

# MAINE STATE LEGISLATURE

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**LAWS**  
OF THE  
**STATE OF MAINE**

AS PASSED BY THE

ONE HUNDRED AND TWELFTH LEGISLATURE

**FIRST REGULAR SESSION**

December 5, 1984 to June 20, 1985

Chapters 1-384

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

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J.S. McCarthy Co., Inc.  
Augusta, Maine  
1986

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**PUBLIC LAWS**  
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reference to locality, so as to best suit the convenience of the inhabitants of the town, and such appointment shall be in writing and recorded in the office of the town or city clerk. The subregistrars in any town shall hold office at the pleasure of the town clerk.

Effective September 19, 1985.

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## CHAPTER 232

H.P. 681 - L.D. 967

AN ACT to Redefine the Southern Boundary to  
Enlarge the Moose Hunting District.

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

12 MRSA §7463-A, sub-§1, as enacted by PL 1981, c. 118, §2, is amended to read:

1. Moose hunting district. A moose hunting district is established in that area of the State north of the Canadian Pacific Railroad mainline running from Vanceboro, through Brownville to the Canadian border Route 16 from the New Hampshire border to the intersection of Route 6 at Milo, then easterly along Route 6 to Route 2 in West Enfield, then south along Route 2 to Route 178, then south on Route 178 to Route 9, then east along Route 9 to Stoney Brook in Baileyville, Washington County, then following north-easterly along the main channel of Stoney Brook to The St. Croix River, except for those areas of the State closed to hunting described in chapter 713, subchapter I.

Effective September 19, 1985.

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## CHAPTER 233

H.P. 978 - L.D. 1410

AN ACT to Place the State Board of Licensure  
of Administrators of Medical Care  
Facilities other than Hospitals Within  
the Department of Business,  
Occupational and Professional  
Regulation.

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

Whereas, the 90-day period may take until the fall of 1985; and

Whereas, the Board of Licensure of Administrators of Medical Care Facilities other than Hospitals requires administrative and clerical support, which is presently unavailable, in order to fulfill its obligations to the citizens of the State; and

Whereas, the board, the Department of Human Services, the Department of Business, Occupational and Professional Regulation and the constituent groups affected by the board agree that this legislation is essential to the proper functioning of the board; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

Sec. 1. 5 MRSA §12004, subsection 1, ¶A, subparagraph (22), as amended by PL 1983, c. 862, §§17, 18 and 19, is repealed and the following enacted in its place:

(22)	<u>Nursing Home</u>	<u>\$30/day</u>	<u>32 MRSA §63-A</u>
	<u>Administrators</u>		
	<u>Licensing Board</u>		

Sec. 2. 10 MRSA §8001, as amended by PL 1983, c. 746 and c. 758, §1, is repealed and the following enacted in its place:

§8001. Department; agencies within department

There is created and established the Department of Business, Occupational and Professional Regulation, in this chapter referred to as the "department," to regulate financial institutions, insurance companies, commercial sports, grantors of consumer credit and to license and regulate professions and occupations. The department shall be composed of the following bureaus, boards and commissions:

Banking, Bureau of;

Consumer Credit Protection, Bureau of;

Insurance, Bureau of;

Athletic Commission, Maine;

Penobscot Bay and River Pilotage Commission;

Real Estate Commission;

Running Horse Racing Commission, State;

Arborist Examining Board;

Auctioneers Advisory Board;

Commercial Driver Education, Board of;

Electricians' Examining Board;

Foresters, State Board of Registration for Professional;

Funeral Service, State Board of;

Geologists and Soil Scientists, State Board of Certification for;

Hearing Aid Dealers and Fitters, Board of;

Manufactured Housing Board;

Nursing Home Administrators Licensing Board;

Occupational Therapy Practice, Board of;

Oil and Solid Fuel Board;

Physical Therapy, Board of Examiners in;

Plumbers' Examining Board;

Psychologists, State Board of Examiners of;

Social Worker Registration, State Board of;

Speech Pathology and Audiology, Board of Examiners on; and

Substance Abuse Counselors, Board of Registration of.

Sec. 3. 32 MRSA §61, as enacted by PL 1969, c. 350, is amended to read:

§61. Requirement for license

No medical care facility other than a hospital ~~shall~~ may operate ~~after June 30, 1970,~~ except under the supervision of a licensed administrator and no person ~~shall~~ may be an administrator of a medical care facility other than a hospital ~~after June 30, 1970,~~ unless he is the holder of a current administrator's license or a temporary permit issued pursuant to this chapter.

Sec. 4. 32 MRSA §62, as enacted by PL 1969, c. 350, is amended to read:

§62. Definitions

1. Administrator. "Administrator" means an individual who is charged with and has responsibility for the general administration of a facility other than a hospital whether or not such individual has an ownership interest in such home and whether or not his functions and duties are shared with one or more other individuals.

2. Board. "Board" means the State Board of Licensure of Administrators of Medical Care Facilities other than Hospitals Nursing Home Administrators Licensing Board.

2-A. Commissioner. "Commissioner" means the Commissioner of Business, Occupational and Professional Regulation.

2-B. Department. "Department" means the Department of Business, Occupational and Professional Regulation.

3. Medical care facility other than hospitals. "Medical care facility other than hospitals" means any facility providing therein, in addition to lodging and board, medical care or nursing supervision to sick, invalid, infirm, disabled or convalescent persons in addition to lodging and board.

Sec. 5. 32 MRSA §63, as amended by PL 1983, c. 812, §§188 and 189, is repealed.

Sec. 6. 32 MRSA §§63-A, 63-B, 65 and 66 are enacted to read:

§63-A. Board established; membership and organization

1. Membership. The Nursing Home Administrators Licensing Board, as established by Title 5, section 12004, subsection 1, paragraph A, subparagraph (22), shall consist of 7 members appointed by the Governor. The members shall be citizens of the United States and residents of this State. One member shall be a hospital administrator with not less than 5 years of active practice in the State as a hospital administrator. One member shall be a registered nurse with not less than 5 years of active practice in nursing homes in the State. Two members shall be a representative of the public. Three members shall be administrators of nursing homes with not less than 5 years of active experience in the State.

2. Terms. Appointments shall be for 3-year terms, except that the terms of no more than 3 members shall expire in any calendar year and appointments for terms of less than 3 years may be made in order to comply with this limitation. No person may be eligible to serve more than 3 consecutive full terms, provided that for this purpose only a period actually served which exceeds 1/2 of the 3-year term shall be deemed a full term. Upon expiration of a member's term, he shall serve until his successor is appointed and qualified. The successor's term shall be for 3 years from the date of expiration, regardless of the date of appointment. Any vacancy occurring prior to the expiration of the specified term shall be filled by appointment for the unexpired term. A member may be removed by the Governor for cause.

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

4. Compensation. Members of the board shall be compensated according to the provisions of Title 5, chapter 379.

5. Employees. With the advice of the board, the commissioner may appoint, subject to the Personnel Law, such employees as may be necessary to carry out this chapter. Any person so employed shall be located in the department and under the administrative and supervisory direction of the commissioner.

6. Fees. All fees received by the board shall be paid to the Treasurer of State to be used for car-



rying out this chapter. Any balance of these fees shall not lapse, but shall be carried forward as a continuing account to be expended for the same purposes in the following fiscal years.

7. Reports; budget. Not 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 him a complete statement of all receipts and expenditures of the board, attested by affidavit of its chairman. The board shall submit to the commissioner its budgetary requirements in the same manner as is provided in Title 5, section 1665.

#### §63-B. Board powers and duties

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

1. Board to administer and enforce. The board shall administer and enforce this chapter, evaluate the qualifications of and supervise the examination of 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 II, 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, 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, and establishment of licensure fees.

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. In no event may the total length of multiple temporary licenses extend beyond one year.

4. Examinations. The board shall conduct written examinations for licensure one or more times each year, at such times and places as it may determine.

5. Application, examination and license fees. An application and an examination fee may be established by the board in amounts which are reasonable and necessary for their respective purposes. The board shall establish a license fee, temporary license fee and annual license renewal fee. The board may, by rule, provide for the waiver of part of the fee for an initial license if it is issued for less than 1/2 year.

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 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 reason 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.

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

8. Exception. Nothing in this chapter or the rules under this chapter may be construed to require an applicant for a license as a nursing home administrator who is certified by a recognized church or religious denomination which 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 any medical techniques or to meet any medical educational qualifications or medical standards not in accord with the remedial care and treatment provided in those institutions. Any person licensed under this exception may act as an administrator only in those institutions described in this subsection.

§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 person licensed under this chapter shall, on or before the expiration date, pay a fee for renewal of license to the board. The board shall notify every person licensed under this chapter of the date of expiration of his license and the amount of fee required for its renewal for a one-year period. The notice shall be mailed to the person's last known address at least 30 days in advance of 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 of \$10 in addition to the renewal fee. Any person who submits an application for renewal more than 90 days after the license expiration date shall be 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 within 2 years from the date of the expiration.

§66. Enforcement

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 Administrative Court or whether criminal proceedings have been or may be instituted.

Sec. 7. Transition clause. All appointments made by the Governor to the State Board of Licensure of Administrators of Medical Care Facilities other than Hospitals prior to the effective date of this Act shall continue in effect on the effective date of this Act. All current rules of the board shall remain in force and effect until rescinded, amended, or otherwise changed by the board, except those which are contrary to the provisions of this Act. All funds and all equipment and supplies acquired with board funds shall be transferred to the Department of Business, Occupational and Professional Regulation.

Emergency clause. In view of the emergency cited in the preamble, this Act shall take effect when approved.