.

**4. License required; plant operators and delivery technician.** A person may not perform the functions governed by this Act ~~after July 1, 1997~~ without first being licensed by the board as a propane and natural gas technician, except that plant operators and delivery technicians must be licensed within one year of first performing those functions. In order to qualify for the one-year provision, the delivery technician or plant operator must ~~register~~apply for a temporary license with the board within 90 days after first performing that function.

**4-A. Personal abode.** Nothing in this chapter prevents a person from making a propane or natural gas installation in a single family residence occupied or to be occupied by that person as that person's bona fide personal abode, as long as that installation conforms with board laws and rules.

**5. Examination; qualification.** Notwithstanding any requirement set by the board as a qualification to sit for a license examination, a person working as a technician in the propane or the natural gas industry before January 1, 1996 is deemed qualified to sit for a license examination.

**6. Propane and natural gas helper.** A person may not assist a licensed ~~person~~propane and natural gas technician unless that person first ~~registers with~~receives a license from the board as a propane and natural gas helper. A helper may work only under the direct and continuous supervision of a licensed person on-site. A licensed person may supervise no more than 2 helpers at any time.

~~The board may set a fee for the propane and natural gas helper registration, not to exceed \$40 biennially.~~

A licensed propane and natural gas technician who does not have the appropriate endorsement specified under this chapter or a person holding a temporary ~~registration~~license as a plant operator or delivery technician, is not required to ~~register~~be licensed as a propane and natural gas helper when assisting a licensed propane and natural gas technician who has the appropriate endorsement to perform a function.

**7. Exceptions.** The licensing provisions of this section do not apply to:

A. A highway transport driver who delivers propane to bulk plants or industrial customers;

B. An individual user of a self-service propane or natural gas dispenser as defined by section 14802, subsection 10;

C. Regular employees of industrial plants installing and servicing propane or natural gas-fired equipment of greater than 10,000,000 BTUs per hour input; or

D. Persons working on internal combustion engines and associated gas trains.

**Sec. LL-12. 32 MRSA §14808, first ¶**, as enacted by PL 1995, c. 389, §4, is amended to read:

The following registration, licensing, maintenance and installation standards apply to dispensing stations operating in the State.

**Sec. LL-13. 32 MRSA §14808, sub-§1**, as enacted by PL 1995, c. 389, §4, is amended to read:

**1. Dispensing stations.** All dispensing stations must be registered~~licensed~~ with the department biennially by the owner upon suitable forms designated and approved by the board. A dispensing station that undergoes a major repair, revision or relocation must provide that agency with updated information within 30 days of the completion of the change.

**Sec. LL-14. 32 MRSA §14808, sub-§2**, as enacted by PL 1995, c. 389, §4, is amended to read:

**2. License.** ~~Registration~~Licensure of the dispensing station is limited to:

A. The name of the owner;

B. The address of the dispensing station;

C. The town or city and county in which the dispensing station is located;

D. The directions to the dispensing station;

E. The capacity in gallons of the dispensing station;

F. The name of the owner or operator to be contacted for inspection of the dispensing station by the State; and

G. The name of the owner or operator holding the limited operator's license required by this section.

**Sec. LL-15. 32 MRSA §14810**, as enacted by PL 1995, c. 389, §4 and amended by c. 502, Pt. H, §48, is repealed.

**Sec. LL-16. 32 MRSA §14812**, as enacted by PL 1995, c. 389, §4 and amended by c. 502, Pt. H, §48, is repealed.

**Sec. LL-17. 32 MRSA §14813**, as amended by PL 1999, c. 386, Pt. V, §12, is repealed and the following enacted in its place:

**§ 14813. Fees**

The Director of the Office of Licensing and Registration within the department may establish by rule fees for purposes authorized under this chapter in amounts that are reasonable and necessary for their respective purposes, except that the fee for any one purpose other than permit and inspection fees may not exceed \$196. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

**Sec. LL-18. 32 MRSA §14814**, as amended by PL 1999, c. 386, Pt. V, §13, is further amended to read:

### **§ 14814. Renewals**

All licenses issued expire 2 years from the date of issuance or at other times the commissioner may designate. All licenses may be renewed ~~for 2-year periods~~biennially upon ~~filing~~payment of the appropriate application ~~and renewal fee as set under section 14813.~~

~~The board shall notify a person registered under this chapter of the date of expiration of that person's license and the fee required for its renewal for a 2-year period. The notice must be mailed to the person's last known address at least 30 days in advance of the expiration date of the license.~~

A license may be renewed up to 90 days after the date of its expiration upon payment of a late fee of \$10 in addition to the renewal fee as set under section 14813. Any person who submits an application for renewal more than 90 days after the license expiration date must pay an additional late fee as set under section 14813 and is subject to all requirements governing new applicants under this chapter, except that the board, in its discretion and giving due consideration to the protection of the public, may waive examination or other requirements if the renewal is made within 2 years from the date of the expiration. ~~The board may establish penalties for nonrenewal.~~ Notwithstanding any other provision of this chapter, the board shall waive examination if a renewal application is made within 90 days after separation from the United States Armed Forces, under conditions other than dishonorable, by a person who has failed to renew the license because the person was on active duty in the Armed Forces; except that the waiver of examination may not be granted if the person served more than 4 years in the Armed Forces, unless the person was required by some mandatory provision to serve a longer period and the person submits satisfactory evidence to the board.

## **PART MM**

**Sec. MM-1. 32 MRSA §15103**, as amended by PL 1999, c. 386, Pt. W, §5, is further amended to read:

### **§ 15103. Board of Boilers and Pressure Vessels**

**1. Membership.** The Board of Boilers and Pressure Vessels, as established by Title 5, section 12004-A, subsection 7, consists of 7 members appointed by the Governor. Of these 7 appointed members, 2 must be ~~representatives offrom~~ labor organizations within this State ~~who are~~and be boilermakers or have boiler licenses, one must be ~~a representative of the owners and users~~an owner and user of steam boilers within this State, one must be ~~a representative of the boiler manufacturers~~boiler manufacturer within this State, one must be ~~a representative of the operating steam engineers~~an operating steam engineer in this State, one must be ~~a representative offrom~~ a boiler inspection and insurance company licensed to do business within the State and one must be ~~a representative of the public~~ member as defined in Title



~~5, section 12004-A. The board shall annually elect a chair from its membership. Appointments are for 3-year terms. Appointments of members must comply with Title 10, section 608009. A member may be removed by the Governor for cause.~~

~~**2. Compensation.** The members of the board are entitled to compensation according to the provisions of Title 5, chapter 379.~~

~~**3. Meetings; chair; quorum.** The board shall meet at least once a year to conduct its business and to elect a chair. Additional meetings ~~may~~must be held as necessary to conduct the business of the board and may be convened at the call of the chair or a majority of the board members. Four members of the board constitute a quorum for all purposes. The board shall keep records and minutes necessary to the ordinary dispatch of its function.~~

~~**4. Records.** The board shall keep a complete record of the type, dimensions, age, conditions, pressure allowed upon, location and date of last inspection of all boilers and pressure vessels to which this chapter applies.~~

~~**Sec. MM-2. 32 MRSA §15104-A,** as amended by PL 2001, c. 573, Pt. A, §1, is further amended to read:~~

### **§ 15104-A. Powers and duties**

The board shall administer, coordinate and enforce the provisions of this chapter and has the following powers and duties in addition to those otherwise set forth in this chapter.

**1. Rules.** The board shall, in accordance with Title 5, chapter 375, adopt rules to implement the purposes of this chapter, including rules for the safe and proper construction, installation, repair, use and operation of boilers and pressure vessels in this State. The rules must conform as nearly as practicable to the code. Rules adopted by the board under this section are routine technical rules as defined in Title 5, chapter 375, subchapter ~~H-A2-A~~.

~~The board shall publish and distribute among boiler manufacturers and others requesting them copies of the rules adopted by the board at a cost sufficient only to cover the printing and mailing expenses of distribution.~~

**2. Hearings.** ~~Hearings may be conducted by the board to assist with investigations, 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 not refuse to renew a license for any reason other than failure to pay a required fee, unless it has afforded the licensee an opportunity for an adjudicatory hearing. The board shall hold an adjudicatory hearing at the written request of any person who is denied a license without a hearing for any reason other than failure to pay a required fee, as long as the request for a hearing is received by the board within 30 days of the applicant's receipt of written notice of the denial of the applicant's application; the reasons for the denial and the applicant's right to request a hearing. Hearings must be conducted in conformity with Title 5, chapter 375, subchapter IV to the extent applicable. The board may subpoena witnesses, records and documents in any hearing it conducts.~~

**3. Contracts.** ~~The board may enter into contracts to carry out its responsibilities under this chapter.~~

**Sec. MM-3. 32 MRSA §15104-C** is enacted to read:

**§ 15104-C. Fees**

The Director of the Office of Licensing and Registration within the department may establish by rule fees for purposes authorized under this chapter in amounts that are reasonable and necessary for their respective purposes, except that the fee for any accreditation review, facility review or inspection of any one boiler or pressure vessel may not exceed \$500, the fee for any shop inspection may not exceed \$3,000, the fee for an inspection certificate for any one boiler or pressure vessel may not exceed \$100, the fee for a late inspection or a late certificate may not exceed \$250 and the fee for any other purpose may not exceed \$150 triennially. Rules adopted pursuant to this section are routine technical rules pursuant to Title 5, chapter 375, subchapter 2-A.

**Sec. MM-4. 32 MRSA §15105, 2nd ¶**, as amended by PL 1999, c. 386, Pt. W, §8, is further amended to read:

Unless otherwise exempt, all new boilers and pressure vessels to be installed must be inspected during construction by an inspector authorized to inspect boilers in this State, or, if constructed outside the State, by an inspector holding a license from this State or an inspector who holds a certificate of inspection issued by the National Board of Boiler and Pressure Vessel Inspectors, or its successor or other organization approved by the board.

**Sec. MM-5. 32 MRSA §15108-B**, as amended by PL 2001, c. 573, Pt. A, §3, is repealed.

**Sec. MM-6. 32 MRSA §15108-C** is enacted to read:

**§ 15108-C. Denial or refusal to renew license; disciplinary action**

In addition to the grounds enumerated in Title 10, section 8003, subsection 5-A, paragraph A, the board may deny a license, refuse to renew a license or impose the disciplinary sanctions authorized by Title 10, section 8003, subsection 5-A for:

**1. Operating under the influence.** Operating or being in charge of a plant while under the influence of intoxicating beverages or narcotic drugs;

**2. Physical or mental incapacity.** Suffering from physical or mental incapacity that would jeopardize physical property or lives in the exercise of the license; or

**3. Operating without authority.** Operating or having charge of a plant over which the licensee or applicant lacked authority.

**Sec. MM-7. 32 MRSA §15109, sub-§2-A, ¶B**, as enacted by PL 2003, c. 597, §2, is amended to read:

B. Persons employed by entities under the jurisdiction of the Public Utilities Commission or the United States Nuclear Regulatory Commission, or its successor or other organization approved by the board; or

**Sec. MM-8. 32 MRSA §15109, sub-§3**, as amended by PL 2001, c. 323, §36, is further amended to read:

**3. Issuance of license.** The board shall issue a license to an applicant in the grade requested, upon payment of ~~an~~the application fee and license fee ~~as set by the director under subsection 9~~section 15104-C, if the applicant has satisfactorily met the examination and other requirements of this section.

A. A license is valid for 3 years from the date of issuance. A license must designate the name of the holder, the license number, the grade of license, the issuing date and the expiration date. Any license issued under this chapter is automatically renewable upon payment of the renewal fee ~~under subsection 9 as set by the director~~under section 15104-C. The expiration dates for licenses issued under this chapter may be established at such other times as the commissioner may designate. ~~The board shall notify everyone registered under this chapter of the date of expiration of the license and the fee required for its renewal for a 3-year period. The notice must be mailed to the person's last known address at least 30 days in advance of the expiration date of the license.~~

A license may be renewed up to 90 days after the date of its expiration upon payment of a late fee in addition to the renewal fee as set under section 15104-C. ~~An additional late fee under subsection 9 may be imposed by the director for applications received up to 2 years after the date of expiration. Any person who submits an application for renewal more than 90 days after the license expiration date shall pay an additional late fee as set under section 15104-C and is subject to all requirements governing new applicants under this chapter, except that the board may in its discretion, giving due consideration to the protection of the public, waive examination or other requirements. The board may levy penalties for nonrenewal.~~ Notwithstanding any other provision of this chapter, the board shall waive examination if a renewal application is made within 90 days after separation from the United States Armed Forces, under conditions other than dishonorable, by a person who has failed to renew that person's license because that person was on active duty in the Armed Forces; except that the waiver of examination may not be granted if the person served more than 4 years in the Armed Forces, except if that person is required by some mandatory provision to serve a longer period and that person submits satisfactory evidence of this mandatory provision to the board.

B. The license certificate must be displayed in plain view in the plant where the licensee is employed.

C. The board shall determine the eligibility for licensure of any applicant who holds a current stationary steam engineering license issued by the proper authority of any state, territory or possession of the United States, the District of Columbia or Canada that has requirements equal to those of this State and recognizes the license issued by this State without further examination. The board shall certify as eligible for a license any applicant who holds a current Canadian marine or United States Coast Guard marine engineer's license and who has worked as a boiler engineer or operator 3 of the last 5 years prior to application. The applicant bears the burden of proving those matters necessary for a license based on reciprocity.

**Sec. MM-9. 32 MRSA §15109, sub-§5**, as amended by PL 1999, c. 386, Pt. W, §14, is repealed.

**Sec. MM-10. 32 MRSA §15109, sub-§5-A**, as enacted by PL 1999, c. 386, Pt. W, §15, is repealed.

**Sec. MM-11. 32 MRSA §15109, sub-§6-A**, as amended by PL 2001, c. 323, §37, is further amended to read:

**6-A. Examinations.** Applicants for licensure shall present to the board a written application for examination, ~~containing such information as the board may require~~, accompanied by an application fee and examination fee ~~under subsection 9 set by the director~~ as set under section 15104-C. Examinations must be in whole or in part in writing and of a thorough and practical character commensurate with the responsibilities of the prospective license holder.

The board shall establish by rule cutoff dates for applications for examination.

The passing grade on any examination may not be less than 70%. A candidate failing one examination may apply for reexamination, which may be granted upon payment of the ~~required~~ fee established by the ~~director~~ under section 15104-C.

**Sec. MM-12. 32 MRSA §15109, sub-§7, ¶B**, as amended by PL 2003, c. 597, §5, is further amended to read:

B. The holder of a boiler operator's license may operate, supervise or have charge of a heating plant having a capacity of not more than 20,000 #/HR or operate or supervise a plant up to the capacity of the license of the engineer in charge of the plant in which the licensee is employed. The applicant for a boiler operator's license must have 6 months' operating experience prior to examination under a boiler operator's training permit. The board shall issue a permit for the purpose of gaining that experience upon receipt of an application fee and permit fee ~~set by the director under subsection 9~~ as set under section 15104-C. Such a permit must be limited to a specified plant and must be limited to one year. The board may extend the permit for a period not to exceed one year under unusual circumstances. The board may allow the owner of a small plant to sit for the boiler operator's examination without first obtaining a boiler operator's training permit.

**Sec. MM-13. 32 MRSA §15109, sub-§8**, as enacted by PL 1995, c. 560, Pt. H, §14 and affected by §17, is amended to read:

**8. Rules.** The board may adopt all necessary rules and establish necessary procedures for examination and licensing to carry out this section, pursuant to the Maine Administrative Procedure Act. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

**Sec. MM-14. 32 MRSA §15109, sub-§9**, as amended by PL 2001, c. 573, Pt. A, §4, is repealed.

**Sec. MM-15. 32 MRSA §15109, sub-§10**, as enacted by PL 1995, c. 560, Pt. H, §14 and affected by §17, is repealed.

**Sec. MM-16. 32 MRSA §15118, first ¶**, as amended by PL 2001, c. 323, §44, is further amended to read:

The owner or user of each boiler or pressure vessel required by this chapter to be inspected by the chief inspector or a deputy inspector shall pay ~~an inspection fee to the inspector upon inspection a fee or fees as set under section 15109, subsection 9 to be determined by the director~~ 15104-C. Not more than one inspection fee may be collected for the inspection of any one boiler or pressure vessel made in any

one year, unless additional inspections are required by the owners or users of the boiler or pressure vessel or unless the boiler or pressure vessel has been inspected and an inspection certificate has been refused, withheld or withdrawn or unless an additional inspection is required because of the change of location of a stationary boiler or pressure vessel. The nature and size of miniature boilers or pressure vessels to be inspected may be determined by the board.

**Sec. MM-17. 32 MRSA §15120**, as amended by PL 2001, c. 573, Pt. A, §8, is further amended to read:

**§ 15120. Authorized inspectors; duties**

The board shall, upon the request of any company authorized to insure against loss from explosion of boilers or pressure vessels in this State, issue to the boiler inspectors of the company certificates of authority as authorized inspectors. Each inspector before receiving a certificate of authority must hold a certificate as an inspector of steam boilers for a state that has a standard of examination equal to that of this State or a certificate from the National Board of Boiler and Pressure Vessel Inspectors, or its successor or other organization approved by the board. Authorized inspectors are not entitled to receive a salary from, nor may any of their expenses be paid by, the State. The continuance of an authorized inspector's certificate is conditioned upon the authorized inspector continuing in the employ of a boiler inspection and insurance company duly authorized and upon maintenance of the standards imposed by this chapter. Authorized inspectors shall inspect all boilers and pressure vessels insured by their respective companies, and the owners or users of those insured boilers are exempt from the payment of the fees provided for in section 15118. Authorized inspectors may, with the permission of the chief inspector, also inspect boilers or pressure vessels for which an application for insurance against loss from explosion of boilers or pressure vessels has been made or when a new boiler or pressure vessel is installed at an insured location and the prospective insured owner or user is exempt from the payment of fees provided for in section 15118. Each company employing authorized inspectors shall, within 30 days following each certificate inspection made by the inspectors, file a report of the inspection with the chief inspector.

**Sec. MM-18. 32 MRSA §15121, sub-§1**, as enacted by PL 2001, c. 573, Pt. A, §9, is amended to read:

**1. Responsibility for inspection.** It is the responsibility of the owner to arrange for an inspection of a boiler or pressure vessel and to prepare the boiler or pressure vessel for inspection. The late inspection fee set by the Director of the Office of Licensing and Registration within the ~~Department of Professional and Financial Regulation~~department under section 15109, ~~subsection 915104-C~~ may be assessed against the owner if an inspection report is not submitted within 60 days of the expiration of the most recent inspection certificate.

**Sec. MM-19. 32 MRSA §15121, sub-§2**, as enacted by PL 2001, c. 573, Pt. A, §9, is amended to read:

**2. Obtain inspection certificate.** The owner of a boiler or pressure vessel shall submit the inspection certificate fee as set by the Director of the Office of Licensing and Registration within the Department of Professional and Financial Regulation under section 15109, ~~subsection 915104-C~~ within 60 days of notification from the board that the inspection report required under section 15120 has been received by the board. Failure to submit the required fee within the 60 days provided may result in the assessment of a late certificate fee as set by the director under section 15109, ~~subsection 915104-C~~.

## PART NN

**Sec. NN-1. 32 MRSA §15205**, as amended by PL 1999, c. 386, Pt. X, §§4 and 5, is further amended to read:

### **§ 15205. Board of Elevator and Tramway Safety**

The Board of Elevator and Tramway Safety, as established by Title 5, section 12004-A, subsection 14, consists of 9 members, of whom 7 are appointed by the Governor. ~~Each member holds office until a successor is duly appointed. At the expiration of each member's term, that member's successor is appointed by the Governor from the same classification in accordance with this section. If a vacancy occurs, the Governor shall appoint a member of the proper classification to serve the term of the absent member.~~ Of the 7 members of the board appointed by the Governor, one must represent owners or lessees of elevators be an owner or lessee of an elevator in the State; one must represent manufacturers be a manufacturer of elevators; one must represent manufacturers or installers be a manufacturer or installer of accessibility lifts; one must be a licensed elevator mechanic; one must be a representative of a ski area operator presently operating tramways in the State; one must be a qualified licensed professional engineer who is familiar with tramway design, inspection and operation; and one must be a public member as defined in Title 5, section 12004-A. The 8th member of the board must be a physically handicapped person appointed by the Director of the Bureau of Rehabilitation Services, subject to the approval of the Governor. The 9th member of the board must be a member of the Division of Fire Prevention appointed by the Commissioner of Public Safety. ~~The board must annually elect a chair from its membership. Appointments are for 3-year terms. Appointments of members must comply with Title 10, section 608009.~~ A member may be removed by the Governor for cause.

**1. Compensation.** ~~The appointed members of the board shall serve without salary and are entitled to compensation according to the provisions of Title 5, chapter 379.~~

**2. Meetings; chair; quorum.** The board shall meet at least once a year to conduct its business and to elect a chair. Additional meetings must be held as necessary to conduct the business of the board and may be convened at the call of the chair or a majority of the board members. ~~Four~~Five members of the board constitute a quorum for all purposes. ~~The board shall keep those records and minutes that are necessary to the ordinary dispatch of its function.~~

**3. Records.** ~~The board shall keep a record of the date of last inspection and the type, dimensions, age, conditions and location of all elevators and tramways to which this chapter applies.~~

**Sec. NN-2. 32 MRSA §15206**, as amended by PL 2001, c. 573, Pt. B, §11 and affected by §36, is further amended to read:

### **§ 15206. Powers and duties of board**

The board shall administer, coordinate and enforce this chapter and has the following powers and duties in addition to those otherwise set forth in this chapter.

**1. Rules.** The board shall, in accordance with Title 5, chapter 375, adopt rules to implement the purposes of this chapter, including rules for the safe and proper construction, installation, alteration, repair, use, operation and inspection of elevators and tramways in the State. The rules must include

standards for the review and audit of inspections performed by licensed private elevator inspectors not employed by the State. The rules must conform as nearly as practicable to the established standards as approved by the American National Standards Institute or its successor or other organization approved by the board. Rules adopted by the board under this section are routine technical rules as defined in Title 5, chapter 375, subchapter H-A2-A.

~~The board shall publish and distribute among elevator and tramway owners, lessees, manufacturers, repair companies and others requesting them copies of the rules as adopted by the board, at a cost sufficient only to cover the printing and mailing expenses of distribution, except those Board rules that are standards of the American National Standards Institute standards or its successor or other organization approved by the board, which must be obtained from the publisher.~~

**2. Hearings.** ~~Hearings may be conducted by the board to assist with investigations, 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 not refuse to renew a license for any reason other than failure to pay a required fee, unless it has afforded the licensee an opportunity for an adjudicatory hearing. The board shall hold an adjudicatory hearing at the written request of any person who is denied a license without a hearing for any reason other than failure to pay a required fee, as long as the request for a hearing is received by the board within 30 days of the applicant's receipt of written notice of the denial of the application, the reasons for the denial and the applicant's right to request a hearing. Hearings must be conducted in conformity with Title 5, chapter 375 to the extent applicable. The board may subpoena witnesses, records and documents in any hearing it conducts.~~

**3. Contracts.** ~~The board may enter into contracts to carry out its responsibilities under this chapter.~~

**Sec. NN-3. 32 MRSA §15206-A**, as amended by PL 2001, c. 573, Pt. B, §12 and affected by §36, is repealed and the following enacted in its place:

**§ 15206-A. Denial or refusal to renew license; disciplinary action**

The board may deny a license, refuse to renew a license or impose the disciplinary sanctions authorized by Title 10, section 8003, subsection 5-A for any of the reasons enumerated in Title 10, section 8003, subsection 5-A, paragraph A.

**Sec. NN-4. 32 MRSA §15210, sub-§3**, as enacted by PL 2001, c. 573, Pt. B, §17 and affected by §36, is repealed.

**Sec. NN-5. 32 MRSA §15216-C**, as amended by PL 2001, c. 573, Pt. B, §25 and affected by §36, is further amended to read:

**§ 15216-C. License renewal**

Any license issued under this chapter is renewable upon satisfaction of the applicable requirements for renewal and payment of the ~~required~~renewal fee as set by the director under section 15225-A. The expiration dates for licenses issued under this chapter may be established at such other times as the

~~commissioner may designate. The board shall notify persons licensed under this chapter of the date of expiration of the license and the fee required for its renewal. The notice must be mailed to the person's last known address at least 30 days in advance of the expiration date of the license.~~

A license may be renewed up to 90 days after the date of its expiration upon payment of a late fee in addition to the renewal fee as set under section 15225-A. Any person who submits an application for renewal more than 90 days after the license expiration date must pay an additional late fee as set under section 15225-A and is subject to all requirements governing new applicants under this chapter, except that the board may in its discretion waive the examination and other requirements. ~~The board may levy penalties for nonrenewal in an amount not to exceed \$100.~~ Notwithstanding any other provision of this chapter, the board shall waive the examination if a renewal application is made within 90 days after separation from the United States Armed Forces, under conditions other than dishonorable, by a person who failed to renew that person's license because that person was on active duty in the Armed Forces; except that the waiver of examination may not be granted if the person served a period of more than 4 years in the Armed Forces, unless that person is required by some mandatory provision to serve a longer period and that person submits satisfactory evidence of this mandatory provision to the board.

**Sec. NN-6. 32 MRSA §15225-A,** as enacted by PL 2001, c. 573, Pt. B, §30 and affected by §36, is repealed and the following enacted in its place:

**§ 15225-A. Fees**

The Director of the Office of Licensing and Registration within the Department of Professional and Financial Regulation may establish by rule fees for purposes authorized under this chapter in amounts that are reasonable and necessary for their respective purposes, except that the fee for any one purpose other than permit and inspection fees may not exceed \$500. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

**PART OO**

**Sec. OO-1. Revisor's review; cross-references.** The Revisor of Statutes shall review the Maine Revised Statutes and include in the errors and inconsistencies bill submitted to the Second Regular Session of the 123rd Legislature pursuant to Title 1, section 94 any sections necessary to correct and update any cross-references in the statutes to provisions of law repealed in this Act.

Effective September 20, 2007