

MAINE STATE LEGISLATURE

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1 FIRST REGULAR SESSION
2

3 ONE HUNDRED AND ELEVENTH LEGISLATURE
4

5 Legislative Document

No. 1502

7 S.P. 495

In Senate, April 19, 1983

8 Submitted by the Department of Business Regulation pursuant to Joint
9 Rule 24.

10 Referred to the Committee on Business Legislation. Sent down for
concurrence and ordered printed.

JOY J. O'BRIEN, Secretary of the Senate

Presented by Senator Clark of Cumberland.

Cosponsor: Representative Perkins of Brooksville.

11
12 STATE OF MAINE
13

14 IN THE YEAR OF OUR LORD
15 NINETEEN HUNDRED AND EIGHTY-THREE
16

17 AN ACT Providing Uniformity, Conformity
18 with the Maine Administrative Procedure Act
19 and Compliance with Court Decisions
20 of the Statutes of Licensing Boards
21 within the Department of Business Regulation.
22

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

25 Sec. 1. 8 MRSA cc. 5 and 6, as amended, are
26 repealed.

27 Sec. 2. 8 MRSA c. 6-A is enacted to read:

28 CHAPTER 6-A

29 THE MAINE ATHLETIC COMMISSION

30 §141. Commission

1 The Maine Athletic Commission, in this chapter
2 called "the commission," shall consist of 5 members
3 appointed by the Commissioner of Business Regulation,
4 with the advice and consent of the Governor. No
5 member may receive any compensation or remuneration
6 for promoting, competing or otherwise engaging in
7 boxing or wrestling. Each member of the commission
8 shall receive a salary of \$1,000 a year and reason-
9 able expenses, including transportation, incurred in
10 the performance of his duties.

11 Appointments shall be for 3-year terms, except
12 that no more than 2 members' terms may expire in any
13 one calendar year. Appointments for terms of less
14 than 3 years may be made in order to comply with this
15 limitation. No person may be eligible to serve more
16 than 3 full consecutive terms, provided that for this
17 purpose only a period actually served which exceeds
18 1/2 of the 3-year term shall be deemed a full term.
19 Upon expiration of a member's term, he shall serve
20 until his successor is qualified and appointed. The
21 successor's term shall be 3 years from the date of
22 that expiration, regardless of the date of his
23 appointment. Any vacancy shall be filled by appoint-
24 ment for the unexpired term. A member may be removed
25 by the Governor for cause.

26 §142. Declaration of policy

27 It is declared to be the policy of the State,
28 that professional and amateur boxing and professional
29 and exhibition wrestling in this State shall be
30 supervised by the commission in a manner designed to
31 promote these sports in accordance with the public
32 interest, insure the safety of all participants and
33 spectators and achieve uniformity in the rules gov-
34 erning participation in these sports within the
35 State.

36 §143. Meetings; chairman; quorum

37 The commission shall meet at least once a year to
38 conduct its business and to elect a chairman and a
39 secretary. Additional meetings shall be held as
40 necessary to conduct the business of the commission,
41 and may be convened at the call of the chairman or a
42 majority of the board members. Three members of the

1 commission shall constitute a quorum for all pur-
2 poses. The commission shall keep such records and
3 minutes as are necessary to the ordinary dispatch of
4 its functions.

5 §144. Disbursements

6 The compensation of the commissioners, reasonable
7 transportation expenses incurred in the performance
8 of their duties and other necessary expenses of the
9 commission shall be charged to and paid out of such
10 amount as the Legislature may appropriate. The Com-
11 missioner of Business Regulation shall employ, sub-
12 ject to the Personnel Law, the personnel that he
13 deems necessary to discharge the duties of the com-
14 mission and shall outline their duties and fix their
15 compensation, subject to the Personnel Law.

16 §145. Annual reports

17 Not later than August 1st of each year, the com-
18 mission shall submit to the Commissioner of Business
19 Regulation, for the preceding fiscal year ending June
20 30th, an annual report of its operations and finan-
21 cial position, together with such comments and recom-
22 mendations as the commission deems relevant.

23 §146. Jurisdiction

24 1. Boxing. The commission shall have the sole
25 direction, control and jurisdiction over all boxing
26 contests and exhibitions, except that it shall have
27 no jurisdiction over any amateur intercollegiate,
28 interscholastic or intramural boxing contest or
29 exhibition conducted under the direct auspices of a
30 school, college or university.

31 No boxing contests or exhibitions, except as provided
32 in this chapter, may be held or conducted within this
33 State unless the contest or exhibition is properly
34 licensed by the commission and conducted in accor-
35 dance with this chapter and the rules adopted pur-
36 suant to this chapter.

37 2. Wrestling. The commission shall have the
38 sole direction, control and jurisdiction over all
39 professional wrestling matches, shows or exhibitions.

1 No professional wrestling match, show or exhibition
2 may be held or conducted within this State unless the
3 match, show or exhibition is licensed by the commis-
4 sion and conducted in accordance with this chapter
5 and the rules adopted pursuant to this chapter.

6 §147. Powers and duties

7 The commission shall administer, coordinate and
8 enforce this chapter consistent with the declaration
9 of policy set forth in section 142, and shall have
10 the following powers and duties in addition to those
11 otherwise set forth in this chapter.

12 1. Rules. The commission may, in accordance
13 with procedures established by the Maine Administra-
14 tive Procedure Act, Title 5, chapter 375, subchapter
15 II, adopt rules commensurate with the authority
16 vested in it by this chapter.

17 A. In the exercise of its jurisdiction over box-
18 ing as set forth in section 146, subsection 1,
19 the commission may adopt rules governing, among
20 others, referees, judges, boxers, seconds, pro-
21 moters, managers, physicians, timekeepers and
22 knockdown timekeepers. These rules may include,
23 but not be limited to: Licensing requirements;
24 age limits and physical condition of partici-
25 pants; lengths of contests and rounds; specifica-
26 tions of the facilities and equipment used in
27 boxing contests and uniforms of contestants and
28 referees; scoring of decisions; standards of
29 weight and weighing of contestants; and the man-
30 ner of presentation of closed circuit events.
31 Rules governing amateur boxing contests shall
32 conform to tournament regulations of the Amateur
33 Athletic Union or its successor in interest.

34 B. In the exercise of its jurisdiction over
35 wrestling as set forth in section 146, subsection
36 2, the commission may adopt rules governing,
37 among others, wrestlers, managers, seconds, ref-
38 erees, matchmakers, physicians, timekeepers,
39 trainers and promoters. These rules may include,
40 but not be limited to: Licensing and qualifica-
41 tions of participants; conduct of contests;
42 specifications of equipment and facilities used

1 in wrestling contests or exhibitions; and scoring
2 of decisions.

3 C. The commission may adopt rules requiring ac-
4 cident insurance providing coverage in the event
5 of injury or death for persons competing in box-
6 ing events subject to this chapter or for persons
7 competing in wrestling events subject to this
8 chapter, or for both. This insurance, if re-
9 quired, shall comply with standards prescribed by
10 the Superintendent of Insurance.

11 2. Officials. The officials at all boxing con-
12 tests or exhibitions shall be selected or approved by
13 the commission. For purposes of this subsection, the
14 term "officials" includes referees, judges, physi-
15 cians, timekeepers and knockdown timekeepers.

16 3. Hearings. Hearings may be conducted by the
17 commission to assist with investigations, to deter-
18 mine whether grounds exist for suspension, revocation
19 or denial of a license, or as otherwise deemed neces-
20 sary to the fulfillment of its responsibilities under
21 this chapter.

22 The commission shall not refuse to renew a license
23 for any reason other than failure to pay a required
24 fee, unless it has afforded the licensee an oppor-
25 tunity for an adjudicatory hearing. The commission
26 shall hold an adjudicatory hearing at the written
27 request of any person who is denied a license without
28 a hearing for any reason other than failure to pay a
29 required fee, provided that the request for hearing
30 is received by the commission within 30 days of the
31 applicant's receipt of written notice of the denial
32 of his application, the reasons therefor and his
33 right to request a hearing. Hearings shall be con-
34 ducted in conformity with the Maine Administrative
35 Procedure Act, Title 5, chapter 375, subchapter IV,
36 to the extent applicable. The commission may sub-
37 poena witnesses, records and documents in any hearing
38 it conducts.

39 4. Contracts. The commission may enter into
40 contracts to carry out its responsibilities under
41 this chapter.

1 §148. Boxing licenses

2 1. Persons to whom licenses may be issued. The
3 commission may issue, in its discretion, a license
4 for a term of one year from date of issuance to any
5 person, club, association or corporation, who or
6 which is properly qualified, to promote and conduct
7 boxing contests and exhibitions in accordance with
8 this chapter and the rules adopted pursuant to this
9 chapter. All persons engaged in such boxing contests
10 and exhibitions as boxers, seconds, managers,
11 timekeepers, knockdown timekeepers, referees, judges
12 and physicians shall be licensed by the commission in
13 a like manner.

14 2. Application for license. Each applicant for
15 a promoter's license shall specify the location for
16 which the license is desired, and each promoter's li-
17 cence, when issued, shall be limited to that speci-
18 fied location. No license issued under this section,
19 other than a promoter's license, may be limited to a
20 specified location.

21 3. Fee for license. The commission may, in its
22 discretion, fix the fee for each promoter's license
23 at a figure between \$10 and \$100, depending upon the
24 probable income of the licensee to be derived from
25 the conducting of the boxing contests and exhibi-
26 tions. The commission may, in its discretion, fix
27 the fees for all other licenses issued under this
28 section at a figure between \$5 and \$15. When appli-
29 cation by a fraternal, charitable or patriotic orga-
30 nization for a license to promote and conduct amateur
31 boxing contests or exhibitions is made to the commis-
32 sion, it may grant the license without the require-
33 ment of the payment of a license fee.

34 4. Temporary license. Upon application being
35 made for any license under this section, any member
36 of the commission may, in his discretion, temporarily
37 issue or temporarily refuse to issue the license. In
38 the event that such a temporary license is issued,
39 the temporary license shall be valid only until the
40 next meeting of the commission at which a quorum is
41 present. No license, except such a temporary li-
42 cence, may be issued under this section, except by a
43 majority vote taken at a commission meeting at which

1 a quorum is present. All license applications shall
2 be considered in the first meeting of the commission
3 following the receipt of the application, at which a
4 quorum is present.

5 §149. Wrestling licenses

6 The commission may, in its discretion and in ac-
7 cordance with this chapter and the rules adopted pur-
8 suant to this chapter, issue a license for a term of
9 one year, to any person, club, association or corpo-
10 ration who or which is properly qualified, to conduct
11 professional wrestling matches, shows or exhibitions.
12 The commission may, in its discretion, fix the fee
13 for the license at a figure between \$10 and \$100,
14 depending upon the probable income of the licensee to
15 be derived from the conducting of professional
16 wrestling matches, shows or exhibitions.

17 All persons engaging in professional wrestling
18 matches, shows or exhibitions as wrestlers shall be
19 licensed by the commission in a like manner. The fee
20 for a license is \$5. Upon the application for a li-
21 cence as enumerated, the chairman of the commission
22 shall in his discretion temporarily issue or refuse
23 to issue the license. The commission shall consider
24 the matter at its regular meeting and rule upon the
25 issuance or denial of the license.

26 §150. Permits for foreign copromoters

27 No foreign copromoter, meaning a promoter who has
28 no place of business within the State, may directly
29 or indirectly participate in the promotion of or
30 receive any remuneration from or render any services
31 in connection with any boxing contest or exhibition,
32 or any professional wrestling match, show or exhibi-
33 tion held within the State, unless he first has been
34 granted a permit by the commission. No promoter may
35 be associated with any foreign copromoter in promot-
36 ing any boxing contest or exhibition, unless the fore-
37 ign copromoter has first secured a permit. That
38 permit shall expire one year from date of issue and
39 the fee shall be fixed by the commission at a figure
40 between \$10 and \$100, depending upon the probable
41 income of the applicant for a permit to be derived
42 from the conducting of the boxing or wrestling event.

1 A foreign copromoter, by accepting a permit,
2 agrees to be subject to all the provisions of this
3 chapter and the rules promulgated under this chapter.

4 Any foreign copromoter who violates any provision
5 of this chapter or any rule promulgated under this
6 chapter shall be guilty of a Class E crime.

7 §151. Promoter's reports

8 The commission shall provide to each promoter a
9 printed report form, which shall be completed and
10 returned to the commission by registered letter
11 mailed within 48 hours of the conclusion of any box-
12 ing contest or exhibition or any wrestling match,
13 show or exhibition held under this chapter. The com-
14 pleted form shall contain the following:

15 1. Names of contestants. A list of the names of
16 the contestants;

17 2. Physician's statement. The signed statement
18 of a physician that he examined each of the contest-
19 ants within 10 hours of the contest and found them to
20 be in good physician condition, and, in the case of
21 any boxing contest, further stating what he found
22 each contestant's weight to be; and

23 3. Promoter's statement. The signed statement
24 of the promoter setting forth the results of the con-
25 test, the name of the referee, the names of the
26 judges in the case of a boxing contest or exhibition
27 and the amount of the gross receipts.

28 §152. Taxes

29 The promoter or promoters of all boxing contests
30 or exhibitions and all professional wrestling
31 matches, shows or exhibitions held under this chapter
32 shall pay to the Treasurer of State, for credit to
33 the General Fund, a tax of 3% of the gross receipts
34 from the contest or exhibition. This section shall
35 apply to all boxing contests or exhibitions which are
36 shown over closed circuit television.

37 On the day on which the contest or exhibition is
38 held, the promoter or promoters shall either tender

1 the tax to the commissioner in attendance, or provide
2 a surety bond acceptable to the commission in the
3 amount of \$5,000 payable to the Treasurer of State
4 and conditioned for payment of the tax and any pen-
5 alties imposed under this section. This tax shall
6 have been paid to the Treasurer of State within 15
7 days of the date on which the contest or exhibition
8 is held, in the event a bond is provided. Upon fail-
9 ure to pay the tax to the Treasurer of State, the
10 promoter or promoters shall be liable to pay a pen-
11 alty of 25% of the amount of the tax due, which pen-
12 alty and the tax due shall be recovered by a civil
13 action upon the bond brought in the name of the com-
14 mission, and the penalty and the tax due shall be
15 paid to the Treasurer of State to be credited to the
16 General Fund.

17 Failure by a promoter to pay the tax or provide
18 the surety under this section shall be cause for can-
19 cellation of the event by the commissioner in attend-
20 ance. The commission may examine the promoter's
21 records to verify the amount of gross receipts and
22 tax due under this section. On the failure of any
23 promoter or promoters to pay such a tax, the
24 promoter's license may be revoked or suspended by the
25 Administrative Court.

26 §153. Decisions

27 1. Boxing. In all boxing contests or exhibi-
28 tions conducted under this chapter, there may be a
29 decision as to the winner by 2 judges and the ref-
30 eree, or by 3 judges, licensed under this chapter.

31 2. Wrestling. In all professional wrestling
32 matches, shows or exhibitions conducted under this
33 chapter, there may be a decision as to the winner by
34 the referee.

35 §154. Disciplinary actions

36 The commission may suspend or revoke a license
37 pursuant to Title 5, section 10004. The commission
38 may refuse to renew or the Administrative Court may
39 revoke, suspend or refuse to renew any license issued
40 under this chapter if the holder of that license has
41 violated any provision of this chapter or any rule or
42 order of the commission.

1 §155. Penalties; injunction

2 1. Penalties. Any person, club, association or
3 corporation, or any member or officer of a club,
4 association or corporation who promotes, competes or
5 otherwise engages in a boxing contest or exhibition
6 or wrestling match, show or exhibition without first
7 obtaining a license as required by this chapter, or
8 after the license has expired or has been suspended,
9 revoked or temporarily suspended or revoked, is
10 guilty of a Class E crime.

11 2. Injunction. The State may bring an action in
12 Superior Court to enjoin any person from violating
13 this chapter, regardless of whether proceedings have
14 been or may be instituted in the Administrative Court
15 or whether criminal proceedings have been or may be
16 instituted.

17 Sec. 3. 32 MRSA §211, as amended by PL 1977, c.
18 564, §118-G, is repealed and the following enacted in
19 its place:

20 §211. Membership; term

21 The Maine State Board for Registration of Archi-
22 tects and Landscape Architects shall administer this
23 chapter. The board shall consist of 8 members
24 appointed by the Governor, of which 5 shall be regis-
25 tered and practicing architects, one of whom may be a
26 professor of architecture; 2 shall be registered and
27 practicing landscape architects; and one shall be a
28 representative of the public.

29 Appointments shall be for 3-year terms, except
30 that no more than 3 members' terms may expire in any
31 one calendar year. Appointments for terms of less
32 than 3 years may be made in order to comply with this
33 limitation. No person may be eligible to serve more
34 than 3 full consecutive terms, provided that for this
35 purpose only, a period actually served which exceeds
36 1/2 of the 3-year term shall be deemed a full term.
37 Upon expiration of a member's term, he shall serve
38 until his successor is qualified and appointed. The
39 successor's term shall be 3 years from the date of
40 the expiration, regardless of the date of his
41 appointment. Any vacancy shall be filled by appoint-

1 ment for the unexpired term. A member may be removed
2 by the Governor for cause.

3 Sec. 4. 32 MRSA §213, as amended by PL 1977, c.
4 694, §§540 and 541, is repealed and the following
5 enacted in its place:

6 §213. Meetings; chairman; quorum

7 The board shall meet at least once a year to con-
8 duct its business and to elect its officers. Addi-
9 tional meetings shall be held as necessary to conduct
10 the business of the board and may be convened at the
11 call of the chairman or a majority of the board mem-
12 bers.

13 The board shall annually elect a chairman and a
14 secretary. Five members of the board shall consti-
15 tute a quorum for all purposes. No certificate of
16 registration may be issued, except in an affirmative
17 vote of at least 5 members of the board.

18 Sec. 5. 32 MRSA §213-A is enacted to read:

19 §213-A. Compensation

20 Each member of the board, except the secretary,
21 shall receive a compensation for their services of
22 \$35 a day for each meeting and his actual and neces-
23 sary expense incurred in the discharge of his duties.
24 These expenses shall be certified by the secretary of
25 the board.

26 The secretary may receive an annual salary to be
27 fixed by the board not to exceed \$5,000, which shall
28 be in lieu of per diem. The secretary shall be paid
29 his necessary expenses incurred in the discharge of
30 his official duties, including, but not limited to,
31 clerical and stenographical assistance, printing and
32 postage. The salary and allowance for expenses shall
33 be certified by the chairman of the board.

34 Sec. 6. 32 MRSA §214, as amended by PL 1977, c.
35 694, §§542 and 543, is repealed and the following
36 enacted in its place:

37 §214. Powers and duties

1 The board shall administer, coordinate and
2 enforce this chapter and have the following powers
3 and duties in addition to those otherwise set forth
4 in this chapter.

5 1. Rules. The board may, in accordance with the
6 Maine Administrative Procedure Act, Title 5, chapter
7 375, subchapter II, adopt rules commensurate with the
8 authority vested in it by this chapter. The rules
9 may include rules necessary for the performance of
10 the duties of the board in carrying out the purposes
11 of this chapter, as well as such rules as are appro-
12 priate to establish and maintain high standards of
13 ethical conduct. These rules shall include, but not
14 be limited to, rules concerning misconduct, compensa-
15 tion, fee splitting, advertising and standards of
16 workmanship.

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

23 The board shall not refuse to renew a certificate for
24 any reason other than failure to pay a required fee,
25 unless it has afforded the licensee an opportunity
26 for an adjudicatory hearing. The board shall hold an
27 adjudicatory hearing at the written request of any
28 person who is denied a certificate without a hearing
29 for any reason other than failure to pay a required
30 fee, provided that the request for hearing is
31 received by the board within 30 days of the appli-
32 cant's receipt of written notice of the denial of his
33 application, the reasons therefor and his right to
34 request a hearing. Hearings shall be conducted in
35 conformity with the Maine Administrative Procedure
36 Act, Title 5, chapter 375, subchapter IV, to the
37 extent applicable. The board may subpoena witnesses,
38 records and documents in any hearing it conducts.

39 3. Contracts. The board may enter into con-
40 tracts to carry out its responsibilities under this
41 chapter.

1 4. Legal services. The board, or any committee
2 thereof, is entitled to the services of the Attorney
3 General and the services of the prosecuting attorney
4 for the county in which enforcement is required. The
5 board may employ legal advice and such other assist-
6 ance as may be deemed necessary for the proper con-
7 duct of its affairs, the expense of that assistance
8 to be defrayed by the revenues provided by this chap-
9 ter.

10 Sec. 7. 32 MRSA §215, as repealed and replaced
11 by PL 1977, c. 564, §118-H, is repealed.

12 Sec. 8. 32 MRSA §216, as enacted by PL 1977, c.
13 463, §3, is repealed and the following enacted in its
14 place:

15 §216. Records

16 The board shall keep such records and minutes as
17 are necessary to the ordinary dispatch of its func-
18 tions. The board shall keep a register of all appli-
19 cants for registration and a register of all regis-
20 trants.

21 Sec. 9. 32 MRSA §218, as repealed and replaced
22 by PL 1977, c. 694, §544, is repealed and the follow-
23 ing enacted in its place:

24 §218. Disciplinary actions

25 The board may order an investigation of a com-
26 plaint on its own motion or on written complaint
27 filed with the board regarding noncompliance with or
28 violation of any section of this chapter or of any
29 rules adopted by the board.

30 The board may suspend or revoke a certificate
31 pursuant to Title 5, section 10004. The board may
32 refuse to renew or the Administrative Court may
33 revoke, suspend or refuse to renew any certificate
34 issued under this chapter if the holders of the li-
35 cence have violated any provision of this chapter or
36 any rule or order of the board.

37 Sec. 10. 32 MRSA §222, sub-§§1 and 2, as enacted
38 by PL 1977, c. 463, §3, are amended to read:

1 1. Application for registration. For an applica-
2 tion for registration an amount shall be fixed by the
3 board which shall not exceed the sum of \$50 be
4 reasonable and necessary for its purpose.

5 2. Examination fee. For an examination fee an
6 amount shall be fixed by the board which is reason-
7 able and necessary for its purpose.

8 Sec. 11. 32 MRSA §224, last ¶, as amended by PL
9 1977, c. 694, §548, is repealed and the following
10 enacted in its place:

11 Certificates of registration shall expire on the
12 last day of June of each year. Renewal may be
13 effected at any time during the month of June by pay-
14 ment of the renewal fee. A certificate may be
15 renewed up to 90 days after the date of its expira-
16 tion upon payment of a late fee of \$10 in addition to
17 the renewal fee. Any person who submits an applica-
18 tion for renewal more than 90 days after the license
19 expiration date shall be subject to all requirements
20 governing new applicants under this chapter, except
21 that the board may in its discretion, giving due con-
22 sideration to the protection of the public, waive
23 examination if the renewal application is made within
24 2 years from the date of the expiration.

25 Sec. 12. 32 MRSA §228, as enacted by PL 1977, c.
26 463, §3, is amended by adding at the end a new para-
27 graph to read:

28 The State may bring an action in Superior Court
29 to enjoin any person from violating this chapter,
30 regardless of whether proceedings have been or may be
31 instituted in the Administrative Court or whether
32 criminal proceedings have been or may be instituted.

33 Sec. 13. 32 MRSA §271, as enacted by PL 1979, c.
34 478, §2, is repealed and the following enacted in its
35 place:

36 §271. Advisory board

37 The Auctioneers Advisory Board, as established
38 within the Department of Business Regulation, shall
39 advise the commissioner or his designee and provide

1 assistance on any matter he deems relevant to the
2 administration of this chapter.

3 The board shall be composed of 3 members, 2 of
4 whom shall be auctioneers and one of whom shall be a
5 public member. Members shall be appointed by the
6 commissioner and shall serve without compensation.
7 Members shall be reimbursed for actual expenses
8 incurred for attendance at meetings.

9 Appointments shall be for 3-year terms, with no
10 person being eligible to serve more than 3 full con-
11 secutive terms, provided that for this purpose only a
12 period actually served which exceeds 1/2 of the
13 3-year term shall be deemed a full term. Upon
14 expiration of a member's term, he shall serve until
15 his successor is qualified and appointed. The
16 successor's term shall be 3 years from the date of
17 the expiration, regardless of the date of his
18 appointment. Any vacancy shall be filled by appoint-
19 ment for the unexpired term. A board member may be
20 removed by the commissioner for cause.

21 The board shall meet at least once a year and at
22 such other times as the commissioner deems necessary.

23 The commissioner may, in accordance with the
24 procedures established by the Maine Administrative
25 Procedure Act, Title 5, chapter 375, subchapter II,
26 adopt such rules as may be reasonably necessary for
27 the proper performance of his duties in the adminis-
28 tration of this chapter.

29 Sec. 14. 32 MRS A §272, as enacted by PL 1979, c.
30 478, §2, is amended to read:

31 §272. Prohibition

32 No person in this State shall may engage in the
33 business of auctioneering, hold himself out as an
34 auctioneer or advertise that he will sell the real,
35 personal or mixed property of another by auction
36 unless he holds a valid auctioneer's license at the
37 time of the sale.

38 Sec. 15. 32 MRS A §273, as amended by PL 1979, c.
39 705, §1, is further amended by adding after the first
40 paragraph a new paragraph to read:

1 The commissioner may establish an application fee
2 and an examination fee in amounts which are reason-
3 able and necessary for their respective purposes.

4 Sec. 16. 32 MRSA §274, as enacted by PL 1979, c.
5 478, §2, is amended to read:

6 §274. Renewal

7 Notice of expiration shall be mailed to each
8 licensee's last known address at least 30 days in
9 advance of the expiration of his license. The renewal
10 notice shall include any requests for information
11 necessary to update the individual's records. The
12 biennial license fee shall be \$50.

13 A renewal received 30 days after expiration will
14 be considered as a new application:

15 A license may be renewed up to 90 days after the
16 date of its expiration upon payment of a late fee of
17 \$10 in addition to the renewal fee. Any person who
18 submits an application for renewal more than 90 days
19 after the license expiration date shall be subject to
20 all requirements governing new applicants under this
21 chapter.

22 Sec. 17. 32 MRSA §276, as enacted by PL 1979, c.
23 478, §2, is amended to read:

24 §276. Nonresident licensure

25 Every nonresident person desiring to do business
26 as an auctioneer in this State shall obtain an auc-
27 tioneer's license. The commissioner may issue a li-
28 cense to any nonresident ~~auctioneer~~ duly licensed as
29 an auctioneer in the state in which he resides upon
30 fulfillment of the same application requirements as
31 those set forth for resident auctioneers.

32 In addition, ~~the an~~ applicant shall furnish proof
33 to the commissioner that he is licensed to conduct
34 auctions in the state in which he resides shall fur-
35 nish proof of that licensure to the commissioner.

36 Sec. 18. 32 MRSA §278, as amended by PL 1979, c.
37 705, §§2 to 6, is repealed.

1 Sec. 19. 32 MRSA §278-A is enacted to read:

2 §278-A. Investigations; hearings; license suspension
3 or revocation

4 1. Investigations. The commissioner shall
5 investigate, or cause to be investigated, all com-
6 plaints made to him and all cases of noncompliance
7 with or violation of this chapter.

8 2. Hearings. Hearings may be conducted by the
9 commissioner before the board to assist with investi-
10 gations, to determine whether grounds exist for sus-
11 pension, revocation or denial of a license, or as
12 otherwise deemed necessary by the commissioner to the
13 fulfillment of his responsibilities under this chap-
14 ter.

15 The commissioner shall not refuse to renew a license
16 for any reason other than failure to pay a required
17 fee unless he has afforded the licensee an oppor-
18 tunity for an adjudicatory hearing. The commissioner
19 shall hold an adjudicatory hearing at the written
20 request of any person who is denied a license without
21 a hearing for any reason other than failure to pay a
22 required fee, provided that the request for hearing
23 is received within 30 days of the applicant's receipt
24 of written notice of the denial of his application,
25 the reasons therefor and his right to request a hear-
26 ing. Hearings shall be conducted in conformity with
27 the Maine Administrative Procedure Act, Title 5,
28 chapter 375, subchapter IV, to the extent applicable.
29 The commissioner may subpoena witnesses, records and
30 documents in any hearing he conducts.

31 3. Refusal to issue or renew; suspension or
32 revocation. The commissioner may suspend or revoke a
33 license pursuant to Title 5, section 10004. In addi-
34 tion, the commissioner may refuse to issue or renew
35 a license or the Administrative Court may revoke,
36 suspend or refuse to renew a license for any of the
37 following reasons:

38 A. Conviction of the licensee of a violation of
39 the Maine Criminal Code, Title 17-A, chapter 15,
40 19 or 37 or of a Class A, Class B or Class C
41 crime thereunder or of a felony under federal

1 law, subject to the limitations of Title 5, chap-
2 ter 341;

3 B. Failure to comply with or properly maintain
4 records required by Title 15, section 456;

5 C. Failure, within reasonable time, to account
6 for or remit any moneys coming into his posses-
7 sion which belong to others; or

8 D. Any act in violation of this chapter.

9 Sec. 20. 32 MRSA §282, as enacted by PL 1979, c.
10 478, §2, is repealed and the following enacted in its
11 place:

12 §282. Penalties; injunction

13 A violation of any provision of this chapter is a
14 civil violation for which a forfeiture not to exceed
15 \$500 may be adjudged.

16 The State may bring an action in Superior Court
17 to enjoin any person from violating this chapter,
18 regardless of whether proceedings have been or may be
19 instituted in the Administrative Court or whether
20 proceedings to impose a civil forfeiture have been or
21 may be instituted.

22 Sec. 21. 32 MRSA §303, sub-§3, as amended by PL
23 1977, c. 694, §549, is repealed and the the following
24 enacted in its place:

25 3. License; refusal to issue or renew; suspen-
26 sion; revocation. The board shall investigate or
27 cause to be investigated all complaints involving a
28 school or an instructor and all cases of noncompli-
29 ance with or violation of this section. The board may
30 suspend or revoke a license pursuant to Title 5,
31 section 10004. The board may, after a hearing in
32 conformance with the Maine Administrative Procedure
33 Act, Title 5, chapter 375, subchapter IV, refuse to
34 issue or renew a certificate. The Administrative
35 Court Judge may suspend, revoke or refuse to renew
36 the certificate of any school or instructor found
37 guilty of violating any provision of this section or
38 of violating any lawful order or rule adopted by the
39 board.

1 Sec. 22. 32 MRSA §304, as repealed and replaced
2 by PL 1977, c. 398, §5, is amended by adding at the
3 end a new paragraph to read:

4 The State may bring an action in Superior Court
5 to enjoin any person from violating this chapter,
6 regardless of whether proceedings have been or may be
7 instituted in the Administrative Court or whether
8 criminal proceedings have been or may be instituted.

9 Sec. 23. 32 MRSA §351, sub-§2, as enacted by PL
10 1977, c. 398, §7, is repealed and the following
11 enacted in its place:

12 2. Meetings; chairman; quorum. The board shall
13 meet at least once a year to conduct its business and
14 to elect a chairman. Additional meetings shall be
15 held as necessary to conduct the business of the
16 board, and may be convened at the call of the chair-
17 man or a majority of the board members. The chairman
18 shall serve for a term of one year or until a succes-
19 sor is elected. All meetings of the board shall be
20 open to the public, except that the board may hold
21 closed sessions to prepare, approve, grade or admin-
22 ister examinations, or to prepare or provide a
23 response upon request of an applicant for review of
24 his examination. Three voting members of the board
25 shall constitute a quorum for all purposes.

26 Sec. 24. 32 MRSA §352, sub-§1, as enacted by PL
27 1977, c. 398, §8, is amended to read:

28 1. Board to administer, coordinate and enforce.
29 The board shall administer, coordinate and enforce
30 this chapter, evaluate the qualifications and super-
31 viser the examinations of applicants for registration
32 under this chapter and shall, at its discretion,
33 investigate allegations of violations of this chap-
34 ter. The board shall keep such records and minutes
35 as are necessary to the ordinary dispatch of its
36 functions.

37 Any member or employee of the board shall have the
38 ~~power to~~ may enter and make reasonable examination of
39 any approved school or any barber shop during busi-
40 ness hours for the purpose of ascertaining whether or
41 not the rules and regulations are being observed.

1 The board shall submit to the Commissioner of Busi-
2 ness Regulation its budgetary requirements in the
3 same manner as is provided in Title 5, section 1665,
4 and the commissioner shall in turn transmit those re-
5 quirements to the Bureau of the Budget without any
6 revision, alteration or change.

7 Sec. 25. 32 MRSA §352, sub-§2, as amended by PL
8 1977, c. 694, §§550 and 551, is repealed and the fol-
9 lowing enacted in its place:

10 2. Rules. The board may adopt rules commensu-
11 rate with the authority vested in it by this chapter,
12 subject to the Maine Administrative Procedure Act,
13 Title 5, chapter 375, except as otherwise provided in
14 this subsection, and subject to the approval of the
15 Commissioner of Human Services.

16 The rules shall include, but not be limited to, rules
17 concerning the proper use of appliances, apparatus
18 and electrical machines used in any establishment for
19 or in connection with any of the practices defined in
20 section 301, and prescribing the sanitary require-
21 ments to be observed by proprietors of barber shops
22 and schools and by persons engaged in this practice
23 and shall make regulations not contrary to law rela-
24 tive to the applications for licenses and certifi-
25 cates of registration. The board shall cause these
26 rules to be printed in suitable form and a copy
27 thereof to be sent to the proprietors of the shops,
28 which copy shall be kept posted in a conspicuous
29 place in the shops so as to be easily read by custom-
30 ers.

31 The rules shall include rules prescribing the re-
32 quirements for the construction, operation, mainte-
33 nance and sanitation of any school of barbering, sub-
34 ject to a license under this chapter.

35 A copy of all rules which are adopted by vote of the
36 board and which are approved by the Commissioner of
37 Human Services shall be sent to all persons licensed
38 under this chapter.

39 Sec. 26. 32 MRSA §352, sub-§3, as repealed and
40 replaced by PL 1981, c. 698, §154, is repealed and
41 the following enacted in its place:

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

7 The board shall not refuse to renew a license for any
8 reason other than failure to pay a required fee,
9 unless it has afforded the licensee an opportunity
10 for an adjudicatory hearing. The board shall hold an
11 adjudicatory hearing at the written request of any
12 person who is denied a license without a hearing for
13 any reason other than failure to pay a required fee,
14 provided that the request for hearing is received by
15 the board within 30 days of the applicant's receipt
16 of written notice of the denial of his application,
17 the reasons therefor and his right to request a hear-
18 ing. Hearings shall be conducted in conformity with
19 the Maine Administrative Procedure Act, Title 5,
20 chapter 375, subchapter IV, to the extent applicable.
21 The board may subpoena witnesses, records and docu-
22 ments in any hearing it conducts.

23 Sec. 27. 32 MRSA §352, sub-§5 is enacted to
24 read:

25 5. Contracts. The board may enter into con-
26 tracts to carry out its responsibilities under this
27 chapter.

28 Sec. 28. 32 MRSA §404, as repealed and replaced
29 by PL 1977, c. 398, §9, is amended to read:

30 §404. Reciprocity with other states

31 The board may waive the examination and grant
32 registration to any applicant who shall present proof
33 of current registration or licensure in another
34 state, other jurisdiction of the United States or
35 another country which grants similar privileges to
36 persons registered under this chapter and maintains
37 professional standards deemed by the board to be
38 equivalent to those set forth in this chapter, pro-
39 vided that no cause exists for denial of a license
40 under section 408. Such an applicant shall pay the
41 same fee as provided in section 407.

1 The board may allow an applicant to take the
2 examination who presents proof of training or experi-
3 ence, of an amount at least equal to that required
4 under section 402, subsection 3, in another state,
5 other jurisdiction of the United States or another
6 country which maintains professional standards con-
7 sidered deemed by the board to be equivalent to those
8 set forth in this chapter, provided that no cause
9 exists for denial of a license under section 408.
10 Such an applicant shall pay the examination fee as
11 provided in section 402.

12 Sec. 29. 32 MRSA §407, last ¶, as repealed and
13 replaced by PL 1977, c. 398, §9, is repealed and the
14 following enacted in its place:

15 A license may be renewed up to 90 days after the
16 date of its expiration upon payment of a late fee of
17 \$10 in addition to the renewal fee. Any person who
18 submits an application for renewal more than 90 days
19 after the license expiration date shall be subject to
20 all requirements governing new applicants under this
21 chapter, except that the board may in its discretion,
22 giving due consideration to the protection of the
23 public, waive examination if the renewal application
24 is made within 2 years from the date of the expira-
25 tion.

26 Sec. 30. 32 MRSA §408, as amended by PL 1977, c.
27 694, §553, is further amended to read:

28 §408. Suspension, revocation and refusal to issue or
29 to renew registration or license

30 The board shall investigate or cause to be inves-
31 tigated all complaints made to it and all cases of
32 noncompliance with or violation of this chapter. The
33 board shall have the authority, after a hearing in
34 conformance with Title 5, section 9051 et seq., to
35 refuse to issue or renew a registration or license.
36 The Administrative Court Judge shall have the power
37 to suspend or revoke the registration or license of
38 any person registered under this chapter who is
39 guilty of. The board may suspend or revoke a license
40 pursuant to Title 5, section 10004. The board may
41 refuse to issue or renew a license or the Administra-
42 tive Court may revoke, suspend or refuse to renew a

1 license of any person registered under this chapter
2 for any of the following reasons:

3 1. Obtaining registration or license by fraud.
4 Obtaining registration or license by means of fraud,
5 misrepresentation or concealment of material facts;

6 2. Violation of any lawful order, rule. Violat-
7 ing any lawful order, or rule ~~or regulation rendered~~
8 and adopted by the board;

9 3. Violations. Violating any provision of this
10 chapter;

11 4. Conviction of a crime. Being convicted of a
12 crime in any court of the United States if the acts
13 for which the person is convicted are found by the
14 board to have a direct bearing on whether the person
15 should be entrusted to serve the public in a capacity
16 which is subject to license or registration under
17 this chapter, subject to the limitations of Title 5,
18 chapter 341; or

19 5. Certain conduct. Repeated acts or continued
20 conduct while serving customers which is dangerous or
21 injurious, or potentially so, to customers.

22 The board may reissue a license or registration
23 to any person whose license or registration has been
24 revoked, if 3 or more members of the board vote in
25 favor of such reissuance.

26 Sec. 31. 32 MRSA §1101, sub-§4, as amended by PL
27 1981, c. 577, §7, is repealed and the following
28 enacted in its place:

29 4. Journeyman electrician. "Journeyman electri-
30 cian" means a person doing work of installing elec-
31 trical wires, conduits, apparatus, fixtures and other
32 electrical equipment in the employment of a master
33 electrician. The biennial renewal fee for a journey-
34 man electrician license is \$40.

35 Sec. 32. 32 MRSA §1101, sub-§4-A is enacted to
36 read:

1 4-A. Supervision. Each master electrician or
2 journeyman electrician may have one apprentice elec-
3 trician or one helper electrician working with him
4 and under his personal supervision. A master elec-
5 trician, who teaches an electrical course at a Maine
6 regional vocational-technical center, a Maine voca-
7 tional region or a Maine vocational-technical insti-
8 tute, may have a maximum of 12 helper electricians
9 under his direct supervision while making electrical
10 installations which are a part of the instructional
11 program of the school, provided that the total value
12 of each installation does not exceed \$1,000. No elec-
13 trical installation may be commenced pursuant to this
14 subsection without the prior approval of the director
15 of the school at which the master electrician is an
16 instructor. These installations are limited to those
17 done in buildings or facilities owned or controlled
18 by:

19 A. School administrative units;

20 B. Nonprofit organizations; and

21 C. Households as defined in Title 36, section
22 6103, where the household income as defined in
23 that section is within the limits established for
24 one or 2 member households by Title 36, section
25 6108, except that if there are more than 2 mem-
26 bers in a household, an additional \$500 of house-
27 hold income shall be allowed for each additional
28 member of the household in computing the income
29 limitation and provided that the household is
30 owner-occupied.

31 The Electricians' Examining Board and the municipal
32 electrical inspector of the municipality in which the
33 installation is to be made, if the municipality has
34 an inspector, shall be notified of all installation
35 projects entered into pursuant to this subsection
36 prior to the commencement of the project. There shall
37 be an inspection by a state electrical inspector or
38 by the municipal electrical inspector of the munici-
39 pality in which the installation has been made, if
40 the municipality has an inspector, before any wiring
41 on the project is concealed.

42 Sec. 33. 32 MRSAs §1105, as repealed and replaced
43 by PL 1973, c. 363, is amended to read:

1 §1105. Violations; penalty

2 Any person, firm or corporation who makes elec-
3 trical installations without being licensed as pro-
4 vided in this chapter; ~~any person, firm or corpora-~~
5 ~~tion~~ or who, being in such that business, employs an
6 unlicensed person, firm or corporation to do ~~such~~
7 that work, unless he is an apprentice electrician or
8 an electrician's helper as set forth in this chapter,
9 unless the person, firm or corporation or work is ex-
10 empted under section 1102 or 1102-A; any person, firm
11 or corporation who procures a license as provided in
12 this chapter wrongfully or by fraud; or any person,
13 firm or corporation who violates this chapter or
14 rules ~~or regulations~~ promulgated thereunder, or stan-
15 dards adopted by the board, ~~shall be~~ is guilty of a
16 ~~misdemeanor and shall be punished by a fine of not~~
17 ~~more than \$500~~ Class E crime.

18 The State may bring an action in Superior Court
19 to enjoin any person from violating this chapter,
20 regardless of whether proceedings have been or may be
21 instituted in the Administrative Court or whether
22 criminal proceedings have been or may be instituted.

23 Nothing in this chapter ~~shall~~ may prevent a
24 person from making electrical installations in a sin-
25 gle family residence occupied by him or to be occu-
26 pied by him as his bona fide personal abode, provid-
27 ing such that the installation conforms with the
28 standards of the National Electric Code.

29 Sec. 34. 32 MRSA §1151, as amended by PL 1981,
30 c. 383, §4, is repealed and the following enacted in
31 its place:

32 §1151. Appointment; vacancies; removal; compensation

33 The Electricians' Examining Board, as established
34 and in this chapter called the "board," shall consist
35 of 6 members appointed by the Governor, called the
36 "appointive members," and an executive secretary, who
37 shall be the Commissioner of Business Regulation or a
38 representative appointed by the commissioner with the
39 approval of at least 4 of the appointive members.

1 The 6 appointive members shall consist of: One
2 master electrician; one electrician who is a bona
3 fide member from organized labor classified as an
4 inside electrician; one electrical inspector; one
5 master electrician from the education field; and one
6 person experienced in the electrical field, all of
7 whom shall have at least 10 years of experience in
8 the electrical field; provided that the latter 3 need
9 not be active electricians at the time of their
10 appointment; and one representative of the public.
11 At the time of each appointment, the State Electrical
12 Associates may nominate 3 persons for that appoint-
13 ment. To the extent the State Electrical Associates
14 so nominates persons otherwise qualified for appoint-
15 ment to the board, the appointive members, other than
16 the representative of the public, may be selected
17 from the persons so nominated.

18 Appointments shall be made for a 5-year term,
19 except that at least one appointive member's term
20 shall expire each calendar year and appointments for
21 terms of less than 5 years may be made in order to
22 comply with this limitation. No person may be eligi-
23 ble to serve more than 2 full consecutive terms, pro-
24 vided that for this purpose only a period actually
25 served which exceeds 1/2 of the 5-year term shall be
26 deemed a full term. Upon expiration of a member's
27 term, he shall serve until his successor is qualified
28 and appointed. The successor's term shall be 5 years
29 from the date of that expiration, regardless of the
30 date of his appointment.

31 Any vacancy in the board caused by death, resig-
32 nation or removal of any members shall be filled by
33 the appointment of a person qualified as was the
34 board member being replaced, to hold office during
35 the unexpired term of the member whose place is thus
36 filled.

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

39 The members of the board, other than state
40 employees, shall each be allowed the sum of \$30 each
41 day and their necessary traveling expenses for actual
42 attendance at meetings of the board held for the pur-
43 poses of examining candidates, hearings on complaints
44 or conducting business required by the board.

1 Sec. 35. 32 MRSA §1153, as amended by PL 1979,
2 c. 127, §178, is repealed and the following enacted
3 in its place:

4 §1153. Meetings; rules

5 The board shall hold regular meetings at least
6 twice a year. Additional meetings shall be held as
7 necessary to conduct the business of the board, and
8 may be convened at the call of the chairman or 4 of
9 the board members. At the first meeting in each cal-
10 endar year, the 6 appointive members shall choose one
11 appointive member to act as chairman. A quorum of
12 the board shall consist of not less than 4 members.
13 The board shall keep correct records of all its pro-
14 ceedings and may adopt, pursuant to the Maine Admin-
15 istrative Procedure Act, Title 5, chapter 375, sub-
16 chapter II, such rules as it shall deem necessary for
17 the holding of examinations and for carrying out this
18 chapter; provide for the licensing requirements of
19 Title 8, section 653; and provide for reciprocity of
20 licensing with similar boards of other states which
21 maintain electrical standards at least equal to those
22 of this State.

23 Sec. 36. 32 MRSA §1153-B is enacted to read:

24 §1153-B. Powers

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

28 1. Licenses. The board shall evaluate the qual-
29 ifications and supervise the examination of appli-
30 cants for licensure under this chapter.

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

37 The board shall not refuse to renew a license for any
38 reason other than failure to pay a required fee,
39 unless it has afforded the licensee an opportunity

1 for an adjudicatory hearing. The board shall hold an
2 adjudicatory hearing at the written request of any
3 person who is denied a license without a hearing for
4 any reason other than failure to pay a required fee,
5 provided that the request for hearing is received by
6 the board within 30 days of the applicant's receipt
7 of written notice of the denial of his application,
8 the reasons for the denial and his right to request a
9 hearing. Hearings shall be conducted in conformity
10 with the Maine Administrative Procedure Act, Title 5,
11 chapter 375, subchapter IV, to the extent applicable.
12 The board may subpoena witnesses, records and docu-
13 ments in any hearing it conducts.

14 3. Contracts. The board may enter into con-
15 tracts to carry out its responsibilities under this
16 chapter.

17 Sec. 37. 32 MRSA §1155, as amended by PL 1977,
18 c. 694, §562, is repealed.

19 Sec. 38. 32 MRSA §1155-A is enacted to read:

20 §1155-A. Investigation of complaints; revocation of
21 license

22 1. Investigations. The board shall investigate
23 or cause to be investigated all complaints made to it
24 and all cases of noncompliance with or violation of
25 this chapter. Any person may register a complaint of
26 fraud, deceit, gross negligence, incompetency or mis-
27 conduct against any person licensed or required to be
28 licensed under this chapter. These complaints shall
29 be in writing, shall be sworn to by the person making
30 them and filed with the executive secretary of the
31 board.

32 2. Suspension; revocation. The board may sus-
33 pend or revoke a license pursuant to Title 5, section
34 10004. The board may refuse to issue or renew a li-
35 cence or the Administrative Court may suspend or
36 revoke a license of any licensed person who is found
37 guilty of:

38 A. The practice of any fraud or deceit in
39 obtaining a license;

1 B. Any gross negligence, incompetency or miscon-
2 duct in the performance of the work of making
3 electrical installations. Continued failure to
4 conform with application regulations of the
5 National Electrical Code, National Electrical
6 Safety Code or of other safety codes which have
7 been approved by the American Standards Associa-
8 tion shall be prima facie evidence of that gross
9 negligence and incompetency. For motion picture
10 projectionists licensed under Title 8, section
11 653, any gross negligence, incompetency or mis-
12 conduct in the performance of their work shall be
13 prima facie evidence of that gross negligence and
14 incompetency;

15 C. Violating any provision of this chapter or
16 any rule of the board; or

17 D. Conviction of a crime, subject to the limita-
18 tions of Title 5, chapter 341.

19 3. Reinstatement. The board, for reasons it may
20 deem sufficient, may reissue a license to any person
21 whose license has been revoked, providing 4 or more
22 members of the board vote in favor of that reiss-
23 uance.

24 Sec. 39. 32 MRSA §1204, as amended by PL 1975,
25 c. 767, §39, is repealed and the following enacted in
26 its place:

27 §1204. Renewals

28 All licenses issued shall expire October 31st of
29 each biennial period as to master electricians and
30 April 30th of each biennial period as to other licen-
31 sees and they may be renewed thereafter for 2-year
32 periods without further examination, upon the payment
33 of the proper renewal fee as set forth in section
34 1101. The expiration dates for licenses issued under
35 this chapter may be established at such other times
36 as the Commissioner of Business Regulation may desig-
37 nate. The board shall notify everyone registered
38 under this chapter of the date of expiration of his
39 license and the fee required for its renewal for a
40 2-year period. The notice shall be mailed to the
41 person's last known address at least 30 days in
42 advance of the expiration date of his license.

1 A license may be renewed up to 90 days after the
2 date of its expiration upon payment of a late fee of
3 \$10 in addition to the renewal fee. Any person who
4 submits an application for renewal more than 90 days
5 after the license expiration date shall be subject to
6 all requirements governing new applicants under this
7 chapter, except that the board may in its discretion,
8 giving due consideration to the protection of the
9 public, waive examination if the renewal application
10 is made within 2 years from the date of the expira-
11 tion. Notwithstanding any other provision of this
12 chapter, the board shall waive examination if a
13 renewal application is made within 90 days after
14 separation from the United States Armed Forces, under
15 conditions other than dishonorable, by a person who
16 has failed to renew his license because he was on ac-
17 tive duty in the Armed Forces; provided that the
18 waiver of examination shall not be granted if the
19 person served more than 4 years in the Armed Forces,
20 except if he is required by some mandatory provision
21 to serve a longer period and he shall submit satis-
22 factory evidence of this mandatory provision to the
23 board.

24 Any master electrician giving up his master's li-
25 cence for a lower grade license shall be required to
26 successfully pass an examination in order to rein-
27 state his master license.

28 Sec. 40. 32 MRSA §1253 is amended to read:

29 §1253. Corporations, partnerships and associations

30 A firm, copartnership, corporation or joint stock
31 association may engage in the practice of profes-
32 sional engineering in this State, provided ~~only such~~
33 that the practice is carried on only by professional
34 engineers registered in this State.

35 Sec. 41. 32 MRSA §1256 is amended to read:

36 §1256. Violations; penalties; injunction

37 Any person who shall practice or offer to prac-
38 tice the profession of engineering in this State
39 without being registered or exempted in accordance
40 with this chapter, or any person presenting or

1 attempting to use as his own the certificate of
2 registration or the seal of another, or any person
3 who shall give any false or forged evidence of any
4 kind to the board or to any member thereof in obtain-
5 ing a certificate of registration, or any person who
6 shall falsely impersonate any other registrant of
7 like or different name, or any person who shall
8 attempt to use an expired or revoked certificate of
9 registration, or any person who shall violate any of
10 the provisions of this chapter shall be guilty of a
11 misdemeanor and shall, upon conviction, be punished
12 by a fine of not less than \$100 nor more than \$500,
13 or by imprisonment for not more than 3 months, or by
14 both Class E crime.

15 The State may bring an action in Superior Court
16 to enjoin any person from violating this chapter,
17 regardless of whether proceedings have been or may be
18 instituted in the Administrative Court or whether
19 criminal proceedings have been or may be instituted.

20 It shall be the duty of all duly constituted
21 officers of the law of this State or any political
22 subdivision thereof to enforce this chapter and to
23 prosecute any persons violating same. The Attorney
24 General or his assistant shall act as legal adviser
25 of the board and render such legal assistance as may
26 be necessary in carrying out this chapter.

27 Sec. 42. 32 MRSA §1301, as amended by PL 1975,
28 c. 771, §341, is repealed and the following enacted
29 in its place:

30 §1301. Appointment; term

31 The State Board of Registration for Professional
32 Engineers shall administer this chapter. The board
33 shall consist of 6 members appointed by the Governor,
34 of which 5 shall be professional engineers who have
35 the qualifications required by section 1302 and one
36 shall be a representative of the public. Nominees
37 for appointment may be recommended to the Governor by
38 representative engineering societies in the State.

39 Appointments shall be for 5-year terms, except
40 that no more than one engineer member's term may
41 expire in any one calendar year and appointments for

1 terms of less than 5 years may be made in order to
2 comply with this limitation. No person may be eligi-
3 ble to serve more than 2 full consecutive terms, pro-
4 vided that for this purpose only a period actually
5 served which exceeds 1/2 of the 5-year term shall be
6 deemed a full term. Upon expiration of a member's
7 term, he shall serve until his successor is qualified
8 and appointed. The successor's term shall be 5 years
9 from the date of that expiration, regardless of the
10 date of his appointment.

11 Sec. 43. 32 MRSA §1304, as amended by PL 1975,
12 c. 771, §342, is further amended to read:

13 §1304. Removal; vacancies

14 The Governor may remove any member of the board
15 for ~~misconduct, incompetency, neglect of duty or for~~
16 ~~any other sufficient~~ cause. Vacancies in the member-
17 ship of the board shall be filled for the unexpired
18 term by appointment by the Governor as ~~provided~~ in
19 accordance with section 1301.

20 Sec. 44. 32 MRSA §1305, as amended by PL 1975,
21 c. 575, §18, is repealed and the following enacted in
22 its place:

23 §1305. Organization and meetings

24 The board shall meet at least once a year to con-
25 duct its business and to elect its officers. Addi-
26 tional meetings shall be held as necessary to conduct
27 the business of the board, and may be convened at the
28 call of the chairman or a majority of the board mem-
29 bers.

30 The board shall elect or appoint annually a
31 chairman, vice-chairman and secretary. A quorum of
32 the board shall consist of not less than 4 members.
33 The board may adopt and have an official seal.

34 Sec. 45. 32 MRSA §1306, as amended by PL 1977,
35 c. 694, §563, is repealed and the following enacted
36 in its place:

37 §1306. Powers

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

4 1. Licenses; enforcement. The board shall
5 evaluate the qualifications and supervise the exami-
6 nation of applicants for licensure under this chap-
7 ter, and shall investigate or cause to be investi-
8 gated all complaints made to it and all cases of non-
9 compliance with this chapter.

10 2. Rules. The board may, in accordance with
11 procedures established by the Maine Administrative
12 Procedure Act, Title 5, chapter 375, subchapter II,
13 adopt such rules as may be reasonably necessary for
14 the proper performance of its duties and the adminis-
15 tration of this chapter.

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

22 The board shall not refuse to renew a license for any
23 reason other than failure to pay a required fee,
24 unless it has afforded the licensee an opportunity
25 for an adjudicatory hearing. The board shall hold an
26 adjudicatory hearing at the written request of any
27 person who is denied a license without a hearing for
28 any reason other than failure to pay a required fee,
29 provided that the request for hearing is received by
30 the board within 30 days of the applicant's receipt
31 of written notice of the denial of his application,
32 the reasons therefor and his right to request a hear-
33 ing. Hearings shall be conducted in conformity with
34 the Maine Administrative Procedure Act, Title 5,
35 chapter 375, subchapter IV, to the extent applicable.
36 The board may subpoena witnesses, records and docu-
37 ments in any hearing it conducts.

38 4. Contracts. The board may enter into con-
39 tracts to carry out its responsibilities under this
40 chapter.

1 Sec. 46. 32 MRSA §1308, as amended by PL 1981,
2 c. 456, Pt. A, §§107 and 108, is repealed and the
3 following enacted in its place:

4 §1308. Records and reports

5 The board shall keep such records and minutes as
6 are necessary to the ordinary dispatch of its func-
7 tions.

8 Not later than August 1st of each year, the board
9 shall submit to the Commissioner of Business Regula-
10 tion a report of its transactions of the preceding
11 fiscal year ending June 30th and shall transmit to
12 him a complete statement of the receipts and expendi-
13 tures of the board, attested by affidavits of its
14 chairman and its secretary.

15 The commissioner shall act as a liaison between
16 the board and the Governor.

17 The commissioner shall not have the authority to
18 exercise or interfere with the exercise of discre-
19 tionary, regulatory or licensing authority granted by
20 statute to the board.

21 The board shall submit to the Commissioner of
22 Business Regulation its budgetary requirements in the
23 same manner as is provided in Title 5, section 1665,
24 and the commissioner shall in turn transmit these re-
25 quirements to the Bureau of the Budget without any
26 revision, alteration or change.

27 Sec. 47. 32 MRSA §1352, first ¶ is amended to
28 read:

29 To be eligible for registration as a professional
30 engineer, or certification as a engineer-in-training,
31 an applicant ~~must be of good character and reputation~~
32 and shall submit 5 references with his application
33 for registration as a professional engineer, 3 of
34 which references shall be registered engineers having
35 personal knowledge of his engineering experience, or
36 in the case of an application for certification as an
37 engineer-in-training, by 3 character references.
38 Each applicant shall demonstrate that he is trust-
39 worthy and competent to engage in the practice of

1 engineering in such manner as to safeguard the inter-
2 ests of the public.

3 Sec. 48. 32 MRSA §1353 is amended to read:

4 §1353. Application; fees

5 Application for registration as a professional
6 engineer or certification as an engineer-in-training
7 shall be on a form prescribed and furnished by the
8 board; shall contain statements made under oath,
9 showing the applicant's education and a detailed sum-
10 mary of his technical experience, and shall contain
11 references as set forth in section 1352, none of whom
12 may be members of the board. An application fee and
13 an examination fee may be established by the board in
14 amounts which are reasonable and necessary for their
15 respective purposes.

16 The registration fee for professional engineers
17 shall be established by the board in an amount not to
18 exceed \$25, ~~1/2 of which shall accompany the applica-~~
19 ~~tion.~~

20 The registration fee for engineer-in-training
21 certification or enrollment shall be established by
22 the board in an amount not to exceed 1/2 of the
23 registration fee for professional engineers, ~~and~~
24 ~~shall accompany the application.~~ The fee paid by an
25 applicant for certification or enrollment as an engi-
26 neer-in-training shall be credited as the initial
27 payment if and when application is made for registra-
28 tion as a professional engineer.

29 ~~Should the board deny the issuance of a certifi-~~
30 ~~cate to any applicant, the fee paid shall be retained~~
31 ~~as an application fee.~~

32 Sec. 49. 32 MRSA §1356, as amended by PL 1977,
33 c. 694, §§564 and 565, is repealed and the following
34 enacted in its place:

35 §1356. Revocation and reissuance

36 The board may suspend or revoke the registration
37 of an engineer or the certificate of an engineer-in-
38 training pursuant to Title 5, section 10004. The

1 board may refuse to issue or renew or the Administra-
2 tive Court, pursuant to Title 4, chapter 25, may
3 revoke, suspend or refuse to renew the registration
4 of a registered professional engineer or the certifi-
5 cate of an engineer-in-training who is found guilty
6 of:

7 1. Fraud or deceit. The practice of any fraud or
8 deceit in obtaining a certificate of registration as
9 professional engineer or a certificate as an engi-
10 neer-in-training;

11 2. Negligence or misconduct. Any gross negli-
12 gence, incompetency or misconduct in the practice of
13 professional engineering as a registered professional
14 engineer or as an engineer-in-training; or

15 3. Violations. Violating any provision of this
16 chapter or any rule of the board.

17 Any person may register a complaint of fraud,
18 deceit, gross negligence, incompetency or misconduct
19 against any registered professional engineer or any
20 engineer-in-training. These complaints shall be in
21 writing, sworn to by the person making them and filed
22 with the secretary of the board.

23 The board, for reasons it may deem sufficient,
24 may reissue a certificate of registration as a pro-
25 fessional engineer or as an engineer-in-training to
26 any person whose certificate has been revoked, pro-
27 vided that 4 or more members of the board vote in
28 favor of that reissuance. A new certificate of
29 registration as a professional engineer or as an
30 engineer-in-training, to replace any certificate
31 revoked, lost, destroyed or mutilated, may be issued,
32 subject to the rules of the board, and a charge of \$3
33 shall be made for that issuance.

34 Sec. 50. 32 MRS §1357, as repealed and replaced
35 by PL 1975, c. 535, is amended to read:

36 §1357. Expiration and renewals

37 Certificates of registration shall expire on the
38 last day of December of odd-numbered years following
39 their issuance or renewal and shall become invalid on

1 that date unless renewed. It shall be the duty of the
2 secretary of the board to notify every person regis-
3 tered under this chapter of the date of the expira-
4 tion of his certificate and the amount of the fee
5 that shall be required for its renewal for a 2-year
6 period, except when the applicant has become regis-
7 tered during the first year of the 2-year period,
8 then the renewal fee shall be for the remaining one
9 year of that 2-year period. ~~Such~~ The notice shall be
10 mailed at least one month in advance of the date of
11 the expiration of ~~said~~ the certificate. Renewal may
12 be effected at any time during the month of December
13 by the payment of a fee designated by the board,
14 which shall not exceed \$15 annually nor be less than
15 \$5 annually. ~~The failure on the part of any regis-~~
16 ~~trant to renew his certificate by the end of the~~
17 ~~month of December as required shall not deprive such~~
18 ~~person of the right of renewal, but the fee to be~~
19 ~~paid for the renewal of a certificate after the month~~
20 ~~of December shall be increased 10% for each month or~~
21 ~~fraction of a month that payment of renewal is~~
22 ~~delayed. The maximum fee for delayed renewal shall~~
23 ~~not exceed twice the normal renewal fee for the~~
24 ~~period of delinquency. Registration may be renewed up~~
25 ~~to 90 days after the date of expiration upon payment~~
26 ~~of a late fee of \$10 in addition to the renewal fee.~~
27 Any person who submits an application for renewal
28 more than 90 days after the registration renewal date
29 shall be subject to all requirements governing new
30 applicants under this chapter, except that the board
31 may in its discretion, giving due consideration to
32 the protection of the public, waive examination if
33 the renewal application is made within 2 years from
34 the date of the expiration.

35 Sec. 51. 32 MRSA §1359 is amended to read:

36 §1359. Reciprocity

37 The board may, upon application therefor and the
38 payment of a fee established by the board as provided
39 in section 1353, issue a certificate of registration
40 as a professional engineer to any person whose quali-
41 fications ~~meet~~ are equivalent to the requirements of
42 section 1352, subsection 1, paragraph A.

43 Sec. 52. 32 MRSA §1360 is amended to read:

1 §1360. Residents certified elsewhere

2 A person who is a resident of the State and has
3 been certified in another state as an engineer-in-
4 training may, upon payment of a fee of \$5, be certi-
5 fied as an engineer-in-training in Maine, provided
6 that he submits evidence satisfactory to the board
7 that he has been certified as an engineer-in-training
8 in another state under qualifications substantially
9 equivalent to those specified in this chapter for
10 such that certification.

11 Sec. 53. 32 MRSA §1401, first ¶ is amended to
12 read:

13 After September 12, 1959, all All moneys paid
14 during a person's lifetime to any individual, firm,
15 association, partnership or corporation, by such that
16 person or by someone in his behalf under an agreement
17 that services be performed or personal property be
18 delivered in connection with the disposition of such
19 that person's body after his death shall be deposited
20 by the payee within 30 days after receipt thereof in
21 a separate account in a bank, trust company or
22 savings institution in this State in the name of the
23 payee as mortuary trustee for the person for whose
24 benefit the payment was made and shall be held in
25 such that account together with interest if any
26 thereon. Nothing in this section shall may be con-
27 strued to prevent transfer of such these funds to
28 another such bank, trust company or savings institu-
29 tion by merger or consolidation or by operation of
30 law.

31 Sec. 54. 32 MRSA §1401, last ¶ is repealed and
32 the following enacted in its place:

33 Any person who violates this section is guilty of
34 a Class E crime.

35 Sec. 55. 32 MRSA §1402, last ¶ is repealed and
36 the following enacted in its place:

37 Any person who violates this section is guilty of
38 a Class E crime.

39 Sec. 56. 32 MRSA §1403, last ¶ is repealed and
40 the following enacted in its place:

1 Any person who violates this section is guilty of
2 a Class E crime.

3 Sec. 57. 32 MRSA §1451, as amended by PL 1981,
4 c. 703, Pt. A, §45, is repealed and the following
5 enacted in its place:

6 §1451. Board; powers and duties

7 The State Board of Funeral Service, and in this
8 chapter called the "board," shall consist of 8 mem-
9 bers, one of whom shall be the commissioner, who
10 shall be the secretary of the board; 6 of whom shall
11 be persons licensed for the practice of funeral ser-
12 vice for 10 consecutive years or who have had 10 con-
13 secutive years' experience as an embalmer or funeral
14 director in this State immediately preceding their
15 appointment; and one of whom shall be a representa-
16 tive of the public. Members, other than the commis-
17 sioner, shall be appointed by the Governor for a term
18 of 4 years, except that no more than 2 members' terms
19 may expire in any one calendar year and appointments
20 for terms of less than 4 years may be made in order
21 to comply with this limitation. Upon expiration of
22 a member's term, he shall serve until his successor
23 is qualified and appointed. The successor's term
24 shall be 4 years from the date of the expiration, any
25 regardless of the date of his appointment. Any
26 vacancy in the board shall be filled by appointment
27 of a person, qualified as was the board member being
28 replaced, to hold office during the unexpired term.
29 No person may be eligible to serve more than 2 full
30 consecutive terms, provided that for this purpose
31 only a period actually served which exceeds 1/2 of
32 the 4-year term shall be deemed a full term. A board
33 member may be removed by the Governor for cause.

34 The board may adopt rules consistent with law
35 governing the care, preparation, transportation, cre-
36 mation, burial or disposition of dead human bodies,
37 and governing funeral service, including licensing
38 and registration of resident trainees. These rules
39 shall not become effective, unless adopted in con-
40 formity with the Maine Administrative Procedure Act,
41 Title 5, chapter 375, subchapter II.

1 The board shall meet at least once a year to conduct
2 its business and elect its officers. Additional
3 meetings shall be held as necessary to conduct the
4 business of the board, and may be convened at the
5 call of the chairman or a majority of the board mem-
6 bers. Five members of the board shall constitute a
7 quorum for all purposes.

8 The members of the board shall each receive \$20 a
9 day and expenses while engaged in the business of the
10 board. The secretary shall receive actual expenses
11 while engaged in the business of the board.

12 The secretary of the board shall be the treasurer
13 and shall receive all fees, charges and assessments
14 payable to the board, and account for and pay over
15 the fees, charges and assessments according to law.

16 The secretary of the board shall keep a record of
17 all proceedings, issue all notices, certificates of
18 registration and licenses, attest all such papers and
19 orders as the board shall direct, cause inspections
20 to be made at least once every 3 years of all estab-
21 lishments or places of business of any person engaged
22 in the profession of funeral service in the State and
23 perform such other duties as shall be designated by
24 the board. The inspection shall be for the purpose of
25 determining that these establishments and places are
26 maintained in a clean and sanitary manner and that
27 suitable equipment for their proper conduct is main-
28 tained and that the laws and the regulations of the
29 board and of the Department of Human Services relat-
30 ing to the conduct of these establishments are
31 observed. The board may employ one or more inspectors
32 to carry out the duties of inspection imposed by this
33 section, and the inspection may be made by members of
34 the board upon authorization by the board, and may
35 otherwise enter into contracts to carry out its
36 responsibilities under this chapter.

37 The board may enter into reciprocal agreements
38 with corresponding boards of other states for the
39 purpose of allowing the practitioners of funeral ser-
40 vices to perform their licensed functions in this or
41 other states under such terms and conditions as the
42 boards may prescribe.

1 Sec. 58. 32 MRSA §1451-A is enacted to read:

2 §1451-A. Hearings

3 Hearings may be conducted by the board to assist
4 with investigations, to determine whether grounds
5 exist for suspension, revocation or denial of a li-
6 cence, or as otherwise deemed necessary to the ful-
7 fillment of its responsibilities under this chapter.

8 The board shall not refuse to renew a license for
9 any reason other than failure to pay a required fee,
10 unless it has afforded the licensee an opportunity
11 for an adjudicatory hearing. The board shall hold an
12 adjudicatory hearing at the written request of any
13 person who is denied a license without a hearing for
14 any reason other than failure to pay a required fee,
15 provided that the request for hearing is received by
16 the board within 30 days of the applicant's receipt
17 of written notice of the denial of his application,
18 the reasons for the denial and his right to request a
19 hearing. Hearings shall be conducted in conformity
20 with the Maine Administrative Procedure Act, Title 5,
21 chapter 375, subchapter IV, to the extent applicable.
22 The board may subpoena witnesses, records and docu-
23 ments in any hearing it conducts.

24 Sec. 59. 32 MRSA §1455, as amended by PL 1977,
25 c. 694, §567, is repealed.

26 Sec. 60. 32 MRSA §1455-A is enacted to read:

27 §1455-A. Investigations; refusal of license or
28 renewal

29 The board shall investigate or cause to be inves-
30 tigated all complaints made to it and all cases of
31 noncompliance with or violation of this chapter. The
32 board may suspend or revoke a license pursuant to
33 Title 5, section 10004.

34 The board may refuse to issue or to renew any li-
35 cence and the Administrative Court may revoke, sus-
36 pend or refuse to renew a license issued under this
37 chapter for any of the following reasons:

1 1. Criminal conviction. Subject to the limita-
2 tions of Title 5, chapter 341, conviction of a crime
3 which involves dishonesty or false statement or which
4 relates directly to the practice of funeral service,
5 or conviction of any crime for which incarceration
6 for one year or more may be imposed;

7 2. Unprofessional conduct. Unprofessional con-
8 duct which is defined to include:

9 A. Misrepresentation or fraud in obtaining a li-
10 cence or in the conduct of the funeral service
11 profession;

12 B. False or misleading advertising as practi-
13 tioner of funeral service, funeral director or
14 embalmer; advertising or using the name of a
15 person in connection with that of any funeral
16 establishment who is not licensed as a practi-
17 tioner of funeral service, funeral director or
18 embalmer;

19 C. Solicitation of dead human bodies by the
20 licensee, his agents, assistants or employees,
21 whether that solicitation occurs after death or
22 while death is impending. This shall not be
23 deemed to prohibit general advertising;

24 D. Employment by the licensee of persons known
25 as "cappers," "steerers," "solicitors" or other
26 such persons to obtain the services of a licensee
27 or one engaged in the practice of funeral ser-
28 vice;

29 E. Employment, directly or indirectly, of a res-
30 ident trainee, agent, assistant, embalmer,
31 employee or other person, on part or full time,
32 or on commission, for the purpose of calling upon
33 individuals or institutions by whose influence
34 dead human bodies may be turned over to a partic-
35 ular funeral establishment;

36 F. The direct or indirect payment or offer of
37 payment of a commission by the licensee, his
38 agents, assistants or employees for the purpose
39 of securing business;

1 G. Aiding or abetting an unlicensed person to
2 practice within the funeral service profession;

3 H. Solicitation or acceptance by a licensee of
4 any commission, bonus or rebate in consideration
5 of recommending or causing a dead human body to
6 be disposed of in any crematory, mausoleum or
7 cemetery;

8 I. Refusing to promptly surrender the custody of
9 a dead human body, upon the express order of the
10 person lawfully entitled to the custody thereof;

11 J. Negligent, careless or willful noncompliance
12 with the laws relating to filing death certifi-
13 cates and obtaining burial permits;

14 K. Gross incompetency, negligence or misconduct
15 in carrying on the business or profession of
16 funeral service; or

17 L. Abuse or disrespect in the handling of a dead
18 human body, violation of any law or ordinance
19 affecting the handling, custody, care or trans-
20 portation of dead human bodies; or

21 3. Violations. Any violation of this chapter or
22 any rule adopted by the board.

23 Whoever violates any provision of this chapter or
24 any rule prescribed by the board for the preparation,
25 embalming, transportation or burial of any dead human
26 body is guilty of a Class E crime. The county attor-
27 ney of the county in which that violation occurs
28 shall prosecute all those persons. The District Court
29 shall have original and concurrent jurisdiction with
30 the Superior Court in all prosecutions under this
31 chapter. The State may bring an action in Superior
32 Court to enjoin any person from violating this chap-
33 ter, regardless of whether proceedings have been or
34 may be instituted in the Administrative Court or
35 whether criminal proceedings have been or may be
36 instituted.

37 Sec. 61. 32 MRSA §1501, first ¶, as amended by
38 PL 1971, c. 598, §70, is further amended to read:

1 The Board of Funeral Service ~~is authorized and~~
2 ~~empowered to~~ may determine the qualifications neces-
3 sary to enable any person to lawfully engage in the
4 funeral service profession and ~~to~~ operate a funeral
5 establishment. The board shall examine all applicants
6 for licenses for the practice of funeral service and
7 shall issue a license to all persons who successfully
8 pass such that examination. To be licensed for the
9 practice of funeral service under this section, a
10 person must be at least 18 years of age, a resident
11 of this State ~~and a citizen of the United States, of~~
12 ~~good moral character,~~ have successfully completed a
13 prescribed course at a school or schools approved by
14 the Maine Board of Funeral Service, and must have
15 served as a resident trainee for not less than 12
16 months under the personal supervision of a person li-
17 censed for the practice of funeral service or a prior
18 equivalent license, and approved by the board. Each
19 applicant shall demonstrate that he is trustworthy
20 and competent to engage in the profession of funeral
21 service in such a manner as to safeguard the inter-
22 ests of the public.

23 Sec. 62. 32 MRSA §1501-A, as enacted by PL 1969,
24 c. 285, §3, is repealed.

25 Sec. 63. 32 MRSA §1504, as amended by PL 1981,
26 c. 328, §§1 to 4, is repealed and the following
27 enacted in its place:

28 §1504. Fees; expiration and renewal of licenses

29 An application fee and an examination fee may be
30 established by the board in amounts which are reason-
31 able and necessary for their respective purposes.

32 All licenses and certificates of registration
33 which have been issued by the board shall expire on
34 December 31st, annually. Any person holding a license
35 or registration under this law may have the license
36 renewed by making and filing with the secretary of
37 the board an application therefor within 30 days pre-
38 ceding the expiration of his license or certificate
39 of registration, upon blanks prescribed by the board
40 and upon payment of the established renewal fee. The
41 board shall establish the initial and renewal fees,
42 which shall not exceed \$40 for an embalmer's license,

1 funeral director's license and funeral home registra-
2 tion. The license for the practitioner of funeral
3 services shall not exceed \$50 and the fee for a resi-
4 dent trainee shall not exceed \$10. A license may be
5 renewed up to 90 days after the date of its expira-
6 tion upon payment of a late fee of \$10 in addition to
7 the renewal fee. Any person who submits an applica-
8 tion for renewal more than 90 days after the license
9 expiration date shall be be subject to all require-
10 ments governing new applicants under this chapter,
11 except that the board may in its discretion, giving
12 due consideration to the protection of the public,
13 waive examination if the renewal application is made
14 within 2 years from the date of the expiration.

15 Sec. 64. 32 MRSA §1553, sub-§4, as amended by PL
16 1977, c. 696, §238, is repealed and the following
17 enacted in its place:

18 4. License; refusal to issue or renew; suspen-
19 sion; revocation. The board shall investigate or
20 cause to be investigated all complaints involving a
21 school or an instructor and all cases of noncompli-
22 ance with or violation of this section. The board
23 may suspend or revoke a license pursuant to Title 5,
24 section 10004. The board may, after a hearing in
25 conformance with the Maine Administrative Procedure
26 Act, Title 5, chapter 375, subchapter IV, refuse to
27 issue or renew a certificate. The Administrative
28 Court Judge may suspend, revoke or refuse to renew
29 the certificate of any school or instructor found
30 guilty of violating any provision of this section or
31 of violating any lawful order or rule adopted by the
32 board.

33 Sec. 65. 32 MRSA §1555, as repealed and replaced
34 by PL 1977, c. 398, §10, is amended by adding at the
35 end a new paragraph to read:

36 The State may bring an action in Superior Court
37 to enjoin any person from violating this chapter,
38 regardless of whether proceedings have been or may be
39 instituted in the Administrative Court or whether
40 criminal proceedings have been or may be instituted.

41 Sec. 66. 32 MRSA §1601, sub-§1, as enacted by PL
42 1977, c. 398, §10, is amended to read:

1 1. Membership. The State Board of Cosmetology,
2 as ~~heretofore~~ established and in this chapter design-
3 ated as the "board," shall consist of 7 members who
4 shall be citizens of this State, 5 of whom shall have
5 been engaged in the practice of cosmetology for at
6 least 3 years immediately prior to their appointment
7 and one of whom shall be a representative of the
8 public. The 7th member of the board shall be the
9 Director of Health who shall have no board vote.

10 The 6 voting members of the board shall be appointed
11 by the Governor and their terms shall be for 3 years.
12 None of them ~~shall~~ may be eligible to serve more than
13 3 consecutive 3-year terms or to serve more than 9
14 years consecutively, provided that for this purpose
15 only a period actually served which exceeds 1/2 of
16 the 3-year term shall be deemed a full term. Upon
17 expiration of a member's term, he shall serve until
18 his successor is qualified and appointed. The
19 successor's term shall be 3 years from the date of
20 the expiration, regardless of the date of his
21 appointment. The cosmetologist members shall at all
22 times be registered cosmetologists and shall be ac-
23 tively engaged in the practice during their member-
24 ship on the board. The board member may be removed
25 by the Governor for cause.

26 Any vacancy in the board shall be filled by the
27 appointment by the Governor of a person, qualified as
28 was the board member being replaced, to hold office
29 during the unexpired term of the member whose place
30 is thus filled.

31 No person operating or employed by a school of cosme-
32 tology ~~shall~~ may be appointed as a member of the
33 board. If any member of the board, after appointment,
34 shall become affiliated in any way with any such
35 school, that person's membership on the board shall
36 immediately terminate and the unexpired term of that
37 member shall be filled by the Governor.

38 Sec. 67. 32 MRSA §1601, sub-§2, as enacted by PL
39 1977, c. 398, §10, is repealed and the following
40 enacted in its place:

41 2. Meetings; chairman; quorum. The board shall
42 meet at least once a year to conduct its business and

1 to elect a chairman. Additional meetings shall be
2 held as necessary to conduct the business of the
3 board, and may be convened at the call of the chair-
4 man or a majority of the board members. All meet-
5 ings of the board shall be open to the public, except
6 that the board may hold closed sessions to prepare,
7 approve, grade or administer examinations, or to pre-
8 pare or provide a response upon request of an appli-
9 cant for review of his examination. Four voting mem-
10 bers of the board shall constitute a quorum for all
11 purposes.

12 Sec. 68. 32 MRSA §1602, sub-§1, as enacted by PL
13 1977, c. 398, §10, is amended to read:

14 1. Board to administer, coordinate and enforce.
15 The board shall administer, coordinate and enforce
16 this chapter, evaluate the qualifications and super-
17 vise the examinations of applicants for registration
18 under this chapter and shall, at its discretion,
19 investigate allegations of violations of this chap-
20 ter. The board shall keep such records and minutes
21 as are necessary to the ordinary dispatch of its
22 functions.

23 Any member or employee of the board shall have the
24 ~~power to~~ may enter and make reasonable examination of
25 any approved school or any beauty shop during busi-
26 ness hours for the purpose of ascertaining whether or
27 not the rules ~~and regulations~~ are being observed.

28 Sec. 69. 32 MRSA §1602, sub-§2, as amended by PL
29 1977, c. 694, §§570 and 571, is further amended to
30 read:

31 2. Rules. The board shall ~~make~~ may adopt rules
32 ~~and regulations~~ commensurate with the authority
33 vested in it by this chapter, subject to the Maine
34 Administrative Procedure Act, Title 5, ~~section 8051~~
35 ~~et seq-~~ chapter 375, and subject to the approval of
36 the Commissioner of Human Services.

37 The rules ~~and regulations~~ shall include, but not be
38 limited to, rules ~~and regulations~~ concerning the
39 proper use of appliances, apparatus and electrical
40 machines used in any establishment for or in connec-
41 tion with the practice of cosmetology, and prescrib-

1 ing the sanitary requirements to be observed by pro-
2 prietors of beauty shops and schools of cosmetology
3 and by persons engaged in this practice and shall
4 make regulations not contrary to law relative to the
5 applications for licenses and certificates of regis-
6 tration. The board shall cause ~~sueh these~~ rules and
7 ~~regulations~~ to be printed in suitable form and a copy
8 thereof to be sent to the proprietors of ~~sueh those~~
9 shops, which copy shall be kept posted in a conspicu-
10 ous place in ~~sueh those~~ shops so as to be easily read
11 by customers.

12 The rules and ~~regulations~~ shall include rules and
13 ~~regulations~~ prescribing the requirements for the con-
14 struction, operation, maintenance and sanitation of
15 any school of cosmetology, subject to a license under
16 this chapter.

17 The rules and regulations in effect on October 24,
18 1977, shall be considered temporary rules and regula-
19 tions. Thereafter, the board shall adopt rules and
20 regulations in accordance with the Maine Administra-
21 tive Procedure Act, Title 5, section 8051 et seq.
22 Before any rules or regulations can be adopted, the
23 board shall hold a public hearing prior to which it
24 shall send a copy of all proposed rules to all per-
25 sons licensed under this chapter. A copy of all
26 rules and regulations which are adopted by vote of
27 the board after the hearing and which are approved by
28 the Commissioner of Human Services shall be sent to
29 all persons licensed under this chapter and shall not
30 take effect until 30 days after the date of the vote.

31 Sec. 70. 32 MRSA §1602, sub-§3, as repealed and
32 replaced by PL 1977, c. 694, §572, is repealed and
33 the following enacted in its place:

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

40 The board shall not refuse to renew a license for any
41 reason other than failure to pay a required fee,
42 unless it has afforded the licensee an opportunity

1 for an adjudicatory hearing. The board shall hold an
2 adjudicatory hearing at the written request of any
3 person who is denied a license without a hearing for
4 any reason other than failure to pay a required fee,
5 provided that the request for hearing is received by
6 the board within 30 days of the applicant's receipt
7 of written notice of the denial of his application,
8 the reasons for the denial and his right to request a
9 hearing. Hearings shall be conducted in conformity
10 with the Maine Administrative Procedure Act, Title 5,
11 chapter 375, subchapter IV, to the extent applicable.
12 The board may subpoena witnesses, records and docu-
13 ments in any hearing it conducts.

14 Sec. 71. 32 MRSA §1602, sub-§5 is enacted to
15 read:

16 5. Contracts. The board may enter into con-
17 tracts to carry out its responsibilities under this
18 chapter.

19 Sec. 72. 32 MRSA §1654, first 2 ¶¶, as repealed
20 and replaced by PL 1977, c. 398, §10, are amended to
21 read:

22 The board may waive the examination and grant
23 registration to any applicant who shall present proof
24 of current registration or licensure in another
25 state, other jurisdiction of the United States or
26 another country which grants similar privileges to
27 persons registered under this chapter and maintains
28 professional standards deemed by the board to be
29 equivalent to those set forth in this chapter, pro-
30 vided that no cause exists for denial of a license
31 under section 1658. Such an applicant shall pay the
32 same fee as provided in section 1657.

33 The board may allow an applicant to take the
34 examination who presents proof of training or experi-
35 ence, of an amount at least equal to that required
36 under section 1652, subsection 3, in another state,
37 other jurisdiction of the United States or another
38 country which maintains professional standards con-
39 sidered deemed by the board to be equivalent to those
40 set forth in this chapter, provided that no cause
41 exists for denial of a license under section 1658.
42 Such an applicant shall pay the same fee as provided
43 in section 1652.

1 Sec. 73. 32 MRSA §1657, last ¶, as repealed and
2 replaced by PL 1977, c. 398, §10, is repealed and the
3 following enacted in its place:

4 A license may be renewed up to 90 days after the
5 date of its expiration upon payment of a late fee of
6 \$10 in addition to the renewal fee. Any person who
7 submits an application for renewal more than 90 days
8 after the license expiration date shall be subject to
9 all requirements governing new applicants under this
10 chapter, except that the board may in its discretion,
11 giving due consideration to the protection of the
12 public, waive examination if the renewal application
13 is made within 2 years from the date of the expira-
14 tion.

15 Sec. 74. 32 MRSA §1657-A, as amended by PL 1979,
16 c. 127, §§179 and 180, is repealed and the following
17 enacted in its place:

18 §1657-A. Suspension, revocation and refusal to issue
19 or to renew registration or license

20 The board shall investigate or cause to be inves-
21 tigated all complaints made to it and all cases of
22 noncompliance with or violation of this chapter. The
23 board may suspend or revoke a license pursuant to
24 Title 5, section 10004. The board may refuse to
25 issue or renew a license or the Administrative Court
26 may revoke, suspend or refuse to renew a license of
27 any person registered under this chapter for any of
28 the following reasons:

29 1. Obtaining registration or license by fraud.
30 Obtaining registration or license by means of fraud,
31 misrepresentation or concealment of material facts;

32 2. Violation of any lawful order, rule. Violat-
33 ing any lawful order or rule adopted by the board;

34 3. Violations. Violating any provision of this
35 chapter;

36 4. Conviction of a crime. Being convicted of a
37 crime in any court of the United States, if the acts
38 for which the person is convicted are found by the
39 board to have a direct bearing on whether the person

1 should be entrusted to serve the public in a capacity
2 which is subject to license or registration under
3 this chapter, subject to the limitations of Title 5,
4 chapter 341; or

5 5. Certain conduct. Repeated acts or continued
6 conduct while serving customers which is dangerous or
7 injurious, or potentially so, to customers.

8 The board may reissue a license or registration
9 to any person whose license or registration has been
10 revoked, if 4 or more members of the board vote in
11 favor of reissuance.

12 Sec. 75. 32 MRSA §1658-A, as amended by PL 1981,
13 c. 703, Pt. A, §§51 and 52, is repealed and the fol-
14 lowing enacted in its place:

15 §1658-A. License required to sell or fit hearing
16 aids

17 1. License for person. No person may engage in
18 the sale of or practice of fitting and dealing in
19 hearing aids or display a sign or in any other way
20 advertise or represent himself as a person who prac-
21 tices the fitting, dealing and sale of hearing aids,
22 unless he holds a valid license issued by the board
23 as provided in section 1658-I. The board shall issue
24 a license to any person who applies for the license
25 and who is qualified for the license pursuant to
26 section 1658-I, upon payment of a fee of \$100. The
27 license shall be effective for 12 months following
28 the date of issuance. The license required by this
29 chapter shall be conspicuously posted in the
30 licensee's office or place of business. The board
31 shall, without requiring additional payment, issue
32 duplicate licenses to license holders operating more
33 than one office. A license issued under this chapter
34 shall confer on the holder the right to select, fit
35 and sell hearing aids.

36 2. License for business organization. Any cor-
37 poration, partnership, trust, association or other
38 like organization engaged in the business of selling
39 or offering for sale hearing aids at retail in the
40 State shall apply to the board for a license to
41 engage in that business. No business entity may so

1 engage in the business of selling or offering for
2 sale hearing aids without a license to do so. The
3 board shall issue a license upon payment by the busi-
4 ness entity of a fee in such amount as the board may
5 establish up to \$150 and upon filing of a sworn
6 statement from a person with authority from the busi-
7 ness entity. That sworn statement shall list the
8 names and addresses of all hearing aid dealers and
9 fitters directly or indirectly employed by the entity
10 and shall certify that the entity employs only hear-
11 ing aid dealers and fitters who are duly licensed by
12 the State. The license shall be effective for 12
13 months following the date of issuance. Licenses may
14 be renewed annually by each such business engaged in
15 the fitting and sale of hearing aids by filing an
16 application for a renewal of its license accompanied
17 by a fee in such amount as the board may establish up
18 to \$150. A license may be renewed up to 90 days
19 after the date of its expiration upon payment of a
20 late fee of \$10 in addition to the renewal fee. Any
21 application for renewal submitted more that 90 days
22 after the license expiration date shall be subject to
23 all requirements governing new applicants under this
24 chapter.

25 The license required by this chapter shall be con-
26 spicuously posted in the licensee's office or place
27 of business. Notwithstanding this subsection, the
28 board may, whenever it deems necessary, extend exist-
29 ing licenses so that an equal number expire each
30 month to allow for the equal distribution of
31 relicensure throughout the year.

32 3. Violations by business organizations. No
33 person, corporation, partnership, trust or other like
34 organization, or the officers, partners, directors or
35 trustees, engaged in the business of selling hearing
36 aids or hearing aid equipment in the State may know-
37 ingly employ any person who has neither a license nor
38 a trainee permit in the direct sale of hearing aids
39 or hearing aid equipment; nor may that business
40 entity knowingly permit or advise any of its employ-
41 ees to violate any provision in this chapter or any
42 provision in the rules; nor may that business entity
43 employ 2 or more persons in any one-year period con-
44 cerning whom the department has refused to issue a
45 license.

1 If one or more of the employees of the licensee vio-
2 lates the standards of conduct established in section
3 1658-N and if, the licensee fails to prove that it
4 exercised reasonable care in the hiring, training,
5 instructing and supervising of its employees so as to
6 avoid any violation of section 1658-N, the licensee
7 shall be deemed to have permitted its employees to
8 violate section 1658-N.

9 Sec. 76. 32 MRSA §1658-H, as amended by PL 1981,
10 c. 703, Pt. A, §§60 and 61, is further amended to
11 read:

12 §1658-H. Reciprocity

13 The board shall register each applicant without
14 discrimination who satisfactorily passes an examina-
15 tion as provided in section 1658-I and upon the
16 applicant's payment of \$100 shall issue to the appli-
17 cant a license signed by the commissioner. The li-
18 cense shall be effective for a period of 24 months.

19 Whenever the board determines that another state
20 or jurisdiction has requirements equivalent to or
21 higher than those in effect pursuant to this chapter
22 for the practice to fit and sell hearing aids, and
23 that that state or jurisdiction has a program equiva-
24 lent to or stricter than the program for determining
25 whether applicants pursuant to this chapter are qual-
26 ified to dispense and fit hearing aids, the board may
27 issue certificates of equivalent license to appli-
28 cants who have current, unsuspended and unrevoked
29 certificates or licenses to fit and sell hearing aids
30 in such other state or jurisdiction. No such appli-
31 cant for a certificate or equivalent license pursuant
32 to this paragraph shall may be required to submit to
33 or undergo a qualifying examination, other than the
34 payment of fees pursuant to this chapter. The holder
35 of a certificate of equivalent license shall be
36 registered in the same manner as holders of a li-
37 cense. Fee, grounds for renewal and procedures for
38 suspension and revocation of certificates of equiva-
39 lent license shall be the same as for the renewal,
40 suspension or revocation of a license. The fee for
41 an initial certificate of equivalent license shall be
42 the same as the fee for an initial license.

1 Sec. 77. 32 MRSA §1658-I, as amended by PL 1981,
2 c. 703, Pt. A, §§62 and 63, is further amended to
3 read:

4 §1658-I. Qualifications

5 1. Qualifications. Applicants may obtain a li-
6 cense by for a license issued pursuant to section
7 1658-A, subsection 1, shall be qualified upon suc-
8 cessfully passing a qualifying examination, provided
9 that the applicant:

10 A. Is at least 18 years of age;

11 B. Is ~~of good moral character~~ trustworthy and
12 competent to engage in practice in such a manner
13 as to safeguard the interests of the public and
14 without a record of violation of another state's
15 statutes regarding hearing aid dealers and
16 fitters;

17 C. Has an education equivalent of a 4-year
18 course in an accredited high school; and

19 D. Has obtained a trainee permit pursuant to
20 section 1658-J and has received training in the
21 practice of fitting and dealing in hearing aids
22 under the direct supervision of a licensee for at
23 least a 30-day period.

24 The board may require letters of reference,
25 physician's statements of applicant's good health,
26 verification of age or other supportive documents as
27 may be required.

28 The board may promulgate rules to further define the
29 qualifications in this section in order to insure
30 that only properly qualified persons take the licens-
31 ing examination.

32 Any person knowingly furnishing false information or
33 omitting pertinent information from an application to
34 take the qualifying examination for a fitter's and
35 dealer's license shall be denied the right to take
36 the examination for not less than one year nor more
37 than 3 years.

1 2. Examination. The applicant for license by
2 examination shall appear at a time, place and before
3 such persons as the board may designate, to be exam-
4 ined by means of written, practical and oral tests in
5 order to demonstrate that he is qualified to practice
6 the fitting and sale of hearing aids. The board may
7 appoint a consultant to assist in preparing the exam-
8 ination itself as well as conducting and supervising
9 the testing. The examination administered as directed
10 by the board constituting standards for licensing
11 shall not be conducted in such a manner that college
12 training be required in order to pass the examina-
13 tion. Nothing in this examination may imply that the
14 applicant possesses the degree of medical competence
15 normally expected by physicians.

16 3. Time. The board shall give examinations at
17 least twice a year, with additional dates for exami-
18 nation set at the discretion of the board. The board
19 will give 30 days' public notice of the date, time
20 and place of examination.

21 Sec. 78. 32 MRSA §1658-J, first ¶, as amended by
22 PL 1981, c. 703, Pt. A, §64, is further amended to
23 read:

24 An applicant who fulfills the requirements as set
25 forth in section 1658-I, subsection 1, paragraphs A
26 to E D, may obtain a trainee permit upon application
27 to the board, accompanied by a fee of \$50 and the
28 signature of the licensed hearing aid dealer and
29 fitter who is responsible for the direct supervision
30 of the trainee.

31 Sec. 79. 32 MRSA §1658-M, as amended by PL 1981,
32 c. 703, Pt. A, §67, is repealed and the following
33 enacted in its place:

34 §1658-M. Annual renewal of license; fees; effect of
35 failure to renew

36 Licenses issued pursuant to section 1658-A, sub-
37 section 1, may be renewed annually upon application
38 by the licensee accompanied by a fee in such amount
39 as the board may establish up to \$100. The board
40 shall notify every such licensee of the date of
41 expiration of his license and the amount of the fee

1 required for renewal for a 12-month period. The
2 notice shall be mailed to the licensee's last known
3 address at least 30 days in advance of the expiration
4 of the license. The license may be renewed up to 90
5 days after the date of its expiration upon payment of
6 a late fee of \$10 in addition to the renewal fee.
7 Any person who submits an application for renewal
8 more than 90 days after the license expiration date
9 shall be subject to all requirements governing new
10 applicants under this chapter, except that the board
11 may in its discretion, giving due consideration to
12 the protection of the public, waive examination if
13 the renewal application is made within 2 years from
14 the date of the expiration.

15 Notwithstanding this section, no annual renewal
16 certificate may be issued by the board until such
17 time as the applicant submits proof satisfactory to
18 the board that during the year preceding his applica-
19 tion for renewal, he has participated in not fewer
20 than 8 clock hours for courses of continuing educa-
21 tion in fitting and dealing in hearing aids offered
22 by an institution approved by the board.

23 Sec. 80. 32 MRSA §1658-N, as amended by PL 1981,
24 c. 703, Pt. A, §§68 and 69, is repealed and the fol-
25 lowing enacted in its place:

26 §1658-N. Investigation; grounds for suspension of
27 license

28 The board shall investigate or cause to be inves-
29 tigated all complaints made to it and all cases of
30 noncompliance with or violation of this chapter. Any
31 person may register a complaint of fraud, deceit,
32 gross negligence, incompetency or misconduct against
33 any licensee under this chapter. These complaints
34 shall be in writing, and shall be sworn to by the
35 person making them, and filed with the secretary-
36 treasurer of the board.

37 The board may suspend or revoke a license pur-
38 suant to Title 5, section 10004. The board may
39 refuse to issue or renew a license or the Administra-
40 tive Court may revoke, suspend or refuse to renew a
41 license for any one of the following causes:

1 1. Fraud or deceit. Procuring of license by
2 fraud or deceit practiced upon the board or a pur-
3 chaser;

4 2. Unethical conduct. Violation of such rules as
5 the board may promulgate to define unethical conduct
6 for the purposes of this chapter in order to protect
7 the public from unfair or deceptive practices and to
8 effectively promote a high standard of ethics in the
9 hearing aid industry;

10 3. Falsity. Engaging in the fitting and sale of
11 hearing aids under a false name or alias with fraud-
12 ulent intent;

13 4. Without testing. Selling or causing to be
14 sold a hearing aid to any person who has not been
15 given tests, including at least pure tone, air and
16 bone audiometry. The results of these tests shall be
17 permanently filed according to section 1658-E;

18 5. Negligence. Incompetence, negligence or
19 neglect in the conduct of the practice of fitting and
20 dealing in hearing aids, including, but not limited
21 to, the improper fitting of a hearing aid, the sale
22 of a hearing aid to a person with normal hearing,
23 making an ear mold impression or fitting an ear mold
24 without prior inspection of the external ear canal,
25 making ear mold impression or fitting an ear mold
26 after prior inspection revealed the presence of
27 debris or fluid, or impacted cerumen in the ear
28 canal, failure to indicate the need for medical or
29 audiological evaluation when the prospective
30 purchaser's history reveals a probable risk of dis-
31 ease or progressive hearing impairment, the failure
32 to make the required medical referrals, the incorrect
33 reporting of hearing test results to any person, the
34 failure to be present to fit the final hearing aid on
35 the ear of the purchaser, and the tampering with a
36 satisfactorily performing hearing aid owned by a pur-
37 chaser or potential purchaser so as to cause that
38 hearing aid to no longer perform correctly;

39 6. Violations. For any violation of this chap-
40 ter or the rules ; or

1 7. Conviction of a criminal offense. Conviction
2 of a crime, subject to the limitations of Title 5,
3 chapter 341.

4 The board, for reasons it may deem sufficient,
5 may reissue a license to any former licensee whose
6 license has been revoked.

7 Sec. 81. 32 MRSA §1659, as amended by PL 1981,
8 c. 703, Pt. A, §70, is repealed and the following
9 enacted in its place:

10 §1659. Hearings

11 Hearings may be conducted by the board to assist
12 with investigations, to determine whether grounds
13 exist for suspension, revocation or denial of a li-
14 cence, or as otherwise deemed necessary to the ful-
15 fillment of its responsibilities under this chapter.

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

32 Sec. 82. 32 MRSA §1660-A, sub-§2, as enacted by
33 PL 1975, c. 465, §3, is amended to read:

34 2. Membership. Members of the board shall be
35 residents of the State. The board shall consist of 5
36 licensed hearing aid dealers and fitters, one li-
37 censed physician, ~~an~~ one audiologist, a one member of
38 the Maine Committee on Aging, and one ~~citizen con-~~
39 ~~sumer~~ representative of the public. Each hearing aid
40 dealer and fitter on the board shall have had not

1 less than 5 years of experience and shall hold a
2 valid license as a hearing aid dealer and fitter, as
3 provided under this chapter. ~~Exception shall be the~~
4 ~~hearing aid dealers and fitters of the first board~~
5 ~~appointed, who shall have had not less than 5 years~~
6 ~~of experience and shall have fulfilled all qualifica-~~
7 ~~tions for license by experience as provided under~~
8 ~~this chapter.~~

9 Sec. 83. 32 MRSA §1660-A, sub-§3, as enacted by
10 PL 1975, c. 465, §3, is repealed and the following
11 enacted in its place:

12 3. Appointment; term of office, chairman. All
13 members of the board shall be appointed by the Gover-
14 nor. The term of office of each member shall be for
15 3 years, except that the terms of 3 members shall
16 expire each calendar year and appointments for terms
17 of less than 3 years may be made in order to comply
18 with this limitation. No person may be eligible to
19 serve more than 3 full consecutive terms, provided
20 that for this purpose only a period actually served
21 which exceeds 1/2 of the 3-year term shall be deemed
22 a full term. Upon expiration of a member's term, he
23 shall serve until his successor is qualified and
24 appointed. The successor's term shall be 3 years
25 from the date of the expiration, regardless of the
26 date of his appointment. A vacancy in the office of
27 a member shall be filled by appointment by the Gover-
28 nor for the unexpired term. A board member may be
29 removed by the Governor for cause. At the first
30 meeting in each calendar year, the members of the
31 board shall designate one such member to serve as
32 chairman and another to serve as secretary-treasurer.

33 Sec. 84. 32 MRSA §1660-B, as repealed and
34 replaced by PL 1981, c. 703, Pt. A, §73, is amended
35 to read:

36 §1660-B. Powers and duties of the board

37 The powers and duties of the board, in addition
38 to those otherwise set forth in this chapter, are as
39 follows:

40 1. Authorize disbursements. To authorize all
41 disbursements necessary to carry out this chapter;

1 2. Supervise issuance of licenses. To supervise
2 issuance of licenses by experience and to administer
3 qualifying examinations to test the knowledge and
4 proficiency of applicants licensed by examination;

5 3. Registration. To register persons who apply
6 to the board and who are qualified to engage in the
7 fitting and sale of hearing aids;

8 4. Audiometric equipment. To purchase and main-
9 tain or rent audiometric equipment and other facili-
10 ties necessary to carry out the examination of appli-
11 cants in section 1658-I;

12 5. Issue and renew licenses. To issue and renew
13 licenses;

14 6. Suspension or revocation of licenses. To
15 take action before the Administrative Court in con-
16 formity with the Maine Administrative Procedure Act,
17 Title 5, chapter 375, for the suspension or revoca-
18 tion of licenses when there is indication that sus-
19 pension or revocation is proper;

20 6-A. Contracts. To enter into contracts to
21 carry out its responsibilities under this chapter;

22 7. Designation of examination. To designate the
23 time and place for examining applicants;

24 8. Conduct or supervise examinations. To
25 appoint representatives to conduct or supervise the
26 examination;

27 9. Adopt rules. Following a public hearing, In
28 accordance with the Maine Administrative Procedure
29 Act, Title 5, chapter 375, subchapter II, to promul-
30 gate, adopt, amend and publish rules not inconsistent
31 with the laws of this State, which are necessary to
32 carry out this chapter. The rules shall serve to
33 protect the consumer from unethical practices, shall
34 serve to explain or define terms and words contained
35 within this chapter and shall add to the general
36 understanding of both consumer and practitioner of
37 this chapter-; The board shall promulgate rules
38 where specifically authorized in this chapter;

1 10. Appoint employees. To appoint or employ
2 subordinate employees, subject to the Personnel Law;
3 and

4 11. Redistribute expiration dates. To, during a
5 2-year period beginning in January, 1982, redistri-
6 bute the expiration dates of the existing licenses so
7 that an equal number expire in each month of even-
8 numbered years, so that all license renewals will
9 occur in the same year, and

10 12. Educational programs. To provide or make
11 available opportunity for lectures, courses or work-
12 shops which will be useful and educational to licen-
13 sees or trainees and may to use its funds to sponsor
14 those educational programs.

15 Sec. 85. 32 MRSA §1660-C, as amended by PL 1981,
16 c. 703, Pt. A, §74, is further amended to read:

17 §1660-C. Meetings of board

18 The board shall meet ~~not less than~~ twice each
19 year at a place, day and hour determined by the
20 board. Additional meetings shall be held as neces-
21 sary to conduct the business of the board, and may be
22 convened at the call of the chairman or 5 of the
23 board members. A quorum of the board shall consist
24 of not less than 5 members. The board shall keep
25 correct records of all of its proceedings.

26 Sec. 86. 32 MRSA §1660-E, as amended by PL 1981,
27 c. 703, Pt. A, §76, is repealed and the following
28 enacted in its place:

29 §1660-E. Violations

30 Any person who violates this chapter or any of
31 the rules of the board is guilty of a Class E crime.

32 The State may bring an action in Superior Court
33 to enjoin any person from violating this chapter,
34 regardless of whether proceedings have been or may be
35 instituted in the Administrative Court or whether
36 criminal proceedings have been or may be instituted.

37 Sec. 87. 32 MRSA §1665, sub-§1, as enacted by PL
38 1967, c. 423, §1, is amended to read:

1 1. Limited practice by nonresident. A person not
2 a resident of and having no established place of
3 business in this State, practicing or offering to
4 practice herein land surveying when such practice
5 does not exceed in the aggregate more than 30 days in
6 any calendar year, provided such person is legally
7 qualified by registration to practice the said
8 profession in his state of residence or business in
9 which the requirements and qualifications for obtain-
10 ing a certificate of registration are ~~not lower than~~
11 equivalent to those specified in this chapter.

12 Sec. 88. 32 MRSA §1665, sub-§1-A, as enacted by
13 PL 1981, c. 5, §3, is amended to read:

14 1-A. Nonresident becoming resident. A person not
15 a resident of and having no established place of
16 business in this State, or who has recently become a
17 resident thereof, practicing or offering to practice
18 herein for more than 30 days in any calendar year the
19 profession of land surveying, if he has filed with
20 the board an application for a certificate of regis-
21 tration and has paid the fee required by this chap-
22 ter. This exemption shall continue only for such time
23 as the board requires for the consideration of the
24 application for registration, provided the person is
25 legally qualified to practice the profession in his
26 own state or county in which the requirements and
27 qualifications for obtaining a certificate of regis-
28 tration are ~~not lower than~~ equivalent to those speci-
29 fied in this chapter.

30 Sec. 89. 32 MRSA §1666, as amended by PL 1981,
31 c. 5, §4, is further amended to read:

32 §1666. Violations

33 Any person who shall practice or offer to prac-
34 tice land surveying in this State without being
35 registered or exempted in accordance with this chap-
36 ter, or any person presenting or attempting to use as
37 his own the certificate of registration or the seal
38 of another, or any person who shall give any false or
39 forged evidence of any kind to the board or to any
40 member thereof in obtaining a certificate of regis-
41 tration, or any person who shall falsely impersonate
42 any other registrant of like or different name, or

1 any person who shall attempt to use an expired or
2 revoked certificate ~~or~~ of registration or any person
3 who shall violate any of the provisions of this chap-
4 ter as they relate to the practice of land surveying
5 shall be referred to the Attorney General for action
6 in Administrative Court in accordance with section
7 1688, as amended guilty of a Class E crime.

8 The State may bring an action in Superior Court
9 to enjoin any person from violating this chapter,
10 regardless of whether proceedings have been or may be
11 instituted in the Administrative Court or whether
12 criminal proceedings have been or may be instituted.

13 It shall be the duty of all duly constituted law
14 enforcement officers of the State or any political
15 subdivision thereof to enforce this chapter and to
16 prosecute any persons violating the same. The Attor-
17 ney General or his assistant shall act as legal advi-
18 sor of the board and render such legal assistance as
19 may be necessary in carrying out this chapter.

20 Sec. 90. 32 MRSA §1671, as amended by PL 1975,
21 c. 771, §348, is repealed and the following enacted
22 in its place:

23 §1671. Appointment; terms

24 The State Board of Registration for Land Sur-
25 veyors, as established, shall administer this chap-
26 ter. The board shall consist of 6 members appointed
27 by the Governor, of which 5 shall be land surveyors
28 who have the qualifications required by section 1672
29 and one shall be a representative of the public.

30 Appointments shall be for 5-year terms, except
31 that no more than one land surveyor member's term may
32 expire in any one calendar year and appointments for
33 terms of less than 5 years may be made in order to
34 comply with this limitation. No person may be eligi-
35 ble to serve more than 2 full consecutive terms, pro-
36 vided that for this purpose only a period actually
37 served which exceeds 1/2 of the 5-year term shall be
38 deemed a full term. Upon expiration of a member's
39 term, he shall serve until his successor is qualified
40 and appointed. The successor's term shall be 5 years
41 from the date of that expiration, regardless of the
42 date of his appointment.

1 Sec. 91. 32 MRSA §1674, as amended by PL 1975,
2 c. 771, §349, is further amended to read:

3 §1674. Removal; vacancies

4 The Governor may remove any member of the board
5 for ~~misconduct, incompetency, neglect of duty or for~~
6 ~~any other sufficient~~ cause. Vacancies in the member-
7 ship of the board shall be filled for the unexpired
8 term by appointment by the Governor as ~~provided~~ in
9 accordance with section 1671.

10 Sec. 92. 32 MRSA §1675, as amended by PL 1975,
11 c. 575, §25, is further amended to read:

12 §1675. Organization and meetings

13 The board shall held at least 2 regular meetings
14 each year. Special meetings shall be held at such
15 time as the bylaws of the board may provide. Notice
16 of all meetings shall be given in such manner as the
17 bylaws may provide. The board shall meet at least
18 once a year to conduct its business and to elect its
19 officers. Additional meetings shall be held as
20 necessary to conduct the business of the board, and
21 may be convened at the call of the chairman or a
22 majority of the board members.

23 The board shall elect or appoint annually a
24 chairman, a vice-chairman and a secretary. A quorum
25 of the board shall consist of not less than 4 mem-
26 bers. The board may adopt and have an official seal.

27 Sec. 93. 32 MRSA §1676, as amended by PL 1981,
28 c. 5, §5, is repealed and the following enacted in
29 its place:

30 §1676. Powers

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

34 1. Licenses; enforcement. The board shall
35 evaluate the qualifications and supervise the exami-
36 nation of applicants for licensure under this chap-
37 ter, and shall investigate or cause to be investi-

1 gated all complaints made to it and all cases of non-
2 compliance with this chapter.

3 2. Rules. The board may, in accordance with
4 procedures established by the Maine Administrative
5 Procedure Act, Title 5, chapter 375, subchapter II,
6 adopt such rules as may be reasonably necessary for
7 the proper performance of its duties and the adminis-
8 tration of this chapter.

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

15 The board shall not refuse to renew a license for any
16 reason other than failure to pay a required fee,
17 unless it has afforded the licensee an opportunity
18 for an adjudicatory hearing. The board shall hold an
19 adjudicatory hearing at the written request of any
20 person who is denied a license without a hearing for
21 any reason other than failure to pay a required fee,
22 provided that the request for hearing is received by
23 the board within 30 days of the applicant's receipt
24 of written notice of the denial of his application,
25 the reasons therefor and his right to request a hear-
26 ing. Hearings shall be conducted in conformity with
27 the Maine Administrative Procedure Act, Title 5,
28 chapter 375, subchapter IV, to the extent applicable.
29 The board may subpoena witnesses, records and docu-
30 ments in any hearing it conducts.

31 4. Contracts. The board may enter into con-
32 tracts to carry out its responsibilities under this
33 chapter.

34 Sec. 94. 32 MRSA §1678, as amended by PL 1981,
35 c. 456, Pt. A, §§10 and 11, is repealed and the fol-
36 lowing enacted in its place:

37 §1678. Records and reports

38 The board shall keep such records and minutes as
39 are necessary to the ordinary dispatch of its func-
40 tions.

1 On or before August 1st of each year, the board
2 shall submit to the Commissioner of Business Regula-
3 tion, for the preceding fiscal year ending June 30th,
4 its annual report of its operations and financial
5 position, together with such comments and recommenda-
6 tions as the board deems essential.

7 The commissioner shall act as a liaison between
8 the board and the Governor.

9 The commissioner shall not have the authority to
10 exercise or interfere with the exercise of discre-
11 tionary, regulatory or licensing authority granted by
12 statute to the board.

13 The board shall submit to the Commissioner of
14 Business Regulation its budgetary requirements in the
15 same manner as is provided in Title 5, section 1665,
16 and the commissioner shall in turn transmit these re-
17 quirements to the Bureau of the Budget without any
18 revision, alteration or change.

19 Sec. 95. 32 MRSA §1681, first ¶, as enacted by
20 PL 1967, c. 423, §1, is amended to read:

21 To be eligible for registration as a land sur-
22 veyor, an applicant must show, to the satisfaction of
23 the board, that he is a ~~person of good character and~~
24 ~~reputation~~ trustworthy and competent to practice land
25 surveying in such manner as to safeguard the inter-
26 ests of the public; and shall submit, with his appli-
27 cation for registration as a land surveyor, refer-
28 ences furnished from 5 persons having personal knowl-
29 edge of work done by the applicant, at least 2 of
30 whom shall have professional knowledge of his work.

31 Sec. 96. 32 MRSA §1681, sub-§1, as enacted by PL
32 1967, c. 423, §1, is amended to read:

33 1. Registration by endorsement. A person holding
34 a certificate of registration to engage in the prac-
35 tice of land surveying issued to him on the basis of
36 a written examination by proper authority of a state,
37 territory, possession of the United States, the Dis-
38 trict of Columbia or of any foreign country, based on
39 requirements and qualifications, as shown by his
40 application which, in the opinion of the board, are

1 equal to or higher than equivalent to the require-
2 ments of this chapter, may be registered at the dis-
3 cretion of the board.

4 Sec. 97. 32 MRSA §1685, first ¶, as enacted by
5 PL 1967, c. 423, §1, is amended to read:

6 Application for registration or certification
7 shall be on forms prescribed and furnished by the
8 board, to be signed and sworn to by the applicant.
9 They shall contain statements made under oath, show-
10 ing the applicant's education, a detailed summary of
11 his technical experience and other pertinent informa-
12 tion, and shall contain references as set forth in
13 section 1681, none of whom may be members of the
14 board. Applications shall be filed with the secretary
15 of the board. An application fee and an examination
16 fee may be established by the board in amounts which
17 are reasonable and necessary for their respective
18 purposes.

19 Sec. 98. 32 MRSA §1685, last ¶, as enacted by PL
20 1967, c. 423, §1, is repealed.

21 Sec. 99. 32 MRSA §1688, as amended by PL 1977,
22 c. 698, §§577 and 578, is repealed and the following
23 enacted in its place:

24 §1688. Revocation and reissuance

25 The board may suspend or revoke the certificate
26 of a land surveyor or land surveyor-in-training pur-
27 suant to Title 5, section 10004. The board may
28 refuse to issue or renew or the Administrative Court,
29 pursuant to Title 4, chapter 25, may revoke, suspend
30 or refuse to renew the certificate of a registered
31 land surveyor or of a land surveyor-in-training who
32 is found guilty of:

33 1. Fraud or deceit. The practice of any fraud
34 or deceit in obtaining a certificate of registration
35 as land surveyor or a certificate as a land
36 surveyor-in-training;

37 2. Negligence, misconduct, etc. Any gross
38 negligence, incompetency or misconduct in the prac-
39 tice of land surveying as a registered land surveyor
40 or as a land surveyor-in-training; or

1 3. Violations. Violating any provision of this
2 chapter, or any rule of the board.

3 Any person may register a complaint of fraud,
4 deceit, gross negligence, incompetency or misconduct
5 against any registered land surveyor or any land
6 surveyor-in-training. These complaints shall be in
7 writing, and shall be sworn to by the person making
8 them and shall be filed with the secretary of the
9 board.

10 The board, for reasons it may deem sufficient,
11 may reissue a certificate of registration as a land
12 surveyor or a certificate of registration as a land
13 surveyor-in-training to any person whose certificate
14 has been revoked, provided that 4 or more members of
15 the board vote in favor of that reissuance. A new
16 certificate of registration as a land surveyor or a
17 certificate as a land surveyor-in-training to replace
18 any certificate revoked, lost, destroyed or mutilated
19 may be issued, subject to the rules of the board, and
20 a charge set by the board shall be made for that
21 issuance.

22 Sec. 100. 32 MRSA §1689, as amended by PL 1979,
23 c. 4, §2, is repealed and the following enacted in
24 its place:

25 §1689. Expiration and renewals

26 Certificates of registration for land surveyors
27 shall expire on the last day of December of odd-
28 numbered years following their issuance or renewal
29 and shall become invalid on that date unless renewed.
30 The secretary of the board shall notify every person
31 registered under this chapter of the date of the
32 expiration of his certificate and the amount of the
33 fee that shall be required for its renewal for 2
34 years. The notice shall be mailed at least one month
35 in advance of the date of the expiration of the cer-
36 tificate. Renewal may be effected at any time during
37 the month of December by the payment of the fee des-
38 ignated by the board, not to exceed \$20 per biennium.

39 Certificates may be renewed up to 90 days after
40 the date of expiration upon payment of a late fee of
41 \$10 in addition to the renewal fee. Any person who

1 submits an application for renewal more than 90 days
2 after the registration renewal date shall be subject
3 to all requirements governing new applicants under
4 this chapter, except that the board may in its dis-
5 cretion, giving due consideration to the protection
6 of the public, waive examination if that renewal
7 application is made within 2 years from the date of
8 that expiration.

9 Sec. 101. 32 MRSA §1954, as amended by PL 1965,
10 c. 226, §70, is repealed.

11 Sec. 102. 32 MRSA §1955, as amended by PL 1965,
12 c. 226, §70, is repealed and the following enacted in
13 its place:

14 §1955. Penalties; injunction

15 1. Penalties. Any person violating this sub-
16 chapter is guilty of a Class E crime.

17 2. Injunction. The State may bring an action in
18 Superior Court to enjoin any person from violating
19 this chapter, regardless of whether proceedings have
20 been or may be instituted in the Administrative Court
21 or whether criminal proceedings have been or may be
22 instituted.

23 Sec. 103. 32 MRSA §2001, as amended by PL 1981,
24 c. 567, §1, is repealed and the following enacted in
25 its place:

26 §2001. Membership; meetings; compensation and
27 expenses

28 The Arborist Examining Board, as established
29 within the Department of Business Regulation and
30 called "the board," shall administer this chapter and
31 shall consist of 6 members. The Governor shall
32 appoint 4 members as follows: Two members shall be
33 licensed commercial arborists, each of whom shall
34 have been continuously engaged in practice as li-
35 icensed commercial arborists for a period of 10 years
36 prior to his appointment; one member shall be a plant
37 pathologist who is either on the state or University
38 of Maine staff and part of whose work is concerned
39 with trees; and one member shall be a representative

1 of the public. The remaining 2 members shall be se-
2 lected by the Director of the Bureau of Forestry from
3 the Bureau of Forestry and shall be ex officio mem-
4 bers.

5 Appointments shall be for 5-year terms, except
6 that no more than one appointed member's term may
7 expire in any one calendar year and appointments for
8 terms of less than 5 years may be made in order to
9 comply with this limitation. No appointed member may
10 be eligible to serve more than 2 full consecutive
11 terms, provided that for this purpose only a period
12 actually served which exceeds 1/2 of the 5-year term
13 shall be deemed a full term. Upon expiration of a
14 member's term, he shall serve until his successor is
15 qualified and appointed. The successor's term shall
16 be 5 years from the date of his appointment. Any
17 vacancy concurring prior to the expiration of the
18 specified term shall be filled by appointment for
19 the unexpired term. A board member may be removed by
20 the Governor for cause.

21 Commercial arborists who are appointed to be, are
22 or have been members of the board shall be prohibited
23 from using this position in the advertising of their
24 business in any way.

25 The board shall meet at least once a year to con-
26 duct its business and to elect its officers. Addi-
27 tional meetings shall be held as necessary to conduct
28 the business of the board, and may be convened at the
29 call of the chairman or a majority of the board mem-
30 bers. Four members of the board shall constitute a
31 quorum for all purposes.

32 Board members not of state agencies shall be paid
33 daily fees of \$25 each day involved, plus current
34 state mileage and living expenses incurred on those
35 days. Members of state agencies shall be paid
36 expenses not covered by state agencies in which they
37 are employed.

38 Sec. 104. 32 MRSA §2002 is repealed and the fol-
39 lowing enacted in its place:

40 §2002. Powers

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

4 1. Licenses; enforcement. The board shall
5 evaluate the qualifications and supervise the exami-
6 nation of applicants for licensure under this chap-
7 ter, and shall investigate or cause to be investi-
8 gated all complaints made to it and all cases of non-
9 compliance with this chapter.

10 2. Rules. The board may, in accordance with
11 procedures established by the Maine Administrative
12 Procedure Act, Title 5, chapter 375, subchapter II,
13 adopt such rules as may be reasonably necessary for
14 the proper performance of its duties and the adminis-
15 tration of this chapter.

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

22 The board shall not refuse to renew a license for any
23 reason other than failure to pay a required fee,
24 unless it has afforded the licensee an opportunity
25 for an adjudicatory hearing. The board shall hold an
26 adjudicatory hearing at the written request of any
27 person who is denied a license without a hearing for
28 any reason other than failure to pay a required fee,
29 provided that the request for hearing is received by
30 the board within 30 days of the applicant's receipt
31 of written notice of the denial of his application,
32 the reasons therefor and his right to request a hear-
33 ing. Hearings shall be conducted in conformity with
34 the Maine Administrative Procedure Act, Title 5,
35 chapter 375, subchapter IV, to the extent applicable.
36 The board may subpoena witnesses, records and docu-
37 ments in any hearing it conducts.

38 4. Contracts. The board may enter into con-
39 tracts to carry out its responsibilities under this
40 chapter.

41 Sec. 105. 32 MRS §2003, 2nd ¶, as repealed and
42 replaced by PL 1977, c. 694, §588, is repealed.

1 Sec. 106. 32 MRSA §2051, as amended by PL 1979,
2 c. 166, §2, is further amended to read:

3 §2051. License required

4 Except as provided in section 2051-A, no person
5 ~~shall~~ may advertise, solicit, contract or in any way
6 engage for compensation in the business of an
7 arborist, or make representation as being able to do
8 so, without being licensed as an arborist ~~except that~~
9 ~~licensees under the current arborist law shall remain~~
10 ~~eligible for renewal provided they meet the provi-~~
11 ~~sions of this subchapter.~~

12 Sec. 107. 32 MRSA §2052, 2nd ¶, as enacted by PL
13 1977, c. 460, §18, is amended to read:

14 One of 2 types of licenses shall be issued,
15 namely: Regular and restricted. Regular licenses ~~will~~
16 allow a licensed individual to engage in all opera-
17 tions in which an arborist is normally involved. Re-
18 stricted licenses ~~will~~ allow such a licensed indi-
19 vidual to perform operations only in those areas
20 stated on the license issued. The ~~bureau reserves~~
21 ~~the right to board may~~ restrict a licensed individual
22 to those operations for which he is judged qualified
23 by the board.

24 Sec. 108. 32 MRSA §2053, as amended by PL 1981,
25 c. 567, §2, is further amended to read:

26 §2053. Applications

27 Applications for examination shall be in writing
28 on forms prescribed by the ~~bureau board~~, shall be
29 notarized and shall be accompanied by the ~~applicati-~~
30 ~~on fee of \$25 prescribed fee~~. The application form shall
31 require whatever information the board finds neces-
32 sary to judge qualifications of the applicant.

33 Sec. 109. 32 MRSA §2054, as amended by PL 1973,
34 c. 460, §18, is further amended to read:

35 §2054. Nonresidents

36 Each nonresident applicant, a resident of another
37 state or province, for an original license or a

1 renewal license shall file an irrevocable consent
2 that actions against him may be filed in any appro-
3 priate court of any county or district of this State,
4 where some part of the transaction occurred out of
5 which the alleged cause of action arose, and that
6 process in any action may be served on the applicant
7 by leaving 2 copies thereof with the ~~director~~ board.
8 ~~Such~~ The consent shall stipulate and agree that ~~such~~
9 the service of process shall be taken and held to be
10 valid and binding for all purposes. The ~~director~~
11 board shall send a copy of the process to the appli-
12 cant by registered mail at the address shown ~~on the~~
13 in its records of the bureau.

14 Sec. 110. 32 MRSa §2055, as amended by PL 1981,
15 c. 567, §§3 and 4, is further amended to read:

16 §2055. Examinations

17 Any person shall, upon payment of the application
18 fee, be entitled to Each license applicant shall be
19 required to take a written examination prepared by
20 the board. An oral examination may be required of the
21 applicant to enable the board to judge his qualifica-
22 tions for certification.

23 Applicants for restricted licenses shall be exam-
24 ined in those subjects to which their activities are
25 restricted.

26 Examinations shall be given at least once a year
27 at such times and places as the board shall deter-
28 mine. The grading and passing of applicants shall be
29 exclusively the responsibility of the board.

30 Applicants failing the first examination may
31 apply and take the next or subsequently scheduled
32 examination upon payment of the required application
33 fee.

34 Sec. 111. 32 MRSa §2056, as amended by PL 1973,
35 c. 460, §18, is further amended to read:

36 §2056. Forms

37 Each license issued shall consist of 2 parts: A
38 certificate which must be displayed at each place of

1 business of the arborist and a card of wallet size
2 which must be carried by the arborist when occupied
3 in a business capacity.

4 Where the arborist conducts business at more than
5 one address, additional certificates shall be issued.
6 When an employee of a licensed arborist does not him-
7 self hold a license, he shall have with him when
8 working, a card or written authorization on a form
9 prescribed by the bureau signed by the licensed
10 arborist showing under whose supervision he is work-
11 ing and by whom he is employed. The ~~director~~ board
12 shall not issue more than one license card to an
13 individual qualified to receive a license, except as
14 provided in section 2058.

15 License holders shall display their license to
16 and upon the request, at any time, of any client,
17 other licensed arborist, law enforcement officer or
18 member of the board ~~or bureau~~.

19 Sec. 112. 32 MRSA §2057, as amended by PL 1977,
20 c. 360, §27, is further amended to read:

21 §2057. Term

22 Licenses for arborists shall expire biennially on
23 December 31st, or at such other times as the Commis-
24 sioner of Business Regulation may designate, and
25 shall become invalid on that date unless renewed.

26 Failure to renew a license within 5 years after
27 the date of expiration will necessitate reapplica-
28 tion, reexamination and accompanying fees for a new
29 license. A license may be renewed up to 90 days
30 after the date of expiration upon payment of a late
31 fee of \$10 in addition to the renewal fee. Any
32 person who submits an application for renewal more
33 than 90 days after the license renewal date shall be
34 subject to all requirements governing new applicants
35 under this chapter, except that the board may in its
36 discretion, giving due consideration to the protec-
37 tion of the public, waive examination if the renewal
38 application is made within 2 years from the date of
39 the expiration.

1 Any arborist whose license expires while he is in
2 federal service on active duty with the Armed Forces
3 of the United States, or the National Guard called
4 into service or training, or in training or education
5 under the supervision of the United States prelimi-
6 nary to induction into the military service may have
7 his license renewed without paying any intervening
8 renewal license fees if within one year after termi-
9 nation of such that service, training or education
10 other than by dishonorable discharge, and if he fur-
11 nishes the bureau board with an affidavit to the
12 effect that he has been so engaged and that his ser-
13 vice, training or education has been so terminated.

14 Sec. 113. 32 MRSA §2059, as repealed and
15 replaced by PL 1981, c. 567, §6, is amended to read:

16 §2059. Fees

17 A \$25 fee shall accompany each application for
18 examination and shall not be returnable. An applica-
19 tion fee and an examination fee may be established by
20 the board in amounts which are reasonable and neces-
21 sary for their respective purposes. When an applicant
22 is notified that he is eligible for a license follow-
23 ing examination, he shall remit an additional \$20 to
24 cover the biennial license fee of \$20 before a li-
25 cense is issued.

26 The fee for a biennial renewal license shall be
27 \$20.

28 Sec. 114. 32 MRSA §2061, first ¶, as repealed
29 and replaced by PL 1977, c. 694, §589, is repealed
30 and the following enacted in its place:

31 The board may suspend or revoke a license pur-
32 suant to Title 5, section 10004. In addition, the
33 board may refuse to issue or renew or the Administra-
34 tive Court may suspend, revoke or refuse to renew a
35 license on any of the following grounds:

36 Sec. 115. 32 MRSA §2061, sub-§2 is repealed and
37 the following enacted in its place:

38 2. Violation. Violating any provision of this
39 chapter or any rule of the board;

1 Sec. 116. 32 MRSA §2317, as enacted by PL 1979,
2 c. 569, §4, is amended by adding at the end a new
3 paragraph to read:

4 The State may bring an action in Superior Court
5 to enjoin any person from violating this chapter,
6 regardless of whether proceedings have been or may be
7 instituted in the Administrative Court or whether
8 proceedings to impose a civil forfeiture have been or
9 may be instituted.

10 Sec. 117. 32 MRSA §2351, as amended by PL 1979,
11 c. 606, §11, is further amended to read:

12 §2351. Appointment; vacancies; removal; compensation

13 An Oil and Solid Fuel Board, as ~~heretofore~~
14 established and in this chapter called the "board,"
15 shall consist of an executive secretary, who shall be
16 ex officio, the Commissioner of Business Regulation
17 or a representative appointed by the commissioner,
18 with the approval of a majority of the board, the
19 Commissioner of Public Safety or a representative and
20 5 other members, ~~hereinafter~~ called in this chapter
21 the "appointive members," who shall be appointed by
22 the Governor.

23 Three of the appointive members shall be oil
24 burner technicians who are active in the trade. One
25 of the members shall have at least 5 years' experi-
26 ence and the other 2 members shall have at least 10
27 years' experience as such. ~~Two of the oil burner~~
28 ~~technician members shall be appointed from a slate,~~
29 ~~at the time of each such appointment, of 3 persons~~
30 ~~nominated by the Maine Oil Dealers Association. Nomi-~~
31 ~~nees for appointment of the oil burner technician~~
32 ~~members may be recommended to the Governor by the~~
33 ~~Maine Oil Dealers Association. One of the appointive~~
34 ~~members shall be a representative of the solid fuel~~
35 ~~burning industry and one shall be a representative of~~
36 ~~the public.~~

37 The appointive members shall be appointed for
38 terms of 4 years, except that at least one appointive
39 member's term shall expire in each calendar year and
40 appointments for terms of less than 4 years may be
41 made in order to comply with this limitation. Upon

1 expiration of a member's term, he shall serve until
2 his successor is qualified and appointed. The
3 successor's term shall be 4 years from the date of
4 that expiration, regardless of the date of his
5 appointment. No appointive member may be eligible to
6 serve more than 2 full consecutive terms, provided
7 that for this purpose only a period actually served
8 which exceeds 1/2 of the 4-year term shall be deemed
9 a full term. As the term of each appointive member
10 expires, he may be reappointed or a new member
11 appointed.

12 Any vacancy in said the board caused by death,
13 resignation or removal of any member shall be filled
14 by the appointment of a person qualified as was the
15 board member being replaced, to hold office during
16 the unexpired term of the member whose place is thus
17 filled.

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

20 The members of the board, other than state
21 employees, shall each be allowed the sum of \$30 per
22 day and their necessary traveling expenses for actual
23 attendance at meetings of the board held for the pur-
24 poses of examining candidates, hearings on complaints
25 or conducting business required of the board.

26 Annually, in the month of January, the 5 appoint-
27 ive members of the board shall choose one of their
28 members as chairman.

29 The executive secretary shall be a voting member
30 of the board.

31 Sec. 118. 32 MRSA §2352, first ¶, as amended by
32 PL 1975, c. 579, §17, is further amended to read:

33 The Commissioner of Business Regulation, with the
34 advice and consent of the board, shall be empowered
35 to appoint, subject to the Personnel Law, such
36 employees as may be necessary to carry out this chap-
37 ter. Any persons so employed shall be located in the
38 Department of Business Regulation and under the
39 administrative and supervisory direction of the Com-
40 missioner of Business Regulation. In addition, the

1 board may enter into contracts to carry out its
2 responsibilities under this chapter.

3 Sec. 119. 32 MRSA §2353, as amended by PL 1979,
4 c. 569, §9, is repealed and the following enacted in
5 its place:

6 §2353. Meetings; rules

7 The board shall meet at least once a year to con-
8 duct its business and elect its officers. Additional
9 meetings shall be held as necessary to conduct the
10 business of the board, and may be convened at the
11 call of the chairman or a majority of the board mem-
12 bers. Four members of the board shall constitute a
13 quorum for all purposes. The board may adopt stan-
14 dards and rules as it shall deem necessary, pursuant
15 to the Maine Administrative Procedure Act, Title 5,
16 chapter 375, for the holding of examinations and for
17 carrying out this chapter, and provide for reciproc-
18 ity of licensing with similar boards of other states
19 which maintain standards at least equal to this
20 State. The board may establish fees and charges
21 necessary for covering the costs incurred for approv-
22 ing equipment. The manufacturer or his representative
23 shall be required to pay all fees and charges estab-
24 lished by the board.

25 Sec. 120. 32 MRSA §2355, as amended by PL 1979,
26 c. 569, §§10 and 11, is repealed and the following
27 enacted in its place:

28 §2355. Investigation of complaints; suspension or
29 revocation of licenses

30 The board shall investigate all complaints made
31 to it and all cases of noncompliance with or viola-
32 tion of this chapter. The board may suspend or
33 revoke a license issued under this chapter pursuant
34 to Title 5, section 10004. The board may refuse to
35 issue or renew a license or the Administrative Court
36 may suspend, revoke or refuse to renew the license of
37 any licensee who is found guilty of:

38 1. Fraud or deceit. The practice of fraud or
39 deceit in obtaining a license;

1 2. Negligence or misconduct. Any gross negli-
2 gence, incompetency or misconduct in the performance
3 of the work of making burner installations. Contin-
4 ued failure to conform to standards or rules adopted
5 by the board shall be prima facie evidence of gross
6 negligence or incompetency; or

7 3. Violations. Any violation of this chapter.

8 Any license suspended by the board or suspended
9 or revoked by the Administrative Court Judge shall be
10 immediately surrendered to the board and held during
11 any period of suspension, or if revoked, until rein-
12 stated as provided in this chapter.

13 There shall be no appeal from the failure of the
14 board to issue a license as a result of an applicant
15 failing to pass an examination where the results of
16 the examination have been unanimously certified by
17 the board to be correct.

18 The board, for reasons it may deem sufficient,
19 may reissue a license to any person whose license has
20 been revoked, provided that a majority of the board
21 vote in favor of the reissuance.

22 Sec. 121. 32 MRSA §2356, as repealed and
23 replaced by PL 1973, c. 384, is repealed and the fol-
24 lowing enacted in its place:

25 §2356. Records

26 The board shall keep such records and minutes as
27 are necessary to the ordinary dispatch of its func-
28 tions.

29 Sec. 122. 32 MRSA §2358 is enacted to read:

30 §2358. Hearings

31 Hearings may be conducted by the board to assist
32 with investigations, to determine whether grounds
33 exist for suspension, revocation or denial of a li-
34 cence, or as otherwise deemed necessary to the ful-
35 fillment of its responsibilities under this chapter.

1 The board shall not refuse to renew a license for
2 any reason other than failure to pay a required fee,
3 unless it has afforded the licensee an opportunity
4 for an adjudicatory hearing. The board shall hold an
5 adjudicatory hearing at the written request of any
6 person who is denied a license without a hearing for
7 any reason other than failure to pay a required fee,
8 provided that the request for hearing is received by
9 the board within 30 days of the applicant's receipt
10 of written notice of the denial of his application,
11 the reasons therefor and his right to request a hear-
12 ing. Hearings shall be conducted in conformity with
13 the Maine Administrative Procedure Act, Title 5,
14 chapter 375, subchapter IV, to the extent applicable.
15 The board may subpoena witnesses, records and docu-
16 ments in any hearing it conducts.

17 Sec. 123. 32 MRSA §2402, as amended by PL 1979,
18 c. 606, §12, is further amended to read:

19 §2402. Rules; fees; application; certificates

20 1. Rules. The board may make ~~such~~ reasonable
21 ~~rules and regulations as it deems suitable,~~ pursuant
22 ~~to the applicable provisions of the Maine Administra-~~
23 ~~tive Procedure Act, Title 5, section 8051 et. seq.,~~
24 ~~for the issuance of various types and classes of li-~~
25 ~~cence licenses to cover the various types of oil and~~
26 ~~solid fuel burner installations as set forth in~~
27 ~~section 2311. A license may cover one or more or all~~
28 ~~types of installations. The board may further make~~
29 ~~such reasonable rules and regulations as it deems~~
30 ~~suitable concerning the term and type of experience~~
31 ~~required by candidates for examination.~~

32 2. Fees. An application fee and an examination
33 fee may be established by the board in amounts which
34 are reasonable and necessary for their respective
35 purposes. Original and renewal license fees shall be
36 as follows:

37 A. Master, original license, \$32.50; biennial
38 renewal fee, \$65;

39 B. Journeyman, original license, \$12.50; bien-
40 nial renewal fee, \$25; and

1 C. Apprentice, original license, \$7.50; biennial
2 renewal fee, \$15.

3 When the unexpired term of license of an applicant is
4 or will be more than one year at time of licensure,
5 the board may require the applicant to pay an addi-
6 tional fee not to exceed 1/2 the biennial renewal
7 fee.

8 A person holding a license as a master oil burner
9 technician is not required to pay a fee to be li-
10 censed as a master solid fuel burner technician, as
11 long as he meets all other requirements and pays the
12 examination fee required by section 2403. A person
13 holding a license as a master solid fuel burner tech-
14 nician is not required to pay a fee to be licensed as
15 a master oil burner technician, as long as he meets
16 all other requirements and pays the examination fee
17 required by section 2403. Any person who has ~~hereto-~~
18 ~~fore~~ paid a fee for both master licenses held
19 simultaneously shall be given a credit for one li-
20 cense fee less the examination fee, which shall be
21 applied to the next renewal.

22 3. Application. The board shall issue a li-
23 cense, upon payment of the proper ~~fee~~ fees, to any
24 person who applies therefor, presenting evidence that
25 he has the required experience for that type of li-
26 cense and who has satisfactorily met the examination
27 requirements of the board.

28 4. Certificate. All persons licensed by the
29 board shall receive a certificate thereof ~~under the~~
30 ~~seal of the board, which shall state the facts and~~
31 which must be publicly displayed at the principal
32 place of business of ~~said the~~ oil or solid fuel
33 burner technician or, if no such place of business,
34 must be carried on the person and displayed at any
35 time upon request, as long as ~~said the~~ person con-
36 tinues in the business as defined.

37 Sec. 124. 32 MRSA §2403, first ¶, as amended by
38 PL 1979, c. 569, §17, is further amended to read:

39 Applicants for a master or journeyman's oil
40 burner technician or master solid fuel burner techni-
41 cian license shall present to the executive secretary

1 of the board a written application for examination,
2 containing such information as the board may require,
3 accompanied by a the prescribed fee of \$10. Examina-
4 tions shall be in whole or in part in writing, shall
5 be conducted by the board and shall be of a thorough
6 and practical character commensurate with the respon-
7 sibilities of the type license applied for.

8 Sec. 125. 32 MRSA §2404, as amended by PL 1979,
9 c. 569, §18, is further amended to read:

10 §2404. Renewals

11 All licenses shall expire biennially on December
12 31st as to a master technician and biennially on June
13 30th as to other licenses. The expiration dates for
14 licenses issued under this chapter may be established
15 at such other times as the Commissioner of Business
16 Regulation may designate. ~~Such~~ The licenses may be
17 renewed on a biennial basis without further examina-
18 tion upon the payment of the proper fee. The board
19 shall notify everyone registered under this chapter
20 of the date of expiration of his license and the
21 amount of fee required for its renewal for a 2-year
22 period. ~~Such~~ The notice shall be mailed to ~~such~~ the
23 person's last known address at least 30 days in
24 advance of the expiration date of his license. Any
25 ~~person who fails to renew his license within a period~~
26 ~~of 90 days following the expiration date shall be re-~~
27 ~~quired to take an examination.~~ A license may be
28 renewed up to 90 days after the date of expiration
29 upon payment of a late fee of \$10 in addition to the
30 renewal fee. Any person who submits an application
31 for renewal more than 90 days after the license
32 renewal date shall be subject to all requirements
33 governing new applicants under this chapter, except
34 that the board may in its discretion, giving due con-
35 sideration to the protection of the public, waive
36 examination if the renewal application is made within
37 2 years from the date of the expiration.

38 Sec. 126. 32 MRSA §3112, sub-§1, as enacted by
39 PL 1979, c. 555, §2, is repealed and the following
40 enacted in its place:

41 1. Appointment. Members of the board shall be
42 appointed by the Governor for a term of 4 years,

1 except that at least one member's term shall expire
2 in each calendar year and appointments for terms of
3 less than 4 years may be made in order to comply with
4 this limitation. Members currently serving on the
5 existing board will continue until the expiration of
6 their present appointment. Upon expiration of a
7 member's term, he shall serve until his successor is
8 qualified and appointed. The successor's term shall
9 be 4 years from the date of the expiration, regard-
10 less of the date of his appointment. Vacancies shall
11 be filled within 60 days of expiration.

12 Any member of the board may be removed from office
13 for cause by the Governor. A member may not serve
14 more than 2 full successive terms, provided that for
15 this purpose only a period actually served which
16 exceeds 1/2 of the 4-year term shall be deemed a full
17 term.

18 Sec. 127. 32 MRSA §3112, sub-§2, as enacted by
19 PL 1979, c. 555, §2, is repealed and the following
20 enacted in its place:

21 2. Meetings. The board shall meet at least once
22 a year to conduct its business and to elect a chair-
23 man and a secretary who shall serve for 2 years. Ad-
24 ditional meetings shall be held as necessary to con-
25 duct the business of the board, and may be convened
26 at the call of the chairman or a majority of the
27 board members. The board shall keep such records and
28 minutes as are necessary to the ordinary dispatch of
29 its functions. Members of the board shall receive
30 \$25 for every day actually spent in the performance
31 of the duties imposed upon them by this chapter and
32 necessary traveling and hotel expenses actually
33 incurred.

34 Sec. 128. 32 MRSA §3112, sub-§4, as enacted by
35 PL 1979, c. 555, §2, is repealed and the following
36 enacted in its place:

37 4. Quorum. Three members of the board shall
38 constitute a quorum for all purposes.

39 Sec. 129. 32 MRSA §3112, sub-§5, ¶F, as enacted
40 by PL 1979, c. 555, §2, is repealed and the following
41 enacted in its place:

1 F. To conduct hearings to assist with investiga-
2 tions, to determine whether grounds exist for
3 suspension, revocation or denial of a license, or
4 as otherwise deemed necessary to the fulfillment
5 of its responsibilities under this chapter.

6 The board shall not refuse to renew a license for
7 any reason other than failure to pay a required
8 fee, unless it has afforded the licensee an
9 opportunity for an adjudicatory hearing. The
10 board shall hold an adjudicatory hearing at the
11 written request of any person who is denied a li-
12 cence without a hearing for any reason other than
13 failure to pay a required fee, provided that the
14 request for hearing is received by the board
15 within 30 days of the applicant's receipt of
16 written notice of the denial of his application,
17 the reasons therefor and his right to request a
18 hearing. Hearings shall be conducted in conform-
19 ity with the Maine Administrative Procedure Act,
20 Title 5, chapter 375, subchapter IV, to the
21 extent applicable. The board may subpoena wit-
22 nesses, records and documents in any hearing it
23 conducts;

24 Sec. 130. 32 MRSA §3112, sub-§5, ¶¶I and J, as
25 enacted by PL 1979, c. 555, §2, are amended to read:

26 I. To submit, no later than August 1st of each
27 year to the Commissioner of Business Regulation
28 for the preceding fiscal year ending June 30th,
29 an annual report of its operations and financial
30 position together with such comments and recom-
31 mendations as the board deems essential; and

32 J. To furnish advice and consent to the Commis-
33 sioner of Business Regulation, who shall be
34 empowered to appoint, subject to the Personnel
35 Law, such employees as may be necessary to carry
36 out this chapter. Any person so employed shall be
37 located in the Department of Business Regulation
38 and under the commissioner's supervision; and

39 Sec. 131. 32 MRSA §3112, sub-§5, ¶K is enacted
40 to read:

41 K. To enter into contracts to carry out its
42 responsibilities under this chapter.

1 Sec. 132. 32 MRSA §3114-A, sub-§1, ¶A, as
2 enacted by PL 1981, c. 501, §63, is repealed and the
3 following enacted in its place:

4 A. Demonstrate that he is trustworthy and compe-
5 tent to engage in practice as a physical thera-
6 pist or physical therapist assistant in such man-
7 ner as to safeguard the interests of the public;

8 Sec. 133. 32 MRSA §3114-A, sub-§1, ¶C, as
9 enacted by PL 1981, c. 501, §63, is amended to read:

10 C. Pass an examination, approved by the board,
11 to determine the applicant's fitness to practice
12 as a physical therapist or to act as a physical
13 therapist assistant. The board may waive the
14 examination requirement for an applicant who is
15 currently licensed in another state by virtue of
16 having previously passed a qualifying examination
17 acceptable to the board, provided that the pass-
18 ing standards for the examination were substan-
19 tially equal equivalent to those then required by
20 the law of this State.

21 Sec. 134. 32 MRSA §3114-A, sub-§2, ¶¶A and B, as
22 enacted by PL 1981, c. 501, §63, are repealed and the
23 following enacted in their place:

24 A. Submit a written application with supporting
25 documents to the board on forms provided by the
26 board; and

27 B. Pay an application fee and examination fee
28 established by the board in amounts which are
29 reasonable and necessary for their respective
30 purposes.

31 Sec. 135. 32 MRSA §3114-A, sub-§2, ¶C, as
32 enacted by PL 1981, c. 501, §63, is repealed.

33 Sec. 136. 32 MRSA §3115, as repealed and
34 replaced by PL 1981, c. 501, §64, is amended to read:

35 §3115. Licensure

36 The board shall license any applicant who meets
37 the requirements of this chapter and pays the bien-

1 nial licensure fee specified in section 3116. The fee
2 for original licenses effective for one year or less
3 during the biennial licensing period shall be 1/2 the
4 fee specified in section 3116. Each person licensed
5 shall receive a certificate signed by the chairman of
6 the board. Every certificate of licensure and
7 renewal certificate for the current biennium shall be
8 conspicuously displayed at the place of employment of
9 the licensee. A certificate of licensure as a physical
10 therapist shall entitle the person to whom it is
11 granted to engage in the practice of physical therapy
12 anywhere in this State and to use the words "physical
13 therapist" or letters "P.T." to indicate that he is
14 licensed in this State. A certificate of licensure as
15 a physical therapist assistant shall entitle the
16 person to whom it is granted to act as a physical
17 therapist assistant and to use the words "physical
18 therapist assistant" or letters "P.T.A." to indicate
19 that he is licensed in this State.

20 Sec. 137. 32 MRSA §3116, as repealed and
21 replaced by PL 1981, c. 501, §65, is repealed and the
22 following enacted in its place:

23 §3116. Biennial licensure renewal; fees

24 All licenses shall be renewed biennially on or
25 before March 31st of each even-numbered year or at
26 such other times as the Commissioner of Business
27 Regulation may designate. The biennial licensure
28 renewal fee shall not exceed \$50. The Central Licens-
29 ing Division shall notify each licensee, at his last
30 known address, 30 days in advance of the expiration
31 of his license. Renewal notices shall be on forms
32 provided by the board. Any license not renewed by
33 March 31st automatically expires. The board may renew
34 an expired license if the renewal notice is returned
35 within 90 days of the expiration date and upon pay-
36 ment of a late fee of \$10 in addition to the renewal
37 fee. Any person who submits an application for
38 renewal more than 90 days after the license expira-
39 tion date shall be subject to all requirements gov-
40 erning new applicants under this chapter, except that
41 the board may in its discretion, giving due consider-
42 ation to the protection of the public, waive examina-
43 tion if the renewal application is made within 2
44 years from the date of that expiration.

1 Sec. 138. 32 MRSA §3117, as enacted by PL 1979,
2 c. 555, §2, is repealed.

3 Sec. 139. 32 MRSA §§3117-A and 3118 are enacted
4 to read:

5 §3117-A. Revocation and reissuance

6 The board may suspend or revoke a license pur-
7 suant to Title 5, section 10004. In addition, the
8 board may refuse to issue or renew a license or the
9 Administrative Court may revoke, suspend or refuse to
10 renew a license of a physical therapist or physical
11 therapist assistant for any of the following reasons:

12 1. Fraud. The practice of fraud or deceit in
13 obtaining a license under this chapter or in connec-
14 tion with service rendered as a licensed physical
15 therapist or physical therapist assistant;

16 2. Addiction. Addiction, as confirmed by medi-
17 cal findings, to the use of alcohol or other drugs,
18 which has resulted in the licensed physical therapist
19 or physical therapist assistant being unable to per-
20 form his duties or perform those duties in a manner
21 which would not endanger the health or safety of the
22 patients to be served;

23 3. Incompetency. A medical finding of mental
24 incompetency;

25 4. Accomplice. Aiding or abetting a person not
26 duly licensed as a licensed physical therapist or
27 physical therapist assistant in representing himself
28 as a licensed physical therapist or physical thera-
29 pist assistant;

30 5. Misconduct. Any gross negligence, incompe-
31 tency or misconduct in the practice of physical
32 therapy;

33 6. Criminal conviction. Subject to the limita-
34 tions of Title 5, chapter 341, conviction of a Class
35 A, B or C crime or of a crime which, if committed in
36 this State, would be punishable by one year or more
37 of imprisonment; or

1 7. Violation. Any violation of this chapter or
2 any rule adopted by the board.

3 Any person may file a complaint against any li-
4 icensed physical therapist or physical therapist
5 assistant. Any complaint shall be in writing, shall
6 be sworn to by the person making it and shall be
7 filed with the secretary of the board. The board may
8 direct the department to reissue a certificate of
9 licensure as a physical therapist or physical thera-
10 pist assistant to any person whose license has been
11 revoked, provided that 4 or more members of the board
12 vote in favor of that reissuance. A new certificate
13 of licensure as a physical therapist or physical
14 therapist assistant to replace any certificate
15 revoked, lost, destroyed or mutilated, may be issued,
16 subject to the rules of the board.

17 §3118. Penalties; injunction

18 1. Penalties. Any person who practices, or
19 holds himself out as authorized to practice, as a
20 physical therapist in this State without first
21 obtaining a license as required by this chapter, or
22 after the license has expired or has been suspended
23 or revoked or temporarily suspended or revoked, is
24 guilty of a Class E crime.

25 2. Injunction. The State may bring an action in
26 Superior Court to enjoin any person from violating
27 this chapter, regardless of whether proceedings have
28 been or may be instituted in the Administrative Court
29 or whether criminal proceedings have been or may be
30 instituted.

31 Sec. 140. 32 MRSA §3304, as enacted by PL 1977,
32 c. 469, §8, is repealed and the following enacted in
33 its place:

34 §3304. Penalties; injunction

35 1. Penalties. Any person who engages in or
36 works in plumbing without first obtaining a license
37 as required by this chapter, or after the license has
38 expired or has been suspended or revoked or temporar-
39 ily suspended or revoked, is guilty of a Class E
40 crime.

1 2. Injunction. The State may bring an action in
2 Superior Court to enjoin any person from violating
3 this chapter, regardless of whether proceedings have
4 been or may be instituted in the Administrative Court
5 or whether criminal proceedings have been or may
6 instituted.

7 Sec. 141. 32 MRSA §3401, as amended by PL 1981,
8 c. 703, Pt. A, §77, is repealed and the following
9 enacted in its place:

10 §3401. Membership; vacancies; removal; compensation

11 A Plumbers' Examining Board, as established,
12 shall consist of an executive officer who shall be
13 the Commissioner of Business Regulation, or his des-
14 ignee, and 3 other members, called the appointive
15 members, who shall be appointed by the Governor. One
16 of the appointive members shall be a representative
17 of the public, one shall be a master plumber as de-
18 fined in section 3301, and one shall be a journeyman
19 plumber as defined in section 3301, and who has been
20 engaged in the business of plumbing for at least 2
21 years. Members shall be appointed for terms of 2
22 years, with no person being eligible to serve more
23 than 4 full consecutive terms, provided that for this
24 purpose only a period actually served which exceeds
25 1/2 of the 2-year term shall be deemed a full term.
26 Upon expiration of a member's term, he shall serve
27 until his successor is qualified and appointed. The
28 successor's terms shall be 2 years from the date of
29 the expiration, regardless of the date of his
30 appointment. Any vacancy in the board caused by
31 death, resignation or removal of any member shall be
32 filled by the appointment of a person qualified, to
33 hold office during the unexpired term of the member
34 whose place is thus filled. Any member of the board
35 may be removed from office for cause, by the Gover-
36 nor. The members of the board shall each be allowed
37 the sum of \$35 per day and their necessary traveling
38 expenses for actual attendance upon any examination
39 of candidates for license and for any necessary hear-
40 ings. The board may examine and license plumbers.

41 Sec. 142. 32 MRSA §3403, as amended by PL 1981,
42 c. 703, Pt. A, §79, is repealed and the following
43 enacted in its place:

1 §3403. Meeting; chairman; quorum

2 The board shall meet at least once a year to con-
3 duct its business and to elect a chairman and a
4 secretary. Additional meetings shall be held as
5 necessary to conduct the business of the board, and
6 may be convened at the call of the chairman or a
7 majority of the board members. Three members of the
8 board shall constitute a quorum for all purposes.
9 The board shall keep such records and minutes as are
10 necessary to the ordinary dispatch of its function.

11 Sec. 143. 32 MRSA §3403-A is enacted to read:

12 §3403-A. Powers and duties

13 The board shall administer, coordinate and
14 enforce this chapter and shall have the following
15 powers and duties in addition to those otherwise set
16 forth in this chapter.

17 1. Rules. The board may, in accordance with the
18 Maine Administrative Procedure Act, Title 5, chapter
19 375, subchapter II, adopt rules commensurate with the
20 authority vested in it by this chapter. These rules
21 may include, but not be limited to, licensing re-
22 quirements, examinations and reciprocity of licensing
23 with similar boards of other states which maintain
24 standards equivalent to this State.

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

31 The board may not refuse to renew a license for any
32 reason other than failure to pay a required fee,
33 unless it has afforded the licensee an opportunity
34 for an adjudicatory hearing. The board shall hold an
35 adjudicatory hearing at the written request of any
36 person who is denied a license without a hearing for
37 any reason other than failure to pay a required fee,
38 provided that the request for hearing is received by
39 the board within 30 days of the applicant's receipt
40 of written notice of the denial of his application,

1 the reasons for the denial and his right to request a
2 hearing. Hearings shall be conducted in conformity
3 with the Maine Administrative Procedure Act, Title 5,
4 chapter 375, subchapter IV, to the extent applicable.
5 The board may subpoena witnesses, records and docu-
6 ments in any hearing it conducts.

7 3. Contracts. The board may enter into con-
8 tracts to carry out its responsibilities under this
9 chapter.

10 Sec. 144. 32 MRSA §3404, as amended by PL 1977,
11 c. 694, §§615 and 616, is repealed and the following
12 enacted in its place:

13 §3404. Investigation of complaints; revocation of
14 license

15 The board shall investigate or cause to be inves-
16 tigated all complaints made to it and all cases of
17 noncompliance with or violation of this chapter. The
18 board may suspend or revoke a license pursuant to
19 Title 5, section 10004. The board may refuse to
20 issue or renew a license or the Administrative Court
21 may suspend, revoke or refuse to renew the license of
22 any licensed plumber for any of the following
23 reasons:

24 1. Fraud or deceit. The practice of any fraud
25 or deceit in obtaining a license;

26 2. Negligence or misconduct. Any gross negli-
27 gence, incompetency or misconduct in the performance
28 of the work of making plumbing installations;

29 3. Violation of law. Any violation of this
30 chapter or any rule adopted by the board; or

31 4. Conviction of crime. Subject to the limita-
32 tions of Title 5, chapter 341, conviction of a crime
33 which involves dishonesty or false statement or which
34 relates directly to the practice of plumbing, or con-
35 viction of any crime for which incarceration for one
36 year or more may be imposed.

37 The board, for reasons it may deem sufficient,
38 may reissue a license to any person whose license has

1 been revoked, providing 3 or more members of the
2 board vote in favor of the reissuance.

3 Sec. 145. 32 MRSa §3504, as amended by PL 1981,
4 c. 703, Pt. A, §80, is further amended to read:

5 §3504. Renewals

6 All licenses shall expire October 31st of each
7 biennial period as to master plumbers and April 30th
8 of each biennial period as to other licensees and may
9 be renewed thereafter for 2-year periods without fur-
10 ther examination, upon the payment of the proper
11 renewal fee as set forth in section 3301. The expira-
12 tion dates for licenses issued under this chapter may
13 be established at such other times as the Commis-
14 sioner of Business Regulation may designate. Any
15 ~~person who fails to renew his license within 6 months~~
16 ~~following the expiration date shall be required to~~
17 ~~take an examination, provided that any person, who~~
18 ~~fails to so renew his license due to the fact he was~~
19 ~~on active duty in the Armed Forces of the United~~
20 ~~States, shall not be required to take an examination~~
21 ~~if he renews his license within 6 months from the~~
22 ~~date of his separation from the Armed Forces of the~~
23 ~~United States. The waiver of examination shall not be~~
24 ~~granted if the person served more than 4 years in the~~
25 ~~Armed Forces, unless he was required by some manda-~~
26 ~~tory provision to serve a longer period and he shall~~
27 ~~submit satisfactory evidence thereof to the board.~~

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

34 A license may be renewed up to 90 days after the
35 date of its expiration upon payment of a late fee of
36 \$10 in addition to the renewal fee. Any person who
37 submits an application for renewal more than 90 days
38 after the license expiration date shall be subject to
39 all requirements governing new applications under
40 this chapter, except that the board may in its dis-
41 cretion, giving due consideration to the protection
42 of the public, waive examination if the renewal

1 application is made within 2 years from the date of
2 the expiration. Notwithstanding any other provision
3 of this chapter, the board shall waive examination if
4 a renewal application is made within 90 days after
5 separation from the United States Armed Forces,
6 under conditions other than dishonorable, by a person
7 who has failed to renew his license because he was on
8 active duty in the Armed Forces; provided that the
9 waiver of examination shall not be granted if the
10 person served more than 4 years in the Armed Forces,
11 except if he is required by some mandatory provision
12 to serve a longer period and he shall submit satis-
13 factory evidence to the board.

14 Any master plumber giving up his master plumber's
15 license for a lower grade license shall be required
16 to successfully pass an examination in order to rein-
17 state his master plumber's license.

18 Sec. 146. 32 MRSAs §3814, as enacted by PL 1967,
19 c. 544, §82, is amended to read:

20 §3814. Penalties; injunction

21 If any person shall hold himself out to the
22 public as a psychologist or psychological examiner or
23 ~~who engages engage~~ in psychological practice as de-
24 fined in section 3811 and shall not then possess in
25 full force and ~~virtue~~ a valid license to practice as
26 psychological examiner or psychologist under this
27 chapter, he shall be deemed guilty of a ~~misdemeanor,~~
28 ~~and upon conviction shall be punished by a fine of~~
29 ~~not less than \$100 nor more than \$500 for each~~
30 ~~offense or by imprisonment for 3 months, or by both~~
31 Class E crime.

32 The State may bring an action in Superior Court
33 to enjoin any person from violating this chapter,
34 regardless of whether proceedings have been or may be
35 instituted in the Administrative Court or whether
36 criminal proceedings have been or may be instituted.

37 Sec. 147. 32 MRSAs §3816, as enacted by PL 1967,
38 c. 544, §82, is amended to read:

39 §3816. Code of ethics

1 The board of examiners shall adopt rules estab-
2 lishing a code of ethics in keeping with those stan-
3 dards established by the American Psychological Asso-
4 ciation to govern appropriate practices or behavior
5 as referred to in this chapter, and shall file such
6 code with the Secretary of State within 30 days prior
7 to the effective date of such code.

8 Sec. 148. 32 MRSA §3821, as amended by PL 1981,
9 c. 501, §§66 and 67, is further amended to read:

10 §3821. Membership; terms; vacancies

11 The State Board of Examiners of Psychologists, as
12 ~~heretofore~~ established and ~~hereinafter~~ called the
13 "board," shall consist of 6 members who shall be
14 appointed by the Governor to serve a term of 5 years.
15 One member of the board shall be a representative of
16 the public. Five members of the board shall be li-
17 censed psychologists or psychological examiners. Any
18 vacancy occurring on the board shall be filled by the
19 Governor for the unexpired term by a person qualified
20 and selected as was the member he is replacing. No
21 person may be eligible to serve more than 2 full con-
22 secutive terms, provided that for this purpose only a
23 period actually served which exceeds 1/2 of the
24 5-year term shall be deemed a full term. Upon
25 expiration of a member's term, he shall serve until
26 his successor is qualified and appointed. The
27 successor's term shall be 5 years from the date of
28 that expiration, regardless of the date of his
29 appointment. Prior to the filling of any vacancies of
30 professional members, the Governor shall solicit
31 recommendations. A board member may be removed by
32 the Governor for cause.

33 Sec. 149. 32 MRSA §3822, as amended by PL 1975,
34 c. 767 §44, is repealed and the following enacted in
35 its place:

36 §3822. Meetings; organizations

37 The board shall meet at least once a year to con-
38 duct its business and to elect a chairman, secretary
39 and treasurer. Additional meetings shall be held as
40 necessary to conduct the business of the board, and
41 may be convened at the call of the chairman or a

1 majority of the board members. Each member shall
2 receive all ordinary expenses incident to holding
3 meetings, provided that the expense shall not exceed
4 the fees collected by the board. Four members of
5 the board shall at all times constitute a quorum.

6 Sec. 150. 32 MRSA §3823, as enacted by PL 1967,
7 c. 544, §82, is amended to read:

8 §3823. Disposal of fees

9 All fees charged and collected by the board, as
10 ~~well as all moneys credited to the previous board,~~
11 shall be deposited by it in the State Treasury to the
12 credit of the board. The board may accept grants
13 from foundations or institutions, which shall also be
14 deposited in the State Treasury to the credit of the
15 board. All such those moneys are appropriated to be
16 used by the board in carrying out this chapter. The
17 expenditures of the board may be paid only from such
18 those moneys.

19 Sec. 151. 32 MRSA §3824 is enacted to read:

20 §3824. Powers and duties

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

24 1. Licenses; enforcement. The board shall
25 evaluate the qualifications and supervise the exami-
26 nation of applicants for licensure under this chap-
27 ter, and investigate or cause to be investigated all
28 complaints made to it and all cases of noncompliance
29 with this chapter.

30 2. Rules. The board may, in accordance with
31 procedures established by the Maine Administrative
32 Procedure Act, Title 5, chapter 375, subchapter II,
33 adopt such rules as may be reasonably necessary for
34 the proper performance of its duties and the adminis-
35 tration of this chapter.

36 3. Hearings. Hearings may be conducted by the
37 board to assist with investigations, to determine
38 whether grounds exist for suspension, revocation or

1 denial of a license, or as otherwise deemed necessary
2 to the fulfillment of its responsibilities under this
3 chapter. Hearings shall be conducted in conformity
4 with the Maine Administrative Procedure Act, Title 5,
5 chapter 375, subchapter IV, to the extent applicable.
6 The board may subpoena witnesses, records and docu-
7 ments in any hearing it conducts.

8 4. Assistants; contracts. The board may employ,
9 with the approval of the Commissioner of Business
10 Regulation, such assistants as are necessary to carry
11 on its activities, within the limits of the funds
12 available to the board, and enter into contracts to
13 carry out its responsibilities under this chapter.

14 Sec. 152. 32 MRSA §3831, as enacted by PL 1967,
15 c. 544, §82, is amended to read:

16 §3831. Registration; qualifications

17 1. Psychological examiner. Any person wishing to
18 obtain the right to practice as a psychological exam-
19 iner, who has not ~~heretofore~~ been licensed to do so,
20 shall, before it shall be lawful for him to practice
21 as a psychological examiner, make application to the
22 State Board of Examiners of Psychologists through the
23 chairman, upon such form and in such manner as shall
24 be adopted and prescribed by the board, and obtain
25 from the board a license to do so. Unless such a
26 person has obtained a license, it shall be unlawful
27 for him to practice, and if he shall practice as a
28 psychological examiner without first having obtained
29 such a license he shall be deemed to have violated
30 this chapter. A candidate for ~~such~~ this license shall
31 furnish the board with satisfactory evidence that he
32 is of good moral character is trustworthy and compe-
33 tent to practice as a psychological examiner in such
34 manner as to safeguard the interests of the public,
35 has had a master's degree from an accredited educa-
36 tional institution recognized by the board as main-
37 taining satisfactory standards, or its academic
38 equivalent in the opinion of the board, has had at
39 least one year of full-time supervised experience in
40 psychology of a type considered by the board to be
41 qualifying in nature, is competent as a psychological
42 examiner as shown by passing such examinations, writ-
43 ten or oral, or both, as the board deems necessary,

1 is not considered by the board to be engaged in
2 unethical practice, and has not within the preceding
3 6 months failed an examination given by the board.
4 ~~The board may in its discretion refuse to grant a li-~~
5 ~~icense to an applicant who is not an American citizen-~~

6 2. Psychologist. Any person wishing to obtain
7 the right to practice as a psychologist, who has not
8 ~~heretofore~~ been licensed to do so, shall, before it
9 shall be lawful for him to practice psychology, make
10 application to the State Board of Examiners of Psy-
11 chologists through the chairman, upon such form and
12 in such manner as shall be adopted and prescribed by
13 the board, and obtain from the board a license to do
14 so. Unless such a person has obtained a license, it
15 shall be unlawful for him to practice, and if he
16 shall practice psychology without first having
17 obtained a license, he shall be deemed to have vio-
18 lated this chapter. A candidate for ~~such~~ this license
19 shall furnish the board with satisfactory evidence
20 that he is of good moral character trustworthy and
21 competent to practice as a psychologist in such man-
22 ner as to safeguard the interest of the public, has
23 received a doctorate degree in psychology from an ac-
24 credited institution recognized by the board as main-
25 taining satisfactory standards, at the time the
26 degree was granted, or, in lieu of degree, a
27 doctorate degree in a closely allied field, if it is
28 the opinion of the board that the training required
29 therefor is substantially similar, has had at least 2
30 years of experience in psychology of a type consid-
31 ered by the board to be qualifying in nature, is com-
32 petent in psychology, as shown by passing such exami-
33 nations, written or oral, or both, as the board deems
34 necessary, is not considered by the board to be
35 engaged in unethical practice, and has not within the
36 preceding 6 months failed an examination given by the
37 board. ~~The board may in its discretion refuse to~~
38 ~~grant a license to an applicant who is not an Ameri-~~
39 ~~can citizen-~~

40 Sec. 153. 32 MRSA §3833, as amended by PL 1979,
41 c. 189, §1, is repealed and the following enacted in
42 its place:

43 §3833. Fees

1 An application fee and an examination fee may be
2 established by the board in amounts which are reason-
3 able and necessary for their respective purposes. No
4 part of these fees may be returnable under any cir-
5 cumstances other than failure of the board to hold
6 examinations at the time originally announced, where-
7 upon the examination fee only may be returned at the
8 option of the candidate.

9 Sec. 154. 32 MRSA §3834, as enacted by PL 1967,
10 c. 544, §82, is amended to read:

11 §3834. Issuance of license

12 ~~Said The board shall be the sole agency empowered~~
13 ~~to examine concerning competence in the practice of~~
14 ~~psychology, and to grant license for the practice of~~
15 ~~psychology at the appropriate level. Such license~~
16 ~~shall be signed by the chairman of the Board of~~
17 ~~Examiners of Psychologists attested by the secretary~~
18 ~~under the board's adopted seal; whereupon a proper~~
19 ~~license shall be issued.~~

20 Sec. 155. 32 MRSA §3835, as amended by PL 1979,
21 c. 189, §2, is repealed and the following enacted in
22 its place:

23 §3835. Biennial registration

24 Licenses issued under this chapter shall expire
25 biennially on such date as may be established by the
26 Commissioner of Business Regulation, if not renewed.
27 Every person licensed under this chapter shall, on or
28 before the biennial expiration date, submit an appli-
29 cation for license renewal together with the biennial
30 renewal fee of \$40.

31 The board shall notify every licensed psychol-
32 ogist of the expiration date of his license and indi-
33 cate the amount of fee required for biennial renewal.
34 This notice shall be mailed to each person's last
35 known address at least 30 days in advance of the
36 expiration date of that license. A license may be
37 renewed up to 90 days after the date of expiration
38 upon payment of a late fee of \$10 in addition to the
39 renewal fee. Any person who submits an application
40 for renewal more than 90 days after the license

1 renewal date shall be subject to all requirements
2 governing new applicants under this chapter, except
3 that the board may in its discretion, giving due con-
4 sideration to the protection of the public, waive
5 examination if that renewal application is made
6 within 2 years from the date of that expiration.

7 Sec. 156. 32 MRSA §3836, as amended by PL 1973,
8 c. 625, §219, is further amended to read:

9 §3836. Licensure under special conditions

10 The board may, at any time at its discretion,
11 grant a certificate without an assembled examination
12 to any person residing or employed in the State who
13 at the time of application is licensed or certified
14 by a similar board of another state whose standards,
15 in the opinion of the board, are ~~not lower than~~
16 equivalent to those required by this chapter. The
17 board, at its discretion, may issue a temporary li-
18 cense, at the appropriate level, to applicants for a
19 permanent license upon payment of a fee, to be estab-
20 lished by the board, ~~such that~~ license to be valid
21 for no more than one year from date of issue.

22 Sec. 157. 32 MRSA §3837, as amended by PL 1975,
23 c. 575, §45, is repealed and the following enacted in
24 its place:

25 §3837. Suspension; refusal; or revocation of license

26 The board may suspend or revoke the license of a
27 psychological examiner or psychologist pursuant to
28 Title 5, section 10004. The board may refuse to
29 issue or renew or the Administrative Court may sus-
30 pend, revoke or refuse to renew the license of a psy-
31 chological examiner or psychologist on any of the
32 following grounds:

33 1. Fraud or deception. The employment of fraud
34 or deception in obtaining a license as a psycho-
35 logical examiner or psychologist;

36 2. Criminal conviction. Subject to the limita-
37 tions of Title 5, chapter 341, conviction of crime
38 which involves dishonesty or false statement or which
39 relates directly to the practice of psychology, or

1 conviction of any crime for which incarceration for
2 one year or more may be imposed;

3 3. Use of false name. Practice of psychology
4 under a false or assumed name, or impersonation of
5 another practitioner of a like or different name;

6 4. Drug or alcohol abuse. Habitual intemperance
7 in the use of alcohol or habitual use of narcotics or
8 stimulants to such an extent as to incapacitate him
9 for the performance of his duties;

10 5. Mental condition. An incapacitating mental
11 illness or condition;

12 6. Practice of medicine. Practice of medicine
13 without a license to do so, in violation of section
14 3270;

15 7. Practice beyond scope of license. Practice
16 by a licensed psychological examiner at a level re-
17 quiring a psychologist's license, or any representa-
18 tion by a psychological examiner that he is a psy-
19 chologist;

20 8. Negligence. Negligence in the performance of
21 his duties; or

22 9. Violations. Violating any provision of this
23 chapter or any rule of the board.

24 The board, for reasons it may deem sufficient,
25 may reissue a license to a psychological examiner or
26 psychologist whose license has been revoked or has
27 not been renewed, provided that 4 or more of its mem-
28 bers vote in favor of reissuance.

29 Sec. 158. 32 MRSA §3838, as amended by PL 1977,
30 c. 694, §619, is repealed and the following enacted
31 in its place:

32 §3838. Hearing on refusal to issue or renew

33 The board shall not refuse to renew a license for
34 any reason other than failure to pay a required fee,
35 unless it has afforded the licensee an opportunity
36 for an adjudicatory hearing. The board shall hold an

1 adjudicatory hearing at the written request of any
2 person who is denied a license without a hearing for
3 any reason other than failure to pay a required fee,
4 provided that the request for hearing is received by
5 the board within 30 days of the applicant's receipt
6 of written notice of the denial of his application,
7 the reasons for the denial and his right to request a
8 hearing.

9 Sec. 159. 32 MRSA §3839, as enacted by PL 1967,
10 c. 544, §82, is repealed and the following enacted in
11 its place:

12 §3839. Judicial review

13 Any person aggrieved by an action of the board
14 may seek judicial review in the manner set forth in
15 the Maine Administrative Procedure Act, Title 5,
16 chapter 375, subchapter VII.

17 Sec. 160. 32 MRSA §3971, as amended by PL 1975,
18 c. 771, §§367 to 369, is further amended to read:

19 §3971. Appointment

20 The Board of Accountancy shall consist of 7 mem-
21 bers appointed by the Governor. Each member of the
22 board shall be a citizen of the United States and a
23 resident of this State. Three members shall be per-
24 sons registered in accordance with subchapter III and
25 whose principal occupation has been in active prac-
26 tice as a certified public accountant for at least
27 the 5 preceding years. Three members shall be persons
28 registered in accordance with subchapter IV and whose
29 principal occupation has been in active practice as a
30 noncertified public accountant for at least the 5
31 preceding years. One member of the board shall be a
32 representative of the public. ~~The term of office of~~
33 ~~each present member of the board shall expire as now~~
34 ~~provided. The successor of each present member of~~
35 ~~the board shall be appointed for a term expiring Sep-~~
36 ~~tember 1st in the 3rd year after his appointment.~~
37 ~~Within 90 days following October 7, 1967, the Gover-~~
38 ~~nor shall appoint 3 additional members to the board,~~
39 ~~who shall be non-certified public accountants and~~
40 ~~whose terms shall expire as follows: One whose term~~
41 ~~shall expire September 1st in the first year after~~

1 his appointment; one whose term shall expire Septem-
2 ber 1st in the 2nd year after his appointment; and
3 one whose term shall expire September 1st in the 3rd
4 year after his appointment. Thereafter, each member
5 shall be appointed for a term of 3 years so that the
6 term of office of 2 members shall expire September
7 1st each year. Appointments shall be for 3-year
8 terms, except that the terms of 2 members other than
9 the public member shall expire each calendar year and
10 appointments of less than 3 years may be made in
11 order to comply with this limitation. Any vacancy
12 occurring during a term shall be filled by appoint-
13 ment for the unexpired term. Upon the expiration of
14 his term of office, a member shall continue to serve
15 until his successor shall have been appointed and
16 shall have qualified, and the successor's term shall
17 be 3 years from the date of the expiration, regard-
18 less of the date of his appointment. No person may
19 be eligible to serve more than 3 full consecutive
20 terms, provided that for this purpose only a period
21 actually served which exceeds 1/2 of the 3-year term
22 shall be deemed a full term. The Governor shall
23 remove from the board any member whose permit to
24 practice has become void, revoked or suspended, and
25 may, after hearing, remove any member of the board
26 for neglect of duty or other just cause.

27 Sec. 161. 32 MRSa §3972, as amended by PL 1979,
28 c. 517, §§1 and 2, is repealed and the following
29 enacted in its place:

30 §3972. Organization; powers and duties; compensa-
31 tion; expenses

32 The board shall meet at least once a year to con-
33 duct its business and elects its officers. Addition-
34 al meetings shall be held as necessary to conduct the
35 business of the board, and may be convened at the
36 call of the chairman or a majority of the board mem-
37 bers. Annually, the members shall elect from their
38 number a chairman, a secretary who shall be a certi-
39 fied public accountant and a treasurer. The offices
40 of secretary and treasurer may be held by the same
41 person. The board may adopt a seal. Four members
42 shall constitute a quorum for the transaction of
43 business. All fees and other moneys collected by
44 the board shall be promptly transmitted by the treas-

1 urer of the board to the Treasurer of State, together
2 with an account of these receipts. The moneys are to
3 be used only for expenses of the board upon requisition
4 drawn on the State Controller. Each member of
5 the board shall receive \$10 per hour and his necessary
6 expenses, while engaged in the discharge of his
7 official duties. Travel expense reimbursement shall
8 not exceed the rate paid to state employees. If
9 receipts of the board are not sufficient to cover all
10 expenses and compensation of the board, the board may
11 reduce equitably the compensation of its individual
12 members.

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

16 1. Rules. The board may, in accordance with
17 procedures established by the Maine Administrative
18 Procedure Act, Title 5, chapter 375, subchapter II,
19 adopt such rules as may be reasonably necessary for
20 the proper performance of its duties and the adminis-
21 tration of this chapter, including, but not limited
22 to, rules of professional conduct appropriate to
23 establish and to maintain a high standard of integ-
24 riety and of dignity in the profession of public ac-
25 countancy and regulations prescribing requirements of
26 continuing education which shall be met as a condi-
27 tion to renewal of permits to practice under section
28 3990 by the holders of those permits in order to
29 maintain their professional knowledge and competency.

30 2. Register. The board shall have printed and
31 published for public distribution, at such times as
32 the board may determine, but at least once in every 2
33 years, a register which shall contain the names of
34 all certified public accountants, all practitioners
35 holding registration cards under this chapter, the
36 names of the members of the board, regulations of the
37 board, rules of professional conduct, the provisions
38 of this chapter and such other matters as may be
39 deemed proper by the board. Copies of these registers
40 shall be mailed to all persons registered under this
41 chapter and to the State Librarian and the clerks of
42 court of the several counties. The publication and
43 mailing expenses of this register shall be paid for
44 from the cash receipts of the board.

1 3. Hearings. Hearings may be conducted by the
2 board to assist with investigations, to determine
3 whether grounds exist for suspension, revocation or
4 denial of a certificate or permit or as otherwise
5 deemed necessary to the fulfillment of its responsi-
6 bilities under this chapter.

7 The board shall not refuse to renew a permit for any
8 reason other than failure to pay a required fee,
9 unless it has afforded the licensee an opportunity
10 for an adjudicatory hearing. The board shall hold an
11 adjudicatory hearing at the written request of any
12 person who is denied a certificate or permit without
13 a hearing for any reason other than failure to pay a
14 required fee, provided that the request for hearing
15 is received by the board within 30 days of the appli-
16 cant's receipt of written notice of the denial of his
17 application, the reasons for the denial of his appli-
18 cation and his right to request a hearing. Hearings
19 shall be conducted in conformity with the Maine
20 Administrative Procedure Act, Title 5, chapter 375,
21 subchapter IV, to the extent applicable. The board
22 may subpoena witnesses, records and documents in any
23 hearing it conducts.

24 4. Contracts. The board may enter into con-
25 tracts to carry out its responsibilities under this
26 chapter.

27 Sec. 162. 32 MRSA §3981, sub-§1, as enacted by
28 PL 1967, c. 344, §1, is repealed.

29 Sec. 163. 32 MRSA §3981, sub-§4, as enacted by
30 PL 1967, c. 344, §1, is repealed and the following
31 enacted in its place:

32 4. Character. Who demonstrates that he is
33 trustworthy and competent to engage in practice as a
34 certified public accountant in such manner as to
35 safeguard the interests of the public;

36 Sec. 164. 32 MRSA §3983, as amended by PL 1979,
37 c. 517, §3, is further amended to read:

38 §3983. Fees; 2nd examination

1 Each applicant for examination shall pay the
2 secretary of the board a fee not to exceed \$100 at
3 the time of filing his application. An application
4 fee and an examination fee may be established by the
5 board in amounts which are reasonable and necessary
6 for their respective purposes. Application and exam-
7 ination fees shall accompany the application. If the
8 applicant fails to pass the examination, the fee
9 these fees shall not be returned to him, but he shall
10 be entitled to be reexamined at any advertised meet-
11 ing at which there are to be other applicants for
12 examination, on payment of an additional fee not to
13 exceed \$25 for each section of the examination which
14 he has not previously passed.

15 Sec. 165. 32 MRSA §3986, sub-§2, as enacted by
16 PL 1967, c. 344, §1, is repealed.

17 Sec. 166. 32 MRSA §3986, sub-§5, as enacted by
18 PL 1967, c. 344, §1, is repealed and the following
19 enacted in its place:

20 5. Character. Who demonstrates that he is
21 trustworthy and competent to engage in practice as a
22 public accountant in such manner as to safeguard the
23 interest of the public;

24 Sec. 167. 32 MRSA §3987, as enacted by PL 1967,
25 c. 344, §1, is amended to read:

26 §3987. Reciprocity

27 The noncertified members of the board may, in
28 their discretion, waive the examination and upon the
29 payment of a fee not to exceed \$50 specified in
30 ~~section 3988~~ issue a certificate of public accountant
31 under section 3986 to any person who is a resident of
32 this State and who is the holder of a similar certifi-
33 cate or license issued under the laws of another
34 state or foreign government which is then in full
35 force and effect, provided the requirements in the
36 state or foreign government which has granted the
37 certificate or license to the applicant are, in the
38 opinion of the noncertified members of the board,
39 equivalent to those of this State.

1 Sec. 168. 32 MRSA §3988, as enacted by PL 1967,
2 c. 344, §1, is repealed and the following enacted in
3 its place:

4 §3988. Fees

5 An application fee and an examination fee may be
6 established by the board in amounts which are reason-
7 able and necessary for their respective purposes.
8 Application and examination fees shall accompany the
9 application. If the applicant fails to pass the
10 examination, the fee shall not be returned to him.

11 Sec. 169. 32 MRSA §3991, as amended by PL 1977,
12 c. 694, §620, is further amended to read:

13 §3991. Revocation or suspension

14 The board may request the Attorney General seek,
15 pursuant to Title 4, chapter 25, the revocation of
16 any certificate or the suspension of any permit
17 issued under section 3990, or it may censure, by
18 letter, the holder of a permit, for any of the fol-
19 lowing causes. The board may suspend or revoke a
20 certificate or permit pursuant to Title 5, section
21 10004. The Administrative Court may revoke or sus-
22 pend a certificate or permit or refuse to renew a
23 permit upon any of the grounds set forth in this
24 section. In addition, the board may refuse to issue
25 a certificate or permit, refuse to renew a permit,
26 place a licensee on probation or censure a licensee
27 upon any of the grounds set forth in this section as
28 follows:

29 1. Fraud or deceit in obtaining certificate.
30 Fraud or deceit in obtaining a certificate as certi-
31 fied public accountant, or a certificate as public
32 accountant, or in obtaining a permit to practice
33 public accounting under this chapter;

34 2. Fraud in practice. Dishonesty, fraud or gross
35 negligence in the practice of public accounting;

36 3. Violation of section 3994. Violation of any
37 of the provisions of section 3994;

1 4. Violation of rule. Violation of a rule of
2 professional conduct promulgated by the board under
3 the authority granted by this chapter;

4 5. Felony. Conviction of a felony under the laws
5 of any state or of the United States, subject to the
6 limitations of Title 5, chapter 341;

7 6. Certain crimes. Conviction of any crime, an
8 element of which is dishonesty or fraud, under the
9 laws of any state or of the United States, subject to
10 the limitations of Title 5, chapter 341;

11 7. Reprisal of another state. Cancellation,
12 revocation, suspension or refusal to renew authority
13 to practice as a certified public accountant or a
14 public accountant by any other state, for any cause
15 other than failure to pay an annual registration fee
16 in such other state;

17 8. Revocation outside state. Suspension or revo-
18 cation of the right to practice before any state or
19 federal agency;

20 9- Citizenship. Failure to become a citizen of
21 the United States within 6 years by any person not a
22 citizen of the United States when he or she received
23 a certificate as certified public accountant or
24 public accountant under this chapter;

25 10. Annual permit. Failure of a certificate
26 holder in active public practice to obtain an annual
27 permit under section 3990;

28 11. Conduct. Conduct discreditable to the public
29 accounting profession; or

30 12. Other violations. Any other violation of
31 this chapter or any rule adopted by the board.

32 Sec. 170. 32 MRSA §3992, sub-§1, as repealed and
33 replaced by PL 1977, c. 694, §621, is repealed and
34 the following enacted in its place:

35 1. Board; action. The board on its own motion
36 or upon complaint made to it shall order investiga-
37 tion of all complaints and all allegations of noncom-

1 pliance with or violations of this chapter. Investi-
2 gations may be made by the secretary, the board's
3 legal counsel or its agents, who shall report their
4 findings to the board upon completion of the investi-
5 gation. After receiving and considering the investi-
6 gatory report, the board may:

7 A. Report its findings to the Attorney General
8 for prosecution in the Administrative Court for
9 suspension or revocation in accordance with Title
10 4, chapter 25; or

11 B. Hold an adjudicatory hearing in accordance
12 with the Maine Administrative Procedure Act,
13 Title 5, chapter 375, subchapter IV. Following
14 the hearing, the board may:

15 (1) Report its findings to the Attorney
16 General for prosecution under paragraph A;

17 (2) Place the licensee on probation for a
18 certain period of time during which the
19 licensee shall file periodic affidavits of
20 his practice in accordance with the stan-
21 dards set by the board; or

22 (3) Censure, by letter, the licensee.

23 A notice of any action taken by the board adverse to
24 the accused practitioner, including reporting its
25 findings to the Attorney General, shall be filed in
26 the office of the secretary and shall be open to
27 public inspection.

28 Sec. 171. 32 MRSA §3996, as enacted by PL 1967,
29 c. 344, §1, is repealed and the following enacted in
30 its place:

31 §3996. Injunction

32 The State may bring an action in Superior Court
33 to enjoin any person from violating this chapter,
34 regardless of whether proceedings have been or may be
35 instituted in the Administrative Court or whether
36 criminal proceedings have been or may be instituted.

37 Sec. 172. 32 MRSA §4906, §§1 and 2, as enacted
38 by PL 1973, c. 558, §1, are amended to read:

1 1. Nonresident practicing less than 30 days. A
2 person not a resident of and having no established
3 place of business in this State, practicing or offer-
4 ing to practice ~~herein~~ the profession of geologist or
5 soil scientist when such that practice does not
6 exceed in the aggregate more than 30 days in any cal-
7 endar year, provided such that the person is legally
8 qualified by registration to practice the ~~said~~
9 profession in his own state or country in which the
10 requirements and qualifications for obtaining a cer-
11 tificate or registration are ~~not lower than~~ equiva-
12 lent to those specified in this chapter;

13 2. Nonresident becoming resident or persons
14 practicing more than 30 days. A person not a resident
15 of and having no established place of business in
16 this State, or who has recently become a resident
17 thereof, practicing or offering to practice ~~herein~~
18 for more than 30 days in any calendar year the
19 profession of geologist or soil scientist, if he
20 ~~shall have~~ has filed with the commission an applica-
21 tion for a certification and ~~shall have~~ has paid the
22 fee required by this chapter. ~~Such~~ The exemption
23 shall continue only for such time as the board re-
24 quires for the consideration of the application for
25 registration, provided that such a person is legally
26 qualified to practice ~~said that~~ profession in his own
27 state or country in which the requirements and quali-
28 fications for obtaining a certificate of registration
29 are ~~not lower than~~ equivalent to those specified in
30 this chapter;

31 Sec. 173. 32 MRSA §4907, sub-§1, as enacted by
32 PL 1973, c. 558, §1, is amended to read:

33 1. Qualifications. Each member of the board
34 shall be a citizen of the United States and shall
35 have been a resident of this State for at least 5
36 years immediately preceding his appointment. ~~Each of~~
37 ~~the first appointed geologist members of the board~~
38 ~~shall have at least 8 years active experience and~~
39 ~~shall be a practicing geologist. Each of the first~~
40 ~~appointed soil scientist members of the board shall~~
41 ~~have at least 8 years active experience in the prac-~~
42 ~~tice of the profession of soil scientist or in any~~
43 ~~closely related profession the essence of which~~
44 ~~involves a knowledge of soil investigations. Each~~

1 subsequent member of the board shall be certified
2 under this chapter.

3 Sec. 174. 32 MRSA §4907, sub-§2, as repealed and
4 replaced by PL 1977, c. 78, §189, is repealed and the
5 following enacted in its place:

6 2. Term. Appointments shall be for 5-year
7 terms, except that no more than one appointed
8 member's term may expire in any one calendar year and
9 appointments for terms of less than 5 years may be
10 made in order to comply with this limitation. No
11 appointed member may be eligible to serve more than 2
12 full consecutive terms, provided that for this pur-
13 pose only a period actually served which exceeds 1/2
14 of the 5-year term shall be deemed a full term. Upon
15 expiration of a member's term, he shall serve until
16 his successor is qualified and appointed. The
17 successor's term shall be 5 years from the date of
18 the expiration, regardless of the date of his
19 appointment. Vacancies occurring prior to the
20 expiration of the specified term shall be filled by
21 appointment for the unexpired term. A board member
22 may be removed for cause by the Governor.

23 Sec. 175. 32 MRSA §4907, sub-§4, as repealed and
24 replaced by PL 1979, c. 300, §2, is repealed and the
25 following enacted in its place:

26 4. Meetings. The board shall meet at least once
27 a year to conduct its business and to elect its offi-
28 cers. Additional meetings shall be held as necessary
29 to conduct the business of the board, and may be con-
30 vened at the call of the chairman or a majority of
31 the board members. The board shall, every 2 years,
32 elect a chairman who shall be a member of the board.
33 No chairman may serve more than 2 consecutive terms.

34 Four members shall constitute a quorum.

35 The board shall keep such records and minutes as are
36 necessary to the ordinary dispatch of its functions.

37 Sec. 176. 32 MRSA §4907, sub-§§5 and 6 are
38 enacted to read:

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

7 The board shall not refuse to renew a license for any
8 reason other than failure to pay a required fee,
9 unless it has afforded the licensee an opportunity
10 for an adjudicatory hearing. The board shall hold an
11 adjudicatory hearing at the written request of any
12 person who is denied a license without a hearing for
13 any reason other than failure to pay a required fee,
14 provided that the request for hearing is received by
15 the board within 30 days of the applicant's receipt
16 of written notice of the denial of his application,
17 the reasons therefor and his right to request a hear-
18 ing. Hearings shall be conducted in conformity with
19 the Maine Administrative Procedure Act, Title 5,
20 chapter 375, subchapter IV, to the extent applicable.
21 The board may subpoena witnesses, records and docu-
22 ments in any hearing it conducts.

23 6. Contracts. The board may enter into con-
24 tracts to carry out its responsibilities under this
25 chapter.

26 Sec. 177. 32 MRSA §4907, last ¶, as enacted by
27 PL 1979, c. 300, §2, is repealed as follows:

28 ~~Four members shall constitute a quorum.~~

29 Sec. 178. 32 MRSA §4909, first ¶, as enacted by
30 PL 1973, c. 558, §1, is amended to read:

31 An application for certification as a geologist
32 or soil scientist shall be made to the board on a
33 form prescribed by it and shall be accompanied by the
34 prescribed application fee fixed by this chapter.

35 Sec. 179. 32 MRSA §4909, 5th ¶ from the end, as
36 enacted by PL 1973, c. 558, §1, is amended to read:

37 An applicant failing in an examination may be
38 examined again upon filing a new application and the
39 payment of the application fee fixed by this chapter
40 prescribed fees.

1 Sec. 180. 32 MRSA §4909, 4th ¶ from the end, as
2 enacted by PL 1973, c. 558, §1, is amended to read:

3 The board, upon application therefor, on its pre-
4 scribed form and upon the payment of the application
5 and certification fees ~~fixed by this chapter~~, may
6 issue a certificate as a geologist or soil scientist
7 without written examination to any person holding a
8 certificate as a geologist or soil scientist issued
9 to him by any state or country having ~~similar~~ equiva-
10 lent requirements, when the applicant's qualifica-
11 tions meet the other requirements of this chapter and
12 the rules established by the board.

13 Sec. 181. 32 MRSA §4909, last ¶, as amended by
14 PL 1977, c. 694, §646, is repealed.

15 Sec. 182. 32 MRSA §4911, as repealed and
16 replaced by PL 1979, c. 300, §5, is amended to read:

17 §4911. Expiration and renewal

18 Certificates shall expire on December 31st bien-
19 nially and shall become invalid on that date unless
20 renewed. ~~Any individual not renewing a certificate~~
21 ~~within 5 years after expiration will be considered as~~
22 ~~a new applicant.~~ It shall be the duty of the Central
23 Licensing Division of the Department of Business
24 Regulation to notify, at his last known address,
25 every person registered under this chapter of the
26 date of the expiration of his license and the amount
27 of the fee that shall be required for its renewal for
28 a 2-year period. The notice shall be mailed at least
29 one month in advance of the expiration date.

30 A certificate may be renewed up to 90 days after
31 the date of expiration upon payment of a late fee of
32 \$10 in addition to the renewal fee. Any person who
33 submits an application for renewal more than 90 days
34 after the license renewal date shall be subject to
35 all requirements governing new applicants under this
36 chapter, except that the board may, in its discre-
37 tion, giving due consideration to the protection of
38 the public, waive examination if the renewal applica-
39 tion is made within 2 years from the date of the
40 expiration.

1 Sec. 183. 32 MRSA §4912, as amended by PL 1979,
2 c. 34, is repealed and the following enacted in its
3 place:

4 §4912. Fees

5 An application fee and an examination fee may be
6 established by the board in amounts which are reason-
7 able and necessary for their respective purposes.

8 The initial and renewal fees for certification as
9 a geologist or soil scientist shall be \$20 per year.

10 Sec. 184. 32 MRSA §4913, as amended by PL 1977,
11 c. 694, §§647 and 648, is further amended to read:

12 §4913. Complaints; violations; investigations;
13 revocations

14 1. Powers of board and Administrative Court
15 Judge concerning complaints. The board shall investi-
16 gate or cause to be investigated all complaints
17 against certified geologists or soil scientists and
18 persons granted temporary authorizations pursuant to
19 this chapter and all cases of violations of this
20 chapter. The board shall have the authority ~~may,~~
21 pursuant to Title 5, section 10004 ~~to,~~ suspend or
22 revoke a license issued by it. In addition, the board
23 may, ~~after affording a hearing pursuant to Title 5,~~
24 ~~chapter 375, subchapter IV,~~ refuse to issue or renew
25 the license, or the Administrative Court may, pur-
26 suant to Title 4, chapter 25, suspend ~~or,~~ revoke or
27 refuse to renew the license of any registrant who is
28 found guilty of:

29 A. The practice of any fraud or deceit in
30 obtaining a certificate or registration;

31 B. Any gross negligence, incompetence or miscon-
32 duct in the practice of geology or soil science;

33 C. Any felony or any crime adversely affecting
34 the ethical standards of the professions regu-
35 lated by this chapter, subject to the limitations
36 of Title 5, chapter 341; or

1 D. The commission of any unlawful act as set
2 forth in this chapter. Any violation of this
3 chapter or any rule of the board.

4 2. Preferring of charges. Any person may prefer
5 charges register a complaint of fraud, deceit, gross
6 negligence, incompetency or misconduct against any
7 certified geologist or soil scientist. Such charges
8 These complaints shall be in writing and shall be
9 sworn to by the person making them and shall be filed
10 with the secretary of the board.

11 Sec. 185. 32 MRSA §4919, as enacted by PL 1973,
12 c. 558, §1, is repealed and the following enacted in
13 its place;

14 §4919. Penalties; injunction

15 A person who violates any of the provisions of
16 this chapter is guilty of a Class E crime.

17 The State may bring an action in Superior Court
18 to enjoin any person from violating this chapter,
19 regardless of whether proceedings have been or may be
20 instituted in the Administrative Court or whether
21 criminal proceedings have been or may be instituted.

22 Sec. 186. 32 MRSA §5004, as amended by PL 1979,
23 c. 285, §1, is further amended to read:

24 §5004. Board of registration

25 A State Board of Registration for Professional
26 Foresters is established within the Department of
27 Business Regulation to administer the provisions of
28 this chapter. The board shall consist of 5 profes-
29 sional foresters and one public member who shall be
30 selected and appointed by the Governor, and the for-
31 ester members shall be qualified as required by
32 section 5005. The 5 initial forester board members
33 shall be appointed for terms of one, 2, 3, 4 and 5
34 years respectively and the initial public member
35 shall be appointed for a term of 5 years. Upon
36 expiration of the terms of any initial board member,
37 the Governor shall appoint members for a 5-year term.
38 Each board member shall hold office until the expira-
39 tion of the term for which the member is appointed or

1 until such member's successor is appointed and quali-
2 fied. Appointments shall be for 5-year terms, except
3 that no more than one forester member's term may
4 expire in any one calendar year and appointments for
5 terms of less than 5 years may be made in order to
6 comply with this limitation. Upon expiration of a
7 member's term, he shall serve until his successor is
8 qualified and appointed. The successor's term shall
9 be 4 years from the date of the expiration, regard-
10 less of the date of his appointment. No person may
11 be eligible to serve more than 2 full consecutive
12 terms, provided that for this purpose only a period
13 actually served which exceeds 1/2 of the 5-year term
14 shall be deemed a full term.

15 Sec. 187. 32 MRSA §5007, as amended by PL 1975,
16 c. 771, §373, is further amended to read:

17 §5007. Removal of board members; vacancies

18 The Governor may remove any board member for ~~mis-~~
19 ~~conduct, incompetency, neglect of duty or for any~~
20 ~~other sufficient~~ cause. Vacancies in membership of
21 the board shall be filled for the unexpired term in
22 the same manner as for a full-term appointment.

23 Sec. 188. 32 MRSA §5008, as enacted by PL 1975,
24 c. 490, is repealed and the following enacted in its
25 place:

26 §5008. Meetings of the board

27 The board shall meet at least once a year to con-
28 duct its business and elect its officers. Additional
29 meetings shall be held as necessary to conduct the
30 business of the board, and may be convened at the
31 call of the chairman or a majority of the board mem-
32 bers. The board shall elect a chairman, a vice-
33 chairman and a secretary annually. Four members of
34 the board shall constitute a quorum for all purposes.

35 Sec. 189. 32 MRSA §5009, as amended by PL 1979,
36 c. 118, §3, is repealed and the following enacted in
37 its place:

38 §5009. Powers

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

4 1. Licenses; enforcement. The board shall
5 evaluate the qualifications of applicants for licen-
6 sure under this chapter, and shall investigate or
7 cause to be investigated all complaints made to it
8 and all cases of noncompliance with this chapter.

9 2. Rules. The board may, in accordance with
10 procedures established by the Maine Administrative
11 Procedure Act, Title 5, chapter 375, subchapter II,
12 adopt such rules as may be reasonably necessary for
13 the proper performance of its duties and the adminis-
14 tration of this chapter. The board may not make and
15 promulgate rules on forest practices, but may, under
16 this chapter, proceed against any person for alleged
17 violations of any rules or laws made and promulgated
18 by the Legislature or any other duly authorized gov-
19 ernmental body or agency relating to forestry or like
20 subject.

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

27 The board shall not refuse to renew a license for any
28 reason other than failure to pay a required fee,
29 unless it has afforded the licensee as opportunity
30 for an adjudicatory hearing. The board shall hold an
31 adjudicatory hearing at the written request of any
32 person who is denied a license without a hearing for
33 any reason other than failure to pay a required fee,
34 provided that the request for hearing is received by
35 the board within 30 days of the applicant's receipt
36 of written notice of the denial of his application,
37 the reasons for the denial of his application and his
38 right to request a hearing. Hearings shall be con-
39 ducted in conformity with the Maine Administrative
40 Procedure Act, Title 5, chapter 375, subchapter IV,
41 to the extent applicable. The board may subpoena wit-
42 nesses, records and documents in any hearing it con-
43 ducts.

1 4. Contracts. The board may enter into con-
2 tracts to carry out its responsibilities under this
3 chapter.

4 Sec. 190. 32 MRSA §5011, as amended by PL 1977,
5 c. 604, §34, is repealed and the following enacted in
6 its place:

7 §5011. Records

8 The board shall keep such records and minutes as
9 are necessary to the ordinary dispatch of its func-
10 tions.

11 Sec. 191. 32 MRSA §5013, as amended by PL 1975,
12 c. 770, §§193 and 194, is further amended to read:

13 §5013. Applications; fees

14 Applications for registration shall be made on
15 forms prescribed and furnished by the board, and
16 shall contain statements made under oath as a ~~cit-~~
17 ~~izenship~~; to residence, the applicant's education, a
18 detailed summary of his technical experience, and
19 shall contain the names of not less than 5 refer-
20 ences, 3 or more of whom shall be foresters having
21 personal or professional knowledge of his forestry
22 experience. Notwithstanding any other provision of
23 law, any communications solicited or received by the
24 board as references may be kept confidential by the
25 board and any discussion of ~~such~~ these references may
26 be conducted in executive session. An application
27 fee may be established by the board in an amount
28 which is reasonable and necessary for its purpose.
29 The registration fee for a license as a registered
30 professional forester shall be fixed by the board,
31 but shall not exceed \$25 for 2 years; ~~1/2~~ of which
32 fee shall ~~accompany~~ the application, the balance to
33 and shall be paid before the issuance of the license.
34 Should the applicant fail to remit the ~~remaining bal-~~
35 ance registration fee within 30 days after being
36 notified by certified mail that his application has
37 been accepted, he shall forfeit the right to have a
38 license so issued and ~~such~~ the applicant may be re-
39 quired to again submit an original application and
40 upon payment of an original fee. Should the board
41 deny the issuance of a license to any applicant, the

1 fee deposited shall be retained by the board as an
2 application fee.

3 Sec. 192. 32 MRSA §5014, as enacted by PL 1975,
4 c. 490, is amended to read:

5 §5014. Issuance of license; endorsement of documents

6 The board shall issue a license upon payment of
7 the registration fee as provided herein in this
8 section to any applicant who, in the opinion of the
9 board, has satisfactorily met all the requirements of
10 this chapter. Licenses shall show the full name of
11 the registrant, shall have a serial number, and shall
12 be signed by the chairman and secretary under the
13 seal of the board. The issuance of a license by the
14 board shall be evidence that the person named therein
15 is entitled to all the rights and privileges of a
16 registered professional forester while said the li-
17 cense remains unrevoked or unexpired. Plans, maps and
18 reports issued by the registrant shall be endorsed
19 with his name and license number during the life of
20 the registrant's license, but it shall be a misde-
21 meaner Class E crime for anyone to endorse any docu-
22 ment with said that name and license number after the
23 license of the registrant named thereon has expired
24 or has been revoked or suspended, unless said the li-
25 cense has been renewed or reissued. It shall be a
26 misdemeanor is a Class E crime for any registered
27 professional forester to endorse any plan, map or
28 report unless he shall have actually prepared such
29 plan, map or report, or shall have been in the actual
30 charge of the preparation thereof.

31 Sec. 193. 32 MRSA §5015, as amended by PL 1979,
32 c. 285, §§5 and 6, is further amended to read:

33 §5015. Expiration and renewal of license

34 The Central Licensing Division of the Department
35 of Business Regulation shall compile and maintain a
36 complete and up-to-date list of all licensed for-
37 esters in the State. The list shall be made available
38 to any person upon request at cost.

39 Licenses shall expire on the 31st of December
40 31st 2 years following their issuance or renewal and

1 shall become invalid on that date unless renewed. It
2 shall be the duty of the Central Licensing Division
3 to notify, at his last registered address, every
4 person registered under this chapter of the date of
5 the expiration of his license and the amount of the
6 fee that shall be required for its renewal for 2
7 years, ~~such that~~ notice to be mailed at least one
8 month in advance of the date of the expiration of
9 ~~said that~~ license. The board shall fix the renewal
10 fee for licenses, which fee shall not exceed the sum
11 of \$25 for 2 years. Renewal of licenses for the fol-
12 lowing 2 years may be effected at any time during the
13 month of December of the year in which ~~such the~~ li-
14 cense is due for renewal by payment of the renewal
15 fee fixed by the board. ~~Such license may also be~~
16 ~~renewed within the ensuing 6 months by payment of an~~
17 ~~additional fee of \$1 per month, or fraction thereof,~~
18 ~~that the fixed renewal is delayed beyond the month of~~
19 ~~December. A license may be renewed up to 90 days~~
20 ~~after the date of expiration upon payment of a late~~
21 ~~fee of \$10 in addition to the renewal fee. Any~~
22 ~~person who submits an application for renewal more~~
23 ~~than 90 days after the license renewal date shall be~~
24 ~~subject to all requirements governing new applicants~~
25 ~~under this chapter. The board shall make an exception~~
26 ~~to the foregoing renewal provision in the case of a~~
27 ~~person who is in the Armed Services of the United~~
28 ~~States.~~

29 Sec. 194. 32 MRSA §5018, first ¶, as repealed
30 and replaced by PL 1977, c. 694, §650, is amended to
31 read:

32 The board ~~shall have the power may,~~ pursuant to
33 Title 5, section 10004 ~~to,~~ revoke or suspend the li-
34 cense of a professional forester. In addition, the
35 board may, ~~after affording a hearing pursuant to~~
36 ~~Title 5, chapter 375, subchapter IV,~~ refuse to issue
37 or renew the license, or the Administrative Court
38 may, pursuant to Title 4, chapter 25, revoke ~~or,~~ sus-
39 pend or refuse to renew the license, of a profes-
40 sional forester who has been found guilty of any
41 deceit, misconduct, misrepresentation, fraud, incom-
42 petence or gross negligence in his practice, or has
43 been guilty of any fraud or deceit in obtaining his
44 registration or certification, or aids or abets any
45 person alleged to have been defrauded in the viola-

1 tion of any provisions of this chapter or fails in
2 any material respect to comply with the provisions of
3 this chapter.

4 Sec. 195. 32 MRSA §5018, 2nd ¶, as repealed and
5 replaced by PL 1975, c. 623, §51-D-2, is amended to
6 read:

7 Any person ~~alleged to have been defrauded~~ may
8 ~~prefer charges~~ register a complaint of fraud, deceit,
9 gross negligence, incompetency or misconduct against
10 any registrant. ~~Such charges~~ These complaints shall
11 be in writing, shall be sworn to by the person making
12 them and shall be filed with the board.

13 Sec. 196. 32 MRSA §5019, as enacted by PL 1975,
14 c. 490, is amended to read;

15 §5019. Violations and penalties

16 It shall be unlawful for any person to practice
17 forestry or offer to practice forestry or to use in
18 connection with his name, or otherwise assume, use or
19 advertise any title or description that directly or
20 indirectly conveys the impression that he is a regis-
21 tered professional forester in this State unless he
22 is registered or exempt in accordance with the provi-
23 sions of this chapter. Any person who shall present,
24 or attempt to use as his own, the license of another,
25 or any person who shall give any false or forged evi-
26 dence to the board or any member thereof in obtaining
27 a license, or any person who shall attempt to use an
28 expired, suspended or revoked license, or any person,
29 firm, partnership or corporation who shall violate
30 any provision of this chapter ~~shall be guilty of a~~
31 ~~misdemeanor, and upon conviction, shall be fined not~~
32 ~~less than \$100 or more than \$200~~ is guilty of a Class
33 E crime for each offense. The board, or any person or
34 persons designated by the board to act on its behalf,
35 is empowered to prefer charges for any violation of
36 this chapter in any court of competent jurisdiction
37 in any county in the State in which ~~such~~ the viola-
38 tion shall have occurred. It shall be the duty of all
39 duly constituted officers of the law of the State, or
40 of any political subdivisions thereof, to enforce the
41 provisions of this chapter and to prosecute any per-
42 sons, firms, partnerships or corporations violating

1 the same. The Attorney General shall act as legal
2 advisor to the board and shall render such legal
3 assistance as may be necessary in carrying out the
4 provisions of this chapter.

5 The State may bring an action in Superior Court
6 to enjoin any person from violating this chapter,
7 regardless of whether proceedings have been or may be
8 instituted in the Administrative Court or whether
9 criminal proceedings have been or may be instituted.

10 Sec. 197. 32 MRS.A §6010, as enacted by PL 1975,
11 c. 705, §4, is repealed and the following enacted in
12 its place:

13 §6010. Membership; terms

14 The Board of Examiners on Speech Pathology and
15 Audiology shall consist of 7 members appointed by the
16 Governor. All members shall have been residents of
17 this State for at least one year immediately pre-
18 ceding their appointment. Two members shall have
19 been engaged full time in the practice of speech
20 pathology for at least one year immediately preceding
21 their appointment. Two members shall have been
22 engaged full time in the practice of audiology for at
23 least one year immediately preceding their appoint-
24 ment. All such professional members shall at all
25 times be holders of valid licenses for the practice
26 of speech pathology or audiology. The additional
27 members shall consist of a physician, licensed pur-
28 suant to chapter 48, with specialized training in the
29 field of otolaryngology and of 2 representatives of
30 the public.

31 Appointments shall be for 3-year terms, except
32 that the terms of at least 2 members shall expire
33 each calendar year and appointments of less than 3
34 years may be made in order to comply with this
35 limitation. No person may be eligible to serve more
36 than 2 full consecutive terms, provided that, for
37 this purpose only, a period actually served which
38 exceeds 1/2 of the 3-year term shall be deemed a full
39 term. Upon expiration of the member's term, he shall
40 serve until his successor is qualified and appointed,
41 and the successor's term shall be 3 years from the
42 date of that expiration regardless of the date of his

1 appointment. Any vacancy on the board shall be
2 filled by appointment by the Governor. Any person
3 appointed to fill a vacancy shall have the same qual-
4 ifications as the board member being replaced and
5 shall hold office during the unexpired term of the
6 member whose place is filled. A board member may be
7 removed by the Governor for cause.

8 Sec. 198. 32 MRSA §6011, as enacted by PL 1975,
9 c. 705, §4, is repealed and the following enacted in
10 its place:

11 §6011. Meetings; chairman; quorum

12 The board shall meet at least once a year to con-
13 duct its business and to elect a chairman and a
14 secretary. Additional meetings shall be held as
15 necessary to conduct the business of the board, and
16 may be convened at the call of the chairman or a
17 majority of the board members. All meetings of the
18 board shall be open to the public, except that the
19 board may hold closed sessions to prepare, approve,
20 grade or administer examinations, or to prepare or
21 provide a response upon request of an applicant for
22 review of his examination. Four members of the board
23 shall constitute a quorum for all purposes.

24 Sec. 199. 32 MRSA §6013, sub-§1, as enacted by
25 PL 1975, c. 705, §4, is amended to read:

26 1. Board to administer, coordinate and enforce.
27 The board shall administer, coordinate and enforce
28 this chapter, evaluate the qualifications and super-
29 vide the examinations of applicants for licensure or
30 under this chapter and shall, at its discretion,
31 investigate allegations of practices violating this
32 chapter. The board shall keep such records and min-
33 utes as are necessary to the ordinary dispatch of its
34 functions.

35 Sec. 200. 32 MRSA §6013, sub-§2, as amended by
36 PL 1977, c. 694, §655, is repealed and the following
37 enacted in its place:

38 2. Rules. The board may, in accordance with the
39 Maine Administrative Procedure Act, Title 5, chapter
40 375, subchapter II, adopt rules commensurate with the

1 authority vested in it by this chapter including, but
2 not limited to, rules relating to professional con-
3 duct and establishing ethical standards of practice.
4 The rules adopted by the board shall govern and con-
5 trol the professional conduct of every person who
6 holds a license to practice speech pathology or audi-
7 ology in this State. A copy of all rules adopted by
8 vote of the board shall be sent forthwith to all per-
9 sons licensed under this chapter.

10 Sec. 201. 32 MRSA §6013, sub-§3, as enacted by
11 PL 1975, c. 705, §4, is repealed and the following
12 enacted in its place:

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

19 The board shall not refuse to renew a license for any
20 reason other than failure to pay a required fee,
21 unless it has afforded the licensee an opportunity
22 for an adjudicatory hearing. The board shall hold an
23 adjudicatory hearing at the written request of any
24 person who is denied a license without a hearing for
25 any reason other than failure to pay a required fee,
26 provided that the request for hearing is received by
27 the board within 30 days of the applicant's receipt
28 of written notice of the denial of his application,
29 the reasons therefor and his right to request a hear-
30 ing. Hearings shall be conducted in conformity with
31 the Maine Administrative Procedure Act, Title 5,
32 chapter 375, subchapter IV, to the extent applicable.
33 The board may subpoena witnesses, records and docu-
34 ments in any hearing it conducts.

35 Sec. 202. 32 MRSA 6013, sub-§5 is enacted to
36 read:

37 5. Contracts. The board may enter into con-
38 tracts to carry out its responsibilities under this
39 chapter.

40 Sec. 203. 32 MRSA §6023, as enacted by PL 1975,
41 c. 705, §4, is amended to read:

1 §6023. Waiver of examination

2 The board may waive the examination and grant
3 licensure to any applicant who shall present proof of
4 current licensure in another state, including the
5 District of Columbia or a territory of the United
6 States which maintains professional standards ~~consid-~~
7 ~~ered deemed~~ by the board to be equivalent to those
8 set forth in this chapter, provided that no cause
9 exists for denial of a license under section 6026.

10 The board shall waive the examination and grant
11 licensure to any person who possesses credentials
12 equivalent to the Certificate of Clinical Competency
13 of the American Speech and Hearing Association in the
14 area for which such person is applying for licensure.
15 Application for such licensure must be made within
16 180 days after the effective date of this chapter.

17 The board shall waive the examination and grant
18 licensure as a speech pathologist to any person who
19 possesses a current certificate issued by the State
20 Department of Educational and Cultural Services on
21 the effective date of this Act. Application for
22 licensure must be made within 180 days after the
23 effective date of this Act, providing such person has
24 been engaged in private practice as a speech pathol-
25 ogist for at least 24 months prior to the effective
26 date of this Act. Private practice, for purposes of
27 this section, is defined as a minimum of 120 hours
28 per year of professional services for pay outside of
29 school employment as a speech pathologist. Applica-
30 tion for such licensure must be made within 180 days
31 after the effective date of this chapter.

32 Sec. 204. 32 MRSA §6025, as enacted by PL 1975,
33 c. 705, §4, is amended to read:

34 §6025. Temporary license

35 An applicant, who fulfills all the requirements
36 for licensure except professional employment or exam-
37 ination, may apply to the board for a temporary li-
38 cense. Upon receiving an application, accompanied by
39 the fee established in section 6028, the board shall
40 issue a temporary license, which entitles the appli-
41 cant to practice speech pathology or audiology under

1 supervision while completing the requirements for
2 licensure. No temporary license ~~shall~~ may be issued
3 by the board under this section unless the applicant
4 shows to the satisfaction of the board that ~~she or~~ he
5 is or will be supervised and trained by a person who
6 holds a license or the Certificate of Clinical Competency of the American Speech and Hearing Association
7 in the appropriate specialty. The temporary license
8 shall be effective for one year and may be renewed
9 upon by the board approval.
10

11 Sec. 205. 32 MRSA §6026, as amended by PL 1977,
12 c. 694, §656, is further amended to read:

13 §6026. License; refusal to issue or renew; suspen-
14 sion; revocation

15 The board shall investigate or cause to be investi-
16 gated all complaints made to it and all cases of
17 noncompliance with or violation of this chapter. ~~The~~
18 ~~board shall have the authority, after hearing, to~~
19 ~~refuse to issue or renew a license. If the board~~
20 ~~finds that cause exists for suspension or revocation~~
21 ~~of licenses, it shall file its complaint with the~~
22 ~~Administrative Court. The Administrative Court Judge~~
23 ~~shall have the power to suspend or revoke the license~~
24 ~~of any licensed speech pathologist or audiologist who~~
25 ~~is found guilty of. The board may suspend or revoke~~
26 ~~a license pursuant to Title 5, section 10004. The~~
27 ~~board may refuse to issue or renew a license or the~~
28 ~~Administrative Court may revoke, suspend or refuse to~~
29 ~~renew a license of a speech pathologist or audiologi-~~
30 ~~st for any of the following reasons:~~

31 1. Obtaining license by fraud. Obtaining a li-
32 cense by means of fraud, misrepresentation or con-
33 cealment of material facts;

34 2. Guilty of unprofessional conduct. Being
35 guilty of unprofessional conduct as defined by the
36 rules established by the board or violating the Code
37 of Ethics adopted and published by the board;

38 3. Violation of any lawful order, rule, etc.
39 Violating any lawful order, or rule ~~or regulation~~
40 ~~rendered and~~ adopted by the board;

1 4. Conviction of a criminal offense. Being Sub-
2 ject to the limitations of Title 5, chapter 341,
3 being convicted of a felony in any court of this
4 State the United States if the acts for which she or
5 he is convicted are found by the board to have a
6 direct bearing on whether she or he should be
7 entrusted to serve the public in the capacity of a
8 speech pathologist or audiologist; or

9 5. Violations. Violating any provision of this
10 chapter.

11 The board, for reasons it may deem sufficient,
12 may reissue a license to any person whose license has
13 been revoked, providing 4 or more members of the
14 board vote in favor of such reissuance.

15 Sec. 206. 32 MRSA §6027, first ¶, as enacted by
16 PL 1975, c. 705, §4, is amended to read:

17 Licenses issued under this chapter expire bienni-
18 ally and become invalid at midnight, January 31st of
19 every other year, or at such other times as the Com-
20 missioner of Business Regulation may designate, if
21 not renewed. Every person licensed under this chapter
22 shall, on or before the biennial expiration date, pay
23 a fee for renewal of license to the board. The board
24 shall notify every person licensed under this chapter
25 of the date of expiration of his license and the
26 amount of fee required for its renewal for a 2-year
27 period. The notice shall be mailed to such person's
28 last known address at least 30 days in advance of the
29 expiration of such license. ~~No person who requests~~
30 ~~renewal of license, whose license has expired, shall~~
31 ~~be required to submit to examination as a condition~~
32 ~~to renewal, if such renewal application is made~~
33 ~~within 2 years from the date of such expiration.~~
34 Renewals are contingent upon evidence of participa-
35 tion in continuing professional education, such as
36 attending professional meetings and regional inserv-
37 ice programs, as determined by the board. A license
38 may be renewed up to 90 days after the date of its
39 expiration upon payment of a late fee of \$10 in addi-
40 tion to the renewal fee. Any person who submits an
41 application for renewal more than 90 days after the
42 license expiration date shall be subject to all re-
43 quirements governing new applicants under this chap-

1 ter, except that the board may in its discretion,
2 giving due consideration to the protection of the
3 public, waive examination if that renewal application
4 is made within 2 years from the date of the expira-
5 tion.

6 Sec. 207. 32 MRSA §6028, first ¶, as enacted by
7 PL 1975, c. 705, §4, is amended to read:

8 An application fee and an examination fee may be
9 established by the board in amounts which are reason-
10 able and necessary for their respective purposes.
11 Every person to whom an initial license is issued
12 pursuant to this chapter shall pay a license fee of
13 \$25. The fee for a temporary license shall be \$25.
14 The fee for biennial renewal of a license shall be
15 \$50. The board may, by regulation, provide for the
16 waiver of all or part of the fee for an initial li-
17 cence, if it is issued less than 120 days before the
18 date on which it will expire. When the unexpired
19 term of an initial license of an applicant is or will
20 be more than one year at time of licensure, the board
21 may, by regulation, require such the applicants to
22 pay an additional fee not to exceed 1/2 the biennial
23 renewal fee. The fee for an examination shall be an
24 amount established by the board, not to exceed \$25.

25 Sec. 208. 32 MRSA §6030, as enacted by PL 1975,
26 c. 705, §4, is amended to read:

27 §6030. Continuing professional education

28 The board shall require the applicant for license
29 renewal to present evidence of his the satisfactory
30 completion of continuing professional education of
31 persons subject to this chapter in accordance with
32 rules adopted by the board.

33 Sec. 209. 32 MRSA §6031, as enacted by PL 1975,
34 c. 705, §4, is repealed and the following enacted in
35 its place:

36 §6031. Penalty

37 Every person found guilty of violating a provi-
38 sion of this chapter is guilty of a Class E crime.

1 The State may bring an action in Superior Court
2 to enjoin any person from violating this chapter,
3 regardless of whether proceedings have been or may be
4 instituted in the Administrative Court or whether
5 criminal proceedings have been or may be instituted.

6 Sec. 210. 32 MRSA §6208, as enacted by PL 1977,
7 c. 466, §2, is repealed.

8 Sec. 211. 32 MRSA §6208-A is enacted to read:

9 §6208-A. Appointment; terms; vacancies

10 1. Membership. The Board of Registration of
11 Substance Abuse Counselors, as established, shall
12 consist of 9 members appointed by the Governor.
13 Seven members shall be registered substance abuse
14 counselors. Two members shall be nonproviders, one
15 of whom shall be a consumer.

16 2. Term of office. Appointments shall be for
17 3-year terms, except that no more than 3 members'
18 terms may expire in any one calendar year and
19 appointments for terms of less than 3 years may be
20 made in order to comply with this limitation. Upon
21 expiration of a member's term, he shall serve until
22 his successor is qualified and appointed. The
23 successor's term shall be 3 years from the date of
24 the expiration, regardless of the date of his
25 appointment.

26 3. Vacancy. Any vacancy in the board shall be
27 filled by appointment of a person, qualified as was
28 the board member being replaced, to hold office
29 during the unexpired term.

30 4. Limitation. No person may be eligible to
31 serve more than 3 full consecutive terms, provided
32 that for this purpose only a period actually served
33 which exceeds 1/2 of the 3-year term shall be deemed
34 a full term.

35 Sec. 212. 32 MRSA §6209, as enacted by PL 1977,
36 c. 466, §2, is repealed and the following enacted in
37 its place:

38 §6209. Removal of board members

1 A board member may be removed by the Governor for
2 cause.

3 Sec. 213. 32 MRSA §6210, as enacted by PL 1977,
4 c. 466, §2, is repealed and the following enacted in
5 its place:

6 §6210. Meetings; elections; quorum

7 The board shall meet at least once a year to con-
8 duct is business and elect its officers. Additional
9 meetings shall be held as necessary to conduct the
10 the business of the board, and may be convened at the
11 call of the chairman or a majority of the board mem-
12 bers. Five members of the board shall constitute a
13 quorum for all purposes.

14 The board may elect a chairman, secretary and
15 treasurer. The board shall keep such records and
16 minutes as are necessary to the ordinary dispatch of
17 its functions.

18 Sec. 214. 32 MRSA §6212, sub-§4, as enacted by
19 PL 1977, c. 466, §2, is amended to read:

20 4. Rules. The board shall have the power to may
21 adopt such rules and regulations and establish such
22 advisory committees as the board may deem necessary
23 and proper to carry out this chapter. All rules
24 shall be adopted in accordance with the procedures
25 established by the Maine Administrative Procedure
26 Act, Title 5, chapter 375, subchapter II.

27 Sec. 215. 32 MRSA §6212, sub-§6, as enacted by
28 PL 1977, c. 466, §2, is repealed and the following
29 enacted in its place:

30 6. Complaints. The board shall investigate, or
31 cause to be investigated, all complaints made to it
32 and all cases of noncompliance with this chapter.

33 Sec. 216. 32 MRSA §6212, sub-§7 is enacted to
34 read:

35 7. Hearings. Hearings may be conducted by the
36 board to assist with investigations, to determine
37 whether grounds exist for suspension, revocation or

1 denial of registration, or as otherwise deemed neces-
2 sary to the fulfillment of its responsibilities under
3 this chapter.

4 The board shall not refuse to renew registration for
5 any reason other than failure to pay a required fee,
6 unless it has afforded the licensee an opportunity
7 for an adjudicatory hearing. The board shall hold an
8 adjudicatory hearing at the written request of any
9 person who is denied registration without a hearing
10 for any reason other than failure to pay a required
11 fee, provided that the request for hearing is
12 received by the board within 30 days of the appli-
13 cant's receipt of written notice of the denial of his
14 application, the reasons for the denial of his appli-
15 cation and his right to request a hearing. Hearings
16 shall be conducted in conformity with the Maine
17 Administrative Procedure Act, Title 5, chapter 375,
18 subchapter IV, to the extent applicable. The board
19 may subpoena witnesses, records and documents in any
20 hearing it conducts.

21 Sec. 217. 32 MRSA §6215, as enacted by PL 1977,
22 c. 466, §2, is repealed and the following enacted in
23 its place:

24 §6215. Application; membership fees

25 Application for registration as a registered sub-
26 stance abuse counselor, or provisionally registered
27 substance abuse counselor, shall be on forms pre-
28 scribed and furnished by the board. Application fees
29 and examination fees may be established by the board
30 in amounts which are reasonable and necessary for
31 their respective purposes. A biennial registration
32 fee for registered substance abuse counselors shall
33 be established by the board in an amount not to
34 exceed \$50 biennially. A triennial registration fee
35 for provisionally registered substance abuse counse-
36 lors shall be established by the board in an amount
37 not to exceed \$50 triennially.

38 Sec. 218. 32 MRSA §6217-A, as enacted by PL
39 1977, c. 694, §658, is repealed and the following
40 enacted in its place:

41 §6217-A. Suspension and revocation

1 The board may suspend or revoke a certificate of
2 registration pursuant to Title 5, section 10004. In
3 addition, the board may refuse to issue or renew or
4 the Administrative Court may suspend, revoke or
5 refuse to renew a certificate of registration on any
6 of the following grounds:

7 1. Fraud or deceit. The practice of fraud or
8 deceit in obtaining a certificate of provisional
9 registration or a certificate of registration under
10 this chapter or in connection with services rendered
11 as a substance abuse counselor;

12 2. Active abuse. Active abuse of alcohol, or
13 any other drug, which in the judgment of the board is
14 detrimental to the performance or competency of a
15 substance abuse counselor;

16 3. Mental incompetency. A legal finding of
17 mental incompetency;

18 4. Aiding and abetting misrepresentation. Aid-
19 ing or abetting a person, not duly certified as a
20 provisionally registered or registered substance
21 abuse counselor, in representing oneself as a
22 provisionally registered or registered substance
23 abuse counselor in this State;

24 5. Unprofessional conduct or negligence. Any
25 gross negligence, incompetency or misconduct in the
26 performance of substance abuse services;

27 6. Criminal conviction. Subject to the limita-
28 tions of Title 5, chapter 341, conviction of a Class
29 A, B or C crime or of a crime which, if committed in
30 this State, would be punishable by one year or more
31 of imprisonment; or

32 7. Valid cause. Any other valid cause.

33 Sec. 219. 32 MRSA §6218, as repealed and
34 replaced by PL 1977 c. 694, §659, is repealed and the
35 following enacted in its place:

36 §6218. Issuance after denial, suspension or revoca-
37 tion

1 The board, for reasons it may deem sufficient,
2 may issue or reissue a certificate of provisional
3 registration or certificate of registration to any
4 person whose certificate of provisional registration
5 or certificate of registration has been denied, sus-
6 pending or revoked, provided that at least 5 members
7 of the board vote in favor of that issuance.

8 Sec. 220. 32 MRSA §6219, 2nd ¶, as enacted by PL
9 1977, c. 466, §2, is amended to read:

10 Any person, who fails to renew his registration
11 prior to its date of expiration, shall be stricken
12 from the rolls and his registration may be renewed
13 only after again meeting the requirements of this
14 chapter. Registration may be renewed up to 90 days
15 after the date of expiration upon payment of a late
16 fee of \$10 in addition to the renewal fee. Any
17 person who submits an application for renewal more
18 than 90 days after the license renewal date shall be
19 subject to all requirements governing new applicants
20 under this chapter, except that the board may in its
21 discretion, giving due consideration to the protec-
22 tion of the public, waive examination if that renewal
23 application is made within 2 years from the date of
24 that expiration. The board shall be responsible for
25 mailing notification of the date of expiration of a
26 certificate of provisional registration or a certifi-
27 cate of registration to any provisionally registered
28 or registered substance abuse counselor not later
29 than 30 days prior to the date of expiration.

30 Sec. 221. 32 MRSA §6220, as enacted by PL 1977,
31 c. 466, §2, is amended to read:

32 §6220. Reciprocity

33 The board may waive any examinations for appli-
34 cants who are recognized by other credentialing bod-
35 ies as having met qualifications and standards deter-
36 mined by the board as comparable to be equivalent
37 to those set forth in this chapter.

38 Sec. 222. 32 MRSA §7002, as enacted by PL 1977,
39 c. 673, §3, is amended by adding at the end a new
40 paragraph to read:

1 The State may bring an action in Superior Court
2 to enjoin any person from violating this chapter,
3 regardless of whether proceedings have been or may be
4 instituted in the Administrative Court or whether
5 criminal proceedings have been or may be instituted.

6 Sec. 223. 32 MRSA §§7026 and 7027, as enacted by
7 PL 1977, c. 673, §3, are repealed and the following
8 enacted in their place:

9 §7026. State Board of Social Worker Registration

10 The State Board of Social Worker Registration, as
11 established in the Department of Business Regulation,
12 shall administer this chapter. The board shall con-
13 sist of 8 members appointed by the Governor. Four
14 members of the board shall be certified social work-
15 ers, 2 shall be registered social workers, one shall
16 be an associate social worker and there shall be a
17 public member. In addition, board members shall
18 meet the qualifications required under section 7027.

19 Appointments shall be for 3-year terms, except
20 that no more than 3 members' terms may expire in any
21 one calendar year and appointments for terms of less
22 than 3 years may be made in order to comply with this
23 limitation. No person may be eligible to serve more
24 than 3 full consecutive terms, provided that for this
25 purpose only a period actually served which exceeds
26 1/2 of the 3-year term shall be deemed a full term.
27 Upon expiration of a member's term, he shall serve
28 until his successor is qualified and appointed. The
29 successor's term shall be 3 years from the date of
30 the expiration, regardless of the date of his
31 appointment. Any vacancy occurring prior to the
32 expiration of the specified term shall be filled by
33 appointment for the unexpired term.

34 Prior to the filling of any vacancies, the Gover-
35 nor may solicit recommendations of candidates from
36 the Maine Chapter of the National Association of
37 Social Workers and such other social welfare orga-
38 nizations as he deems appropriate.

39 §7027. Qualifications

1 Members of the board shall be residents of this
2 State, and shall be trustworthy and competent to ful-
3 fill the responsibilities imposed by this chapter.
4 Each board member other than the public member shall
5 have been engaged in the active practice of social
6 work as certified, registered or associate social
7 workers, respectively, for not less than 5 years
8 prior to appointment.

9 The Governor may remove any member for cause.

10 Sec. 224. 32 MRSA §7029, 2nd ¶, as enacted by PL
11 1977, c. 673, §3, is repealed and the following
12 enacted in its place:

13 The board shall meet at least once a year to con-
14 duct its business and elect its officers. Additional
15 meetings shall be held as necessary to conduct the
16 business of the board, and may be convened at the
17 call of the chairman or a majority of the board mem-
18 bers. Five members of the board shall constitute a
19 quorum for the transaction of business.

20 Sec. 225. 32 MRSA §7030, as enacted by PL 1977,
21 c. 673, §3, is repealed and the following enacted in
22 its place:

23 §7030. Powers

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

27 1. Licenses; enforcement. The board shall
28 evaluate the qualifications and supervise the exami-
29 nation of applicants for licensure under this chap-
30 ter, and shall investigate or cause to be investi-
31 gated all complaints made to it and all cases of non-
32 compliance with this chapter.

33 2. Rules. The board may, in accordance with
34 procedures established by the Maine Administrative
35 Procedure Act, Title 5, chapter 375, subchapter II,
36 adopt such rules as may be reasonably necessary for
37 the proper performance of its duties and the adminis-
38 tration of this chapter.

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

7 The board shall not refuse to renew a license for any
8 reason other than failure to pay a required fee,
9 unless it has afforded the licensee an opportunity
10 for an adjudicatory hearing. The board shall hold an
11 adjudicatory hearing at the written request of any
12 person who is denied a license without a hearing for
13 any reason other than failure to pay a required fee,
14 provided that the request for hearing is received by
15 the board within 30 days of the applicant's receipt
16 of written notice of the denial of his application,
17 the reasons therefor and his right to request a hear-
18 ing. Hearings shall be conducted in conformity with
19 the Maine Administrative Procedure Act, Title 5,
20 chapter 375, subchapter IV, to the extent applicable.
21 The board may subpoena witnesses, records and docu-
22 ments in any hearing it conducts.

23 4. Contracts. The board may enter into con-
24 tracts to carry out its responsibilities under this
25 chapter.

26 Sec. 226. 32 MRSA §7053, first ¶, as enacted by
27 PL 1977, c. 673, §3, is amended to read:

28 To be eligible for certification as a certified
29 social worker, registered social worker or an
30 associate social worker, an applicant shall be at
31 least 18 years of age, ~~of good moral character~~ and a
32 resident of this State, and shall satisfactorily pass
33 any examination as the board may prescribe by its
34 rules and regulations. Each applicant shall demon-
35 strate that he is trustworthy and competent to engage
36 in the practice of social work in such a manner as to
37 safeguard the interests of the public.

38 Sec. 227. 32 MRSA §7056, as enacted by PL 1977,
39 c. 673, §3, is amended to read:

40 §7056. Application; fees

1 Application for registration and certification as
2 a certified, registered or associate social worker
3 shall be on a form prescribed and furnished by the
4 board. An application fee and an examination fee may
5 be established by the board in amounts which are
6 reasonable and necessary for their respective pur-
7 poses. The registration fee for an associate social
8 worker shall be established by the board in an amount
9 not to exceed \$25. The fee All fees shall accompany
10 the application.

11 The registration fee for a registered social
12 worker shall be established by the board in an amount
13 not to exceed \$50. The fee All fees shall accompany
14 the application.

15 The registration fee for a certified social work-
16 er shall be established by the board in an amount not
17 to exceed \$75. The fee All fees shall accompany the
18 application.

19 Should the board deny the issuance of a certifi-
20 cate of registration to any applicant, the fee appli-
21 cation and examination fees shall be nonrefundable.

22 Sec. 228. 32 MRSA §7057, 2nd ¶, as enacted by PL
23 1977, c. 673, §3, is amended to read:

24 The passing grade on any examination shall be not
25 less than 70%. A candidate failing any examination
26 may apply for reexamination, which shall be granted
27 upon payment of a fee established by the board in an
28 amount not in excess of the original application fee
29 and examination fees. Any candidate for registration
30 having an average grade of less than 50% in his writ-
31 ten examination may not apply for reexamination for
32 one year.

33 Sec. 229. 32 MRSA §7059, as enacted by PL 1977,
34 c. 673, §3, is repealed and the following enacted in
35 its place:

36 §7059. Suspension, revocation and reissuance

37 1. Board or Administrative Court revocation.
38 The board may suspend or revoke a certificate of
39 registration pursuant to Title 5, section 10004. In

1 addition, the board may refuse to issue or renew or
2 the Administrative Court may suspend, revoke or
3 refuse to renew a certificate of registration on any
4 of the following grounds:

5 A. The practice of fraud or deceit in obtaining
6 a certificate of registration under this chapter
7 or in connection with service rendered as a cer-
8 tified, registered or associate social worker;

9 B. Addiction, as confirmed by medical findings,
10 to the use of alcohol or other drugs, which has
11 resulted in the certified, registered or
12 associate social worker being unable to perform
13 his duties or perform those duties in a manner
14 which would not endanger the health or safety of
15 the clients to be served;

16 C. A medical finding of mental incompetency;

17 D. Aiding or abetting a person not duly certi-
18 fied as a certified, registered or associate
19 social worker in representing himself as a certi-
20 fied, registered or associate social worker in
21 this State;

22 E. Any gross negligence, incompetency or miscon-
23 duct in the practice of professional social work;
24 or

25 F. Subject to the limitations of Title 5, chap-
26 ter 341, conviction of a Class A, B or C crime or
27 of a crime which, if committed in this State,
28 would be punishable by one year or more of
29 imprisonment.

30 Any person may register a complaint against any
31 certified, registered or associate social worker. Any
32 complaints shall be in writing, shall be sworn to by
33 the person making them and shall be filed with the
34 secretary of the board.

35 The board, for reasons it may deem sufficient,
36 may reissue a certificate of registration as a certi-
37 fied, registered or associate social worker to any
38 person whose certificate of registration has been
39 revoked, provided that 5 or more members of the board

1 vote in favor of that reissuance. A new certificate
2 of registration as a certified, registered or
3 associate social worker, to replace any certificate
4 revoked, lost, destroyed or mutilated, may be issued,
5 subject to the rules of the board. A charge of \$3
6 shall be made for that issuance.

7 Sec. 230. 32 MRSA §7060, first ¶, as enacted by
8 PL 1977, c. 673, §3, is amended to read:

9 Certificates of registration shall expire bienni-
10 ally on December 31st or at such other times as the
11 Commissioner of Business Regulation may designate.
12 Biennial fees for renewal of registration shall be
13 set by the board in an amount not to exceed \$20 and
14 shall be due and payable biennially on or before the
15 first day of January. Every 2nd renewal shall be con-
16 tingent upon evidence of participation in a continu-
17 ing professional education course or program as
18 approved by the board. ~~Any person who fails to renew~~
19 ~~his license within 90 days following the expiration~~
20 ~~date shall be required to take an examination. Regis-~~
21 ~~tration may be renewed up to 90 days after the date~~
22 ~~of expiration upon payment of a late fee of \$10 in~~
23 ~~addition to the renewal fee. Any person who submits~~
24 ~~an application for renewal more than 90 days after~~
25 ~~the renewal date shall be subject to all requirements~~
26 ~~governing new applicants under this chapter, except~~
27 ~~that the board may in its discretion, giving due con-~~
28 ~~sideration to the protection of the public, waive~~
29 ~~examination if the renewal application is made within~~
30 ~~2 years from the date of the expiration.~~

31 Sec. 231. 32 MRSA §7060, 2nd ¶, as enacted by PL
32 1977, c. 673, §3, is repealed.

33 Sec. 232. 32 MRSA §9552, as enacted by PL 1981,
34 c. 456, Pt. A, §113, is repealed and the following
35 enacted in its place:

36 §9552. Membership

37 The Board of Commercial Driver Education shall
38 administer this chapter and shall be composed of 5
39 members. The Governor shall appoint 4 members, as
40 follows: Two members shall be representatives of
41 Class A schools, as defined in section 9601; one

1 shall be a representative of Class B schools, as de-
2 fined in section 9601; and one member shall be a
3 public representative. The 5th member shall be the
4 Director of the Division of Motor Vehicles or his
5 designee. The term of office of each member shall be
6 4 years, except that, of the 3 school members on the
7 first board appointed under this subchapter, one
8 shall be appointed for 2 years and one shall be
9 appointed for 3 years. Thereafter appointments shall
10 be for 4-year terms, except that no more than one
11 school member's term may expire in any one calendar
12 year and appointments for terms of less than 4 years
13 may be made in order to comply with this limitation.

14 Upon expiration of a member's term, he shall
15 serve until his successor is qualified and appointed.
16 The successor's term shall be 4 years from the date
17 of that expiration, regardless of the date of his
18 appointment. Any vacancy in the board shall be
19 filled by appointment of a person, qualified as was
20 the board member being replaced, to hold office
21 during the unexpired term. No appointed member may
22 be eligible to serve more than 2 full consecutive
23 terms, provided that for this purpose only a period
24 actually served which exceeds 1/2 of the 4-year term
25 shall be deemed a full term. A board member may be
26 removed by the Governor for cause.

27 Sec. 233. 32 MRSa §9553, as enacted by PL 1981,
28 c. 456, Pt. A, §113, is repealed.

29 Sec. 234. 32 MRSa §9553-A is enacted to read:

30 §9553-A. Duties

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

34 1. Meetings. The board shall meet at least once
35 a year to conduct its business and to elect its offi-
36 cers. Additional meetings shall be held as neces-
37 sary to conduct the business of the board and may be
38 convened at the call of the chairman or a majority of
39 the board members. Three members of the board shall
40 constitute a quorum for all purposes. The board
41 shall keep such records and minutes as are necessary
42 to the ordinary dispatch of its functions.

1 2. Licenses; enforcement. The board shall
2 evaluate the qualifications and supervise the exami-
3 nation of applicants for licensure under this chap-
4 ter, and shall investigate or cause to be investi-
5 gated all complaints made to it and all cases of non-
6 compliance with this chapter.

7 3. Rules. The board may, in accordance with the
8 procedures established by the Maine Administrative
9 Procedure Act, Title 5, chapter 375, subchapter II,
10 adopt rules as may be reasonably necessary for the
11 proper performance of its duties and the administra-
12 tion of this chapter.

13 4. Hearings. Hearings may be conducted by the
14 board to assist with investigations, to determine
15 whether grounds exist for suspension, revocation or
16 denial of a license, or as otherwise deemed necessary
17 to the fulfillment of its responsibilities under this
18 chapter.

19 The board shall not refuse to renew a license for any
20 reason other than failure to pay a required fee,
21 unless it has afforded the licensee an opportunity
22 for an adjudicatory hearing. The board shall hold an
23 adjudicatory hearing at the written request of any
24 person who is denied a license without a hearing for
25 any reason other than failure to pay a required fee,
26 provided that the request for hearing is received by
27 the board within 30 days of the applicant's receipt
28 of written notice of the denial of his application,
29 the reasons for the denial of his application and his
30 right to request a hearing. Hearings shall be con-
31 ducted in conformity with the Maine Administrative
32 Procedure Act, Title 5, chapter 375, subchapter IV,
33 to the extent applicable. The board may subpoena
34 witnesses, records and documents in any hearing it
35 conducts.

36 5. Contracts. The board may enter into con-
37 tracts to carry out its responsibilities under this
38 chapter.

39 Sec. 235. 32 MRSa §9555 is enacted to read:

40 §9555. Suspension or revocation of license

1 The board may suspend or revoke a license pur-
2 suant to Title 5, section 10004. The board may
3 refuse to issue or renew a license or the Administra-
4 tive Court may suspend, revoke or refuse to renew the
5 license of any commercial driver education school or
6 instructor who has violated any provision of this
7 chapter or any rule adopted by the board.

8 Sec. 236. 32 MRSA §9602, sub-§§1 and 2, as
9 enacted by PL 1981, c. 456, Pt. A, §113, are amended
10 to read:

11 1. Insurance requirements. The board shall not
12 issue any license for a commercial driver education
13 school until the applicant has procured and filed
14 with the commissioner a certificate showing that the
15 applicant is covered by an automobile bodily injury
16 and property damage liability insurance policy,
17 insuring against any legal liability in accordance
18 with the terms of the policy for personal injury or
19 death of any one person in the sum of \$100,000 and
20 for any number of persons in the sum of \$300,000, and
21 against property damage in the sum of \$100,000, which
22 injury, death or damage may result from or have been
23 caused by the operation of any vehicle being used
24 under this chapter. In lieu of such insurance, the
25 applicant may file with the commissioner a bond or
26 bonds issued by a surety company authorized to do
27 business in the State in the amount of at least
28 \$100,000 on account of injury to or death of one
29 person, and subject to such limits, as respects
30 injury to or death of one person, of at least
31 \$300,000 on account of any one accident resulting in
32 injury or death of more than one person and of at
33 least \$100,000 for damage to property of others.
34 Failure to maintain compliance with this section
35 shall be grounds for suspension or revocation of a
36 commercial driver education school license, as pro-
37 vided in section 9553 9555.

38 2. Maintenance of records. Every commercial
39 driver education school shall keep records on such
40 forms as the board prescribes. They shall include the
41 name and address of each instructor, the board li-
42 cense number of each instructor, the specific type of
43 instruction given to each enrolled student and such
44 other information as the board requires. The records

1 shall be open to inspection by the board at all
2 reasonable times. Failure to keep such records ~~shall~~
3 be a misdemeanor is a Class E crime.

4 Sec. 237. 32 MRSA §9603, sub-§§1, 4 and 6, as
5 enacted by PL 1981, c. 456, Pt. A, §113, are amended
6 to read:

7 1. Age and education. An applicant shall be at
8 least 21 years of age and have a high school diploma
9 or ~~it~~ its equivalent.

10 4. Examination. An applicant shall pass an exam-
11 ination consisting of the knowledge, vision and road
12 tests in the type of vehicle for which the license is
13 to be used, as prescribed by the board, and tests to
14 determine knowledge and understanding of an appropri-
15 ate driving textbook, which the board may prescribe,
16 and the State of Maine Driver License Examination
17 Manual. The board may not waive any part of the pre-
18 scribed examination for a commercial driver education
19 instructor's license. An examination fee may be
20 established by the board in an amount which is
21 reasonable and necessary for its purpose.

22 6. Additional Class A requirements. In addition,
23 an applicant for a Class A license shall have satis-
24 factorily completed an educational program prescribed
25 by the board to assure that the applicant is trained
26 in the teaching of driver education in the classroom
27 and on the road. At a minimum, this program shall
28 include a college level course or ~~it~~ its equivalent
29 in the teaching of driver education and a college
30 level course or its equivalent in psychology or
31 teaching methods.

32 Sec. 238. 32 MRSA §9605, as enacted by PL 1981,
33 c. 456, Pt. A, §113, is amended to read:

34 §9605. Licensing fees

35 1. Commercial driver education school license.
36 Each application for a commercial driver education
37 school shall be accompanied by an application fee ~~of~~
38 §20 established by the board in an amount which is
39 reasonable and necessary for its purposes, which
40 shall not be refunded. If the application is approved

1 by the board, the applicant, upon payment of an addi-
2 tional fee of \$20 shall be granted a license, which
3 shall be valid during the calendar year of its issue
4 unless sooner revoked as provided. The renewal fee is
5 \$40.

6 2. Instructor license. Each application for an
7 instructor's license shall be accompanied by an
8 application fee ~~of \$20~~ established by the board in an
9 amount which is reasonable and necessary for its pur-
10 pose, which shall not be refunded. If the application
11 is approved by the board, the applicant, upon payment
12 of an additional fee of \$10, shall be granted a li-
13 cense, which shall be valid during the calendar year
14 of its issue unless sooner revoked. The renewal fee
15 is \$30.

16 3. License renewal. Each license issued under
17 this chapter shall expire on December 31st of the
18 year of its issuance, or such other date as may be
19 established by the commissioner, if not renewed.
20 Every person licensed under this chapter shall, on or
21 before the annual expiration day, submit an applica-
22 tion for license renewal together with the prescribed
23 renewal fee. A license may be renewed up to 90 days
24 after the date of expiration upon payment of a late
25 fee of \$10 in addition to the renewal fee. Any
26 person who submits an application for renewal more
27 than 90 days after the license renewal date shall be
28 subject to all requirements governing new applicants
29 under this chapter, except that the board may in its
30 discretion, giving due consideration to the protec-
31 tion of the public, waive examination if the renewal
32 application is made within 2 years from the date of
33 the expiration.

34 Sec. 239. 32 MRSA §9608, as enacted by PL 1981,
35 c. 456, Pt. A, §113, is amended to read:

36 §9608. Penalties; injunction

37 Any person who operates a commercial driver edu-
38 cation school or acts as a commercial instructor
39 without a license shall be punished by a fine of not
40 less than \$50 nor more than \$500, or by imprisonment
41 for not more than 30 days or by both is guilty of a
42 Class E crime.

1 istrative Procedure Act has been replaced by provi-
2 sions which are designed to guide the boards in their
3 compliance with all of the statutes.

4 In a few areas, trends in recent case law have
5 raised questions as to the continuing validity of
6 certain provisions in these statutes, some of which
7 have been in place for many years. Here, changes
8 have been made which preserve legislative intent but
9 which are designed to avoid unnecessary legal chal-
10 lenges.

11 The substance of the amendments embodied in this
12 bill is described as follows, reflecting where each
13 is incorporated.

14 Sections 1 and 2. Maine Athletic Commission.
15 The Maine Athletic Commission's authority to regulate
16 boxing and professional wrestling is currently set
17 out separately, in Title 8, chapters 5 and 6. As a
18 result, these chapters contain extensive duplication
19 and confusing cross-referencing, and the separation
20 of subject matter serves no apparent purpose. These
21 sections of the bill combine the 2 existing chapters
22 into a new Title 8, chapter 6-A, retaining the sub-
23 stance and most of the language in the existing law
24 except where changes identified have been made to
25 conform to the uniform approach embodied in this
26 bill.

27 -----

28 Sections 2, 3, 7, 13, 34, 42, 43, 57, 66, 82, 83, 90,
29 91, 103, 117, 126, 141, 148, 160, 173, 174, 186, 187,
30 197, 210, 211, 212, 223 and 232.

31 Board membership. These sections employ stan-
32 dardized language to clarify procedures and terms for
33 the appointment of members to these occupational
34 licensing agencies. Outdated language concerning
35 initial appointments has been repealed and replaced
36 with language which continues to effectuate legis-
37 lative intent that members' terms be staggered by
38 fixing the number of terms which expire in any one
39 year and by clarifying that the term relates to the
40 office rather than to the individual's service. The
41 number of consecutive terms any individual may serve

1 has been uniformly limited to 2 5-year terms, 2
2 4-year terms, 3 3-year terms or 4 2-terms. Removal
3 of members is currently provided for in a variety of
4 ways and several board statutes are silent on this
5 issue. Uniform language is substituted or added
6 which provides for removal for cause, as that is the
7 standard most commonly used. Finally, several stat-
8 utes contain requirements that the Governor appoint
9 new board members from a list submitted by a trade or
10 professional association. Case law from other juris-
11 dictions is split on the issue of whether such provi-
12 sions are invalid on the ground that they unconstitu-
13 tionally delegate legislative authority to private
14 parties. Where they occur, these sections have been
15 adjusted to permit rather than require the Governor
16 to make appointments from trade association recom-
17 mendations to cure this possible legal defect.

18 -----
19 Sections 2, 4, 8, 13, 23, 24, 35, 44, 46, 57, 67, 68,
20 85, 92, 94, 103, 117, 119, 121, 123, 127, 128, 136,
21 142, 149, 154, 161, 175, 188, 190, 192, 198, 199,
22 213, 224 and 234.

23 Meetings and record keeping. These sections use
24 uniform language requiring a minimum of one meeting
25 per year, and permitting other meetings to be held as
26 necessary to conduct board business. These addition-
27 al meetings may be called by the chairman or by a
28 majority of board members. Language requiring meet-
29 ings in particular months has been deleted because it
30 often creates unnecessary expense and scheduling
31 problems. Quorum requirements are set at a fixed
32 number equal to a majority of a full voting member-
33 ship of each board, avoiding problems of interpreta-
34 tion which have arisen in the past on this issue.
35 Unnecessarily detailed provisions regarding record
36 keeping, many of which also generate expensive dupli-
37 cation due to computer use, are deleted and replaced
38 with general language requiring the keeping of such
39 minutes and records as are necessary to ordinary
40 functions. Requirements that licenses carry a board
41 seal or signature of a board officer have been
42 deleted to eliminate unnecessary expense and delays
43 in the issuance of licenses for those boards within
44 the Department of Business Regulation which utilize
45 the computerized license process.

1

Sections 2, 6, 13, 25, 35, 45, 57, 69, 84, 93, 104,
119, 123, 143, 147, 151, 161, 189, 200, 214, 225, 233
and 234.

5 Rulemaking. These sections contain changes in
6 and additions to the agencies' rule-making provisions
7 to clarify and conform them to the Maine Administra-
8 tive Procedure Act. As a result, each board will
9 have a simple statement of its general rule-making
10 authority. Existing language governing rulemaking in
11 specific areas, whether mandatory or permissive, has
12 been retained. A reference to the controlling proce-
13 dures in the Maine Administrative Procedure Act,
14 Title 5, chapter 375, subchapter II, is included, and
15 provisions which are either inconsistent with or
16 superfluous to the Maine Administrative Procedure Act
17 are repealed.

18

Sections 2, 6, 19, 26, 36, 45, 58, 70, 81, 93, 104,
122, 129, 143, 151, 158, 161, 176, 181, 189, 201,
216, 225 and 234.

22 Hearings. These sections add uniform language to
23 each board's statute to effectuate several goals.
24 First, it is clearly provided that each board may
25 conduct both investigatory and adjudicatory hearings,
26 and further that hearings may be held for other pur-
27 poses deemed necessary by the board in fulfilling its
28 responsibilities. Second, the Maine Administrative
29 Procedure Act requirements relative to license hear-
30 ings have been set out in simple terms to assist the
31 boards in determining what their responsibilities are
32 and to give clearer notice to applicants concerning
33 their rights to a hearing. Finally, each board has
34 been given subpoena power to insure that necessary
35 witnesses and documentary evidence are available so
36 that a meaningful hearing can be held without unnec-
37 essary delays. At present, boards without this power
38 must apply to the Attorney General for a subpoena,
39 which is unduly burdensome. The possibility for
40 abuse of this authority can be eliminated by over-
41 sight from the Attorney General's office in preparing
42 the subpoenas as counsel for the agencies, and by the

1 existing mechanisms, in the Maine Administrative
2 Procedure Act for challenging a subpoena.

3 -----

4 Sections 2, 6, 27, 36, 45, 57, 71, 84, 93, 104, 118,
5 131, 143, 151, 161, 176, 189, 202, 225 and 234.

6 Contracts. Specific reference is made to each
7 agency's authority to enter into contracts to carry
8 out its responsibilities, most frequently used in the
9 areas of licensing examinations and investigations.
10 The authority to contract exists under current law.
11 These sections simply refer to that authority to
12 avoid objections which have been raised in the past.
13 This provision does not affect existing statutes gov-
14 erning contract procedures and review, which are
15 applicable to state agencies generally.

16 -----

17 Sections 9, 19, 21, 38, 45, 60, 64, 74, 80, 104, 120,
18 144, 151, 170, 189, 215, 225 and 234.

19 Investigations. These sections clarify the
20 authority of these boards to investigate cases of
21 alleged violation of or noncompliance with the stat-
22 utes they administer, not only in response to a spe-
23 cific complaint but also on the board's own initia-
24 tive. The language used, which is drawn from several
25 existing statutes, eliminates the opportunity for
26 persons who are the subject of investigation to argue
27 that the board must await a complaint before initiat-
28 ing an investigation. Coupled with the authority to
29 hold investigatory hearings, this provision can be
30 used to develop a case for disciplinary action
31 against a license. It will also authorize investiga-
32 tion of unlicensed practice, which has been a major
33 source of enforcement problems, increasing the pos-
34 sibility of effective prosecution in appropriate
35 cases.

36 -----

37 Sections 2, 9, 18, 19, 21, 30, 37, 38, 49, 59, 60,
38 64, 74, 80, 99, 105, 114, 115, 120, 138, 139, 144,
39 157, 169, 170, 184, 194, 205, 218, 229 and 235.

1 Disciplinary action. These sections employ uni-
2 form language developed to achieve several objec-
3 tives. First, each board is given substantive
4 authority to suspend or revoke a license in those
5 limited cases which such action is authorized by the
6 Maine Administrative Procedure Act, Title 5, section
7 10004, clarifying an ambiguity which currently
8 exists. Second, it is clearly provided that each
9 board may refuse to issue or renew a license and the
10 Administrative Court may refuse renewal on any of the
11 grounds which currently provide the basis for a li-
12 cense suspension or revocation, so that all appli-
13 cants and licensees are subject to the same stan-
14 dards. Third, violation of the controlling statute
15 or board rules is added as a disciplinary ground in
16 those board statutes which do not already contain
17 this provision. Finally, a few board statutes con-
18 tain language authorizing a board suspension or revo-
19 cation under Title 5, section 10004 for certain types
20 of criminal convictions without corresponding author-
21 ity to rely on these criminal convictions as a basis
22 for denial or nonrenewal of a license or as a basis
23 for an action in the Administrative Court. This
24 inconsistency has been corrected.

25 -----
26 Sections 19, 30, 38, 60, 74, 80, 139, 144, 157, 169,
27 184, 205, 218 and 229.

28 Criminal convictions as disciplinary grounds.
29 Many board statutes provide for suspension or revoca-
30 tion of a license on the basis of conviction of a
31 specified crime or class of crime. Two problems have
32 been addressed in this area. First, the use of crim-
33 inal history information in occupational licensing is
34 subject to the provisions in Title 5, chapter 341,
35 entitled "Occupational License Disqualification on
36 Basis of Criminal Record." There is little awareness
37 of this law, enacted in 1975, which limits the types
38 and age of convictions used and establishes certain
39 standards and procedures applicable to licensing ac-
40 tions based in whole or in part on criminal history.
41 To increase awareness and utilization of this law,
42 language has been added to those statutes which cite
43 criminal convictions as the basis for disciplinary
44 action specifying that these actions are subject to

1 the limitations of Title 5, chapter 341. The 2nd
2 problem encountered in a few of these statutes is
3 their reliance on constitutionally suspect language
4 such as "crimes of moral turpitude." This language
5 is vague, of dubious relevance to licensing deci-
6 sions, susceptible of abuse in its application, and
7 would probably be held unconstitutional if chal-
8 lenged. Perhaps more importantly, this type of stan-
9 dard is of little value to a licensing board which
10 cannot interpret it and which has been advised by
11 counsel to avoid reliance upon it. Such language,
12 where it appears, has been replaced by language util-
13 ized in the occupational licensing disqualification
14 law, which is tailored to constitutional require-
15 ments.

16 -----

17 Sections 17, 28, 51, 52, 72, 87, 88, 96, 133, 156,
18 172, 180 and 221.

19 Reciprocal licensure. Many board statutes permit
20 issuance of a Maine license without examination to
21 persons holding a current license in another state,
22 provided the qualifications required by that other
23 state are deemed by the board to be the equivalent of
24 those qualifications required here. Current statutes
25 use a variety of terms to describe this required
26 equivalence of qualifications, although the standard
27 of comparison is basically the same. Uniform lan-
28 guage has been inserted which requires that appli-
29 cants for reciprocal licensure must show that the
30 qualifications imposed in the state of their previous
31 licensure are "equivalent" to those required under
32 Maine law. This standard protects the public by re-
33 quiring that such persons have the same level of
34 qualifications, while providing the boards with
35 flexibility to accept comparable or higher level cre-
36 dentials which may not be exactly the same as those
37 specified in Maine law. In the case of the auction-
38 eers license law, ambiguous language concerning li-
39 cense requirements applicable to a nonresident who
40 does not hold a license in his state of residence has
41 been clarified.

42 -----

1 Sections 10, 15, 48, 63, 97, 98, 108, 110, 113, 123,
2 124, 134, 135, 153, 164, 167, 168, 178, 179, 180,
3 183, 191, 207, 217, 227, 228, 237 and 238.

4 Application and examination fees. A variety of
5 approaches are currently used in the area of applica-
6 tion and examination fees. Where these fees are not
7 separately established, license fees must be used to
8 subsidize both functions, and in some cases persons
9 who are denied licenses must forfeit a disproportion-
10 ately large portion of their fee. Fixing the amount
11 of application and examination fees by statute is
12 impractical, particularly in the case of examination
13 fees which may change on a few months' notice where
14 independent examination services are used. Where
15 possible, uniform language has been inserted to
16 authorize these boards to establish separate applica-
17 tion and examination fees, within the limitation that
18 the amounts must be reasonable and necessary for
19 their purpose.

20 -----
21 Sections 47, 61, 77, 95, 132, 152, 163, 166 and 226.

22 "Good character" requirements for licensure.
23 Several statutes contain requirements that applicants
24 be "of good character." Although this standard has
25 not been stricken by the courts per se, it is of
26 little use and has already been dropped from many
27 licensing statutes. As a standard for licensure,
28 "good character" provides little guidance as to its
29 proper application. This is particularly true in
30 view of a trend in case law away from almost unlim-
31 ited discretion in licensing decisions toward a
32 closer scrutiny of the basis of these decisions.
33 The vagueness of this standard, its questionable
34 relevance in a particular situation, and its suscep-
35 tibility to inconsistent application further limit
36 its usefulness. To avoid these problems, "good char-
37 acter" standards have been replaced with a require-
38 ment that applicants demonstrate that they are trust-
39 worthy and competent to practice in a manner which
40 will safeguard the interests of the public. This
41 language is taken from the real estate license law,
42 where it has been used effectively. It more closely
43 reflects the relevant scope of inquiry for occupa-

1 tional licensing purposes while still retaining the
2 flexibility necessary to respond to a variety of con-
3 cerns which cannot all be specifically articulated in
4 the law.

5 -----

6 Sections 61, 152, 162, 165, 169 and 191.

7 Citizenship requirements for licensure. Several
8 license statutes contain language which can be
9 applied to deny licensure to persons who are not
10 United States citizens. A recent United States
11 Supreme Court case indicates that a citizenship re-
12 quirement is unconstitutional in this context, and as
13 a result these provisions have been repealed where
14 they appear.

15 -----

16 Sections 11, 16, 29, 39, 50, 63, 73, 75, 79, 100,
17 112, 125, 137, 145, 155, 182, 193, 206, 220, 230, 231
18 and 238.

19 License renewal; grace period. Grace periods
20 governing applications for license renewal or rein-
21 statement submitted after the statutorily prescribed
22 renewal date now vary from 30 days to an indefinite
23 period. Some licensing statutes have no grace period
24 at all, subjecting the individual whose renewal
25 application is one day late to all requirements ini-
26 tial applicants must comply with, including examina-
27 tion. Uniform language has been inserted which bal-
28 ances the competing interests of fairness to licen-
29 sees and protection of the public. A 90-day grace
30 period is established, during which late renewal can
31 be effected on payment of a \$10 late fee together
32 with the prescribed renewal fee. An applicant
33 seeking late renewal after the 90-day period, but
34 within 2 years of the date of expiration, will be
35 subject to all requirements governing initial appli-
36 cants, unless the board decides that examination may
37 be waived consistent with the best interests of the
38 public.

39 -----

1 Sections 2, 12, 20, 22, 33, 41, 54, 55, 56, 60, 65,
2 86, 89, 101, 102, 116, 139, 140, 146, 171, 185, 192,
3 196, 209, 222, 236 and 239.

4 Penalties and injunctions. Existing language
5 governing criminal penalties for violations of these
6 occupational license laws has been updated, by sub-
7 stituting references to Class E crimes for excess
8 verbiage establishing equivalent lesser level misde-
9 meanors. Uniform language authorizing the State to
10 bring an action to enjoin violations has been added
11 to each board statute in order to provide a clear
12 basis for immediate action to enjoin unlicensed prac-
13 tice or other statutory violations where necessary to
14 provide prompt protection to the public. A criminal
15 action or proceeding against a licensee in the Admin-
16 istrative Court may also be brought if appropriate to
17 the nature of the violation, but these actions cannot
18 be concluded as quickly as an injunctive order can be
19 obtained.

20 -----

21 Sections 5, 14, 31, 32, 40, 53, 62, 76, 78, 106, 107,
22 109, 111, 130, 150, 159, 177, 195, 203, 204, 208 and
23 219.

24 Miscellaneous. These sections contain no sub-
25 stantive change. They either modify or relocate
26 existing language for purposes of clarification. In
27 a few instances, outdated language has been deleted.

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