

MAINE STATE LEGISLATURE

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114th MAINE LEGISLATURE

FIRST REGULAR SESSION - 1989

Legislative Document

No. 305

H.P. 225

House of Representatives, February 21, 1989

Submitted by the Department of Professional and Financial Regulation pursuant to Joint Rule 24.

Reference to the Committee on Business Legislation suggested and ordered printed.

A handwritten signature in cursive script that reads "Ed Pert".

EDWIN H. PERT, Clerk

Presented by Representative STEVENS of Sabattus.

Cosponsored by Senator BALDACCI of Penobscot and Senator WHITMORE of Androscoggin.

STATE OF MAINE

IN THE YEAR OF OUR LORD
NINETEEN HUNDRED AND EIGHTY-NINE

**An Act Amending Various Licensure Laws of Boards and Commissions
within the Department of Professional and Financial Regulation.**



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

3 Sec. 1. 5 MRSA §12004, sub-§1, ¶A, sub-¶(34-A), as enacted by PL
1987, c. 790, §1, is repealed.

5 Sec. 2. 5 MRSA §12004-A, sub-§§21, 26 and 38, as enacted by PL
7 1987, c. 786, §5, are amended to read:

9 21. ~~State Board of~~ Expenses 32 MRSA §1671
11 ~~Registration for Land~~ Only
12 ~~Surveyors State Board~~ \$35/Day
13 ~~of Licensure for Professional~~
~~Surveyors~~

15 26. Board of Occupa- Expenses 32 MRSA §2273
16 tional Therapy Practice Only
17 \$35/Day

19 38. State Board of Expenses 32 MRSA §7026
20 Social Worker Licensure Only
21 \$35/Day

23 Sec. 3. 5 MRSA §12004-A, sub-§45 is enacted to read:

25 45. Board of Licensure \$35/Day 32 MRSA §4145
26 of Railroad Personnel

27 Sec. 4. 10 MRSA §8001, as repealed and replaced by PL 1987,
28 c. 395, Pt. A, §34 and c. 488, §2, is repealed and the following
enacted in its place:

31 §8001. Department; organization

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

39 1. Bureau of Banking. Banking, Bureau of;

41 2. Bureau of Consumer Credit Protection. Consumer Credit
42 Protection, Bureau of;

43 3. Bureau of Insurance. Insurance, Bureau of;

44 4. Maine Athletic Commission. Athletic Commission, Maine;

45 5. Maine State Pilotage Commission. Pilotage Commission,
46 Maine State;

- 1 6. Real Estate Commission. Real Estate Commission;
3
- 5 7. Arborist Examining Board. Arborist Examining Board;
- 7 8. Board of Licensing of Auctioneers. Auctioneers, Board
of Licensing of;
- 9 9. State Board of Barbers. Barbers, State Board of;
- 11 10. Board of Commercial Driver Education. Commercial
Driver Education, Board of;
- 13
- 15 11. Board of Registration of Dietetic Practice. Dietetic
Practice, Board of Registration of;
- 17 12. Electricians' Examining Board. Electricians' Examining
Board;
- 19
- 21 13. State Board of Registration for Professional
Foresters. Foresters, State Board of Registration for
Professional;
- 23
- 25 14. State Board of Funeral Service. Funeral Service, State
Board of;
- 27
- 29 15. State Board of Certification for Geologists and Soil
Scientists. Geologists and Soil Scientists, State Board of
Certification for;
- 31
- 33 16. Board of Hearing Aid Dealers and Fitters. Hearing Aid
Dealers and Fitters, Board of;
- 35
- 37 17. Manufacturing Housing Board. Manufacturing Housing Board;
- 39
- 41 18. Nursing Home Administrators Licensing Board. Nursing
Home Administrators Licensing Board;
- 43
- 45 19. Board of Occupational Therapy Practice. Occupational
Therapy Practice, Board of;
- 47
- 49 20. Oil and Solid Fuel Board. Oil and Solid Fuel Board;
- 51
21. Board of Examiners in Physical Therapy. Physical
Therapy, Board of Examiners in;
22. Plumbers' Examining Board. Plumbers' Examining Board;
23. State Board of Examiners of Psychologists.
Psychologists, State Board of Examiners of;

1 24. Radiologic Technology Board of Examiners. Radiologic
2 Technology Board of Examiners;

3 25. Board of Respiratory Care Practitioners. Respiratory
4 Care Practitioners, Board of;

5 26. State Board of Social Worker Registration. Social
6 Worker Registration, State Board of;

7 27. Board of Examiners on Speech Pathology and Audiology.
8 Speech Pathology and Audiology, Board of Examiners on;

9 28. Board of Registration of Substance Abuse Counselors.
10 Substance Abuse Counselors, Board of Registration of;

11 29. State Board of Veterinary Medicine. Veterinary
12 Medicine, State Board of;

13 30. Acupuncture Licensing Board. Acupuncture Licensing
14 Board;

15 31. Maine State Pharmacy Commission. Pharmacy Commission,
16 Maine State;

17 32. State Board of Licensure for Professional Surveyors.
18 Licensure for Professional Surveyors, State Board of;

19 33. Board of Chiropractic Examination and Registration.
20 Chiropractic Examination and Registration, Board of; and

21 34. Board of Licensure of Railroad Personnel. Licensure of
22 Railroad Personnel, Board of.

23 Sec. 5. 10 MRSA §8003, sub-§5, as amended by PL 1987, c. 595,
24 §2, is further amended to read:

25 5. Authority of bureaus, boards or commissions. Nothing in
26 this section may be construed to diminish or deprive any bureau,
27 board or commission within or affiliated with the department of
28 its statutory duty and sole authority to regulate its profession,
29 occupation or industry.

30 In addition to authority otherwise conferred, unless expressly
31 precluded by language of denial in its own governing law, each
32 licensing board and commission within or affiliated with the
33 department may take one or more of the following actions:

34 A. Suspend Issue a warning, censure or reprimand to a
35 licensee or suspend a violator's license for up to 90 days
36 and, in addition to or in lieu of such warning, censure,
37 reprimand or suspension, or impose a civil penalty of up to

1 \$500, ~~or both~~, \$1,500 for any each violation of the
2 applicable laws, rules or license terms of licensure under
3 its the board's or commission's jurisdiction; ~~or~~

5 B. Execute a consent agreement, with the consent of all
6 parties--and the licensee, board or commission and the
7 counsel to the licensing bureau, board or commission, to
8 resolve any complaint or investigation without further
9 proceedings. Any remedy that is otherwise available by law,
10 even if only in the jurisdiction of the Administrative
11 Court, may be achieved by consent agreement, including
12 temporary or permanent surrender of an occupational license.
13 A consent agreement is not subject to review or appeal. A
14 consent agreement is enforceable by an action in Superior
15 Court.;

17 C. Require applicants for license renewal to present
18 evidence of satisfactory completion of continuing
19 professional education in accordance with each bureau's,
20 board's or commission's rules;

21 D. Request an informal conference with a licensee if, in
22 the opinion of the bureau, board or commission, the factual
23 basis of a complaint against the licensee is or may be true
24 and may be of sufficient gravity to warrant further action.
25 The board or commission shall provide the licensee with
26 adequate notice of the conference and of the issues to be
27 discussed. The conference shall be conducted in executive
28 session unless otherwise requested by the licensee.
29 Statements made at the conference may not be introduced at a
30 subsequent licensure hearing before the board or commission;
31 or

33 E. Assess licensees found to have violated one or more laws
34 or rules enforced by the bureau, board or commission for the
35 actual expenses incurred by the bureau, board or commission
36 or its agents for special investigations or enforcement
37 activities undertaken. Those reimbursements shall be
38 deposited in the bureau's, board's or commission's fund to
39 further carry out the activities of the bureau, board or
40 commission.

43 The jurisdiction to suspend occupational and professional
44 licenses conferred by this subsection shall be concurrent with
45 that of the Administrative Court. Civil penalties shall be paid
46 to the Treasurer of State.

47 Any nonconsensual disciplinary action taken under authority of
48 this subsection may be imposed only after a hearing conforming to
49 the requirements of Title 5, chapter 375, subchapter IV, and
50 shall be subject to judicial review exclusively in the
51 Administrative Court in accordance with Title 5, chapter 375,

1 subchapter VII, substituting the term "Administrative Court" for
2 "Superior Court," notwithstanding any other provision of law.

3
4 **Sec. 6. 32 MRSA §280, sub-§3**, as amended by PL 1981, c. 501,
5 §52, is repealed and the following enacted in its place:

6
7 3. Real estate brokerage. If an auctioneer engages in real
8 estate brokerage, the auctioneer must be licensed under chapter
9 114, except that a license is not required if the auctioneer is
10 hired to call bids on real estate being sold at an auction and
11 the auctioneer does not prepare contracts or otherwise control
12 the actual sale or take custody of any part of the purchase price.

13
14 **Sec. 7. 32 MRSA §451, sub-§§4 and 5** are enacted to read:

15
16 4. Commissioner. "Commissioner" means the Commissioner of
17 Professional and Financial Regulation.

18
19 5. Department. "Department" means the Department of
20 Professional and Financial Regulation.

21
22 **Sec. 8. 32 MRSA §506**, as amended by PL 1985, c. 748, §42, is
23 further amended to read:

24 **§506. Budget**

25
26 The board shall submit to the Commissioner of Professional
27 and Financial Regulation its budgetary requirements in the same
28 manner as is provided in Title 5, section 1665, and the
29 commissioner shall in turn transmit these requirements to the
30 Bureau of the Budget without any revision, alteration or change.

31
32 With the advice of the board, the commissioner may appoint,
33 subject to the Civil Service Law, such employees as may be
34 necessary to carry out this chapter. Any person so employed
35 shall be located in the department and under the administrative
36 and supervisory direction of the commissioner.

37
38 All licenses shall expire on June 1st annually or at such
39 other time as the commissioner designates.

40
41 **Sec. 9. 32 MRSA §1101, sub-§1**, as amended by PL 1981, c. 577,
42 §5, is further amended to read:

43
44 1. Apprentice electrician. "Apprentice electrician" shall
45 mean means a person who is as defined in Title 26, chapter 11 and
46 who is engaged in such a written agreement to work at and learn
47 the trade of an electrician under the direct supervision of a
48 master or, journeyman or limited electrician. The biennial
49 renewal fee for an apprentice electrician license shall be \$20.

50
51 **Sec. 10. 32 MRSA §1101, sub-§3**, as amended by PL 1981, c. 577,
52 §6, is further amended to read:

1
3 **3. Helper electrician.** "Helper electrician" shall--mean
3 means a person who is engaged in assisting in making electrical
5 installations under the direct supervision of a master ex,
5 journeyman or limited electrician but does not qualify under
7 subsection 1. The biennial renewal fee for a helper electrician
7 license shall be \$20.

9 **Sec. 11. 32 MRSA § 1400, sub-§2-A,** as enacted by PL 1981, c.
11 703, Pt. A, § 44, is amended to read:

11 **2-A. Commissioner.** "Commissioner" means the Commissioner
13 of Business Professional and Financial Regulation.

15 **Sec. 12. 32 MRSA §1401, 3rd ¶,** as amended by PL 1985, c. 240,
17 is further amended to read:

17 The funds may be withdrawn, if otherwise lawful and
19 permitted by contract, by the payee on written instructions of
21 the payor or his the payor's legal representative or on the death
21 of the person for whose benefit the funds were paid, in which
23 latter event they shall be used in accordance with the
23 agreement. The board may adopt rules regarding the form of the
25 trust agreement.

25 **Sec. 13. 32 MRSA §1402,** as repealed and replaced by PL 1983,
27 c. 413, §55, is amended to read:

29 **§1402. Solicitation of prearranged funerals and funeral**
31 **business**

31 ~~No funeral home, funeral establishment or person holding a~~
33 ~~license under this chapter shall as, or through, an agent or~~
33 ~~principal solicit a prearranged funeral service or plan for any~~
35 ~~person or persons. "Prearranged funeral service or plan" shall~~
35 ~~mean any funeral service or plan which is arranged, planned or~~
37 ~~determined prior to the demise of a person or persons for whom~~
37 ~~the funeral service is to be performed. Funeral homes, funeral~~
39 ~~establishments and licensees under this chapter may enter into~~
39 ~~contracts or agreements for prearranged funeral services or plans~~
41 ~~provided that they do not in any manner either as, or through,~~
41 ~~principals or agents solicit such contract or agreement.~~

43 No funeral home, funeral establishment or person licensed
45 under this chapter shall may pay or cause to be paid, directly or
47 indirectly, any money or other thing of value to a person not
47 responsible for payment for the funeral as a commission or
49 gratuity for the securing of business for such funeral home,
49 establishment or licensee.

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

1
3 **Sec. 14. 32 MRSA §1403**, as repealed and replaced by PL 1983,
c. 413, §56, is amended to read:

5 **§1403. Employment of funeral directors, embalmers or**
7 **practitioners of funeral services by cemeteries**
 prohibited

9 No funeral home, funeral establishment or person holding a
11 license under this chapter shall ~~may~~ be employed as a funeral
home, funeral establishment, or as an embalmer or funeral
13 director or practitioner of funeral services by a cemetery,
cemetery association or cemetery corporation, nor shall such
15 person be so employed by a funeral home, funeral establishment or
mortuary establishment which owns or controls or is owned or
17 controlled by a cemetery, cemetery association or cemetery
corporation. Control shall not be considered to exist because the
19 owners, officers or employees of a funeral home, funeral
establishment or mortuary establishment serve without pay or for
21 a fee not exceeding \$500 per year per person as officers or as
the minority of the directors or trustees of a cemetery
23 association or cemetery corporation in which they have no
financial investment. This section shall ~~shall~~ does not prevent
25 employment of persons licensed under this chapter by cemeteries,
cemetery associations or cemetery corporations in other
27 capacities than that of funeral director or embalmer or
practitioner of funeral services. This section shall ~~shall~~ does not
29 apply to disinterments or transfers of disinterred bodies.

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

33 **Sec. 15. 32 MRSA §1451, first ¶**, as amended by PL 1983, c. 812,
35 §206, is further amended to read:

37 The State Board of Funeral Service, as established by Title
5, section ~~12004~~ 12004-A, subsection ~~1~~ 18, and in this chapter
39 called the "board," shall consist of ~~7~~ 8 members, 6 of whom shall
be persons licensed for the practice of funeral service for 10
41 consecutive years or who have had 10 consecutive years'
~~experience as--an--embalmer--or~~ as a practitioner of funeral
~~director~~ service in this State immediately preceding their
43 appointment and ~~one~~ 2 of whom shall be ~~a--representative~~
representatives of the public. Members shall be appointed by the
45 Governor for a term of 4 years, except that no more than 2
members' terms may expire in any one calendar year and
47 appointments for terms of less than 4 years may be made in order
to comply with this limitation. Upon expiration of a member's
49 term, he that member shall serve until his a successor is
51 qualified and appointed. The successor's term shall be 4 years
from the date of the expiration, regardless of the date of his
53 the successor's appointment. Any vacancy in the board shall be
filled by appointment of a person, qualified as was the board

1 member being replaced, to hold office during the unexpired term.
2 No person may be eligible to serve more than 2 full consecutive
3 terms, provided that for this purpose only a period actually
4 served which exceeds 1/2 of the 4-year term shall be deemed a
5 full term. A board member may be removed by the Governor for
6 cause.

7
8 **Sec. 16. 32 MRSA §1451, 2nd ¶**, as repealed and replaced by PL
9 1983, c. 413, 57, is amended to read:

11 The board may adopt rules consistent with law governing the
12 care, preparation, transportation, cremation, burial or
13 disposition of dead human bodies, and governing funeral service,
14 including licensing and or registration, or both, of ~~resident~~
15 practitioner trainees, practitioners of funeral service, funeral
16 directors, embalmers, funeral attendants, funeral home
17 establishments and branches. These rules shall not become
18 effective, unless adopted in conformity with the Maine
19 Administrative Procedure Act, Title 5, chapter 375, subchapter II.

21 **Sec. 17. 32 MRSA §1454**, as amended by PL 1983, c. 553, §32,
22 is repealed.

23 **Sec. 18. 32 MRSA §1455-A, 2nd ¶**, as enacted by PL 1983, c.
24 413, §60, is amended to read:

25 The board may refuse to issue or to renew any license and,
26 may suspend any license for up to 90 days and may assess a \$1,500
27 fine for each violation of this chapter. ~~the~~ The Administrative
28 Court may revoke, suspend or refuse to renew a license issued
29 under this chapter for any of the following reasons:

30 **Sec. 19. 32 MRSA §1455-A, sub-§2, ¶¶B, E and K**, as enacted by
31 PL 1983, c. 413, §60, are amended to read:

32
33 B. False or misleading advertising as a practitioner of
34 funeral service, ~~funeral director or embalmer~~; advertising
35 or using the name of a person in connection with that of any
36 funeral establishment who is not licensed as a practitioner
37 of funeral service, ~~funeral director or embalmer~~;

38
39 E. Employment, directly or indirectly, of a ~~resident~~
40 practitioner trainee, agent, assistant, embalmer, employee
41 or other person, on part or full time, or on commission, for
42 the purpose of calling upon individuals or institutions by
43 whose influence dead human bodies may be turned over to a
44 particular funeral establishment;

45
46 K. Gross incompetency, negligence or misconduct in carrying
47 on the business or profession of funeral service; ~~or~~

48
49 **Sec. 20. 32 MRSA §1455-A, sub-§2, ¶M** is enacted to read:
50
51

1 M. Any violation of this chapter or any rule of the board;
3 or

5 **Sec. 21. 32 MRSA §1455-A, last ¶**, as enacted by PL 1983, c. 413,
7 §60, is amended to read:

9 Whoever violates any provision of this chapter or any rule
11 prescribed by the board for the preparation, embalming,
13 transportation or burial of any dead human body is guilty of a
15 Class E crime. ~~The county attorney of the county in which that~~
17 ~~violation occurs shall prosecute all those persons.~~ The District
19 Court shall have original and concurrent jurisdiction with the
21 Superior Court in all prosecutions under this chapter. The State
23 may bring an action in Superior Court to enjoin any person from
 violating this chapter, regardless of whether proceedings have
 been or may be instituted in the Administrative Court or whether
 criminal proceedings have been or may be instituted. It is
 unlawful for any person to engage in the practice of funeral
 service, except as exempted by this chapter, or to hold out to
 the public that that person is practicing funeral service within
 this State without a license granted by the board pursuant to
 this chapter.

25 **Sec. 22. 32 MRSA §1501**, as amended by PL 1983, c. 816, Pt. A,
27 §32, is further amended to read:

29 **§1501. Licenses; qualifications; requirements**

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

47 ~~Each such applicant for the license for the practice of~~
49 ~~funeral service shall be examined on the following subjects:~~
51 ~~Basic and health sciences including anatomy, chemistry,~~
 ~~baacteriology, pathology, hygiene, public health, funeral service~~

1 arts--and--sciences--including--embalming--and--restorative--art,
2 funeral-service-administration-including-accounting,-funeral-law,
3 psychology,-funeral-principles,-directing-and-management.

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

9 All-funeral-establishments-must-be-operated-by-a-person-or
10 persons-holding-a-funeral-director's-license,-or-a-person-who
11 holds-a-license-for-the-profession-of-funeral-service,-and-said
12 license--shall--be--conspicuously--displayed--at--or--in--such
13 establishments.

15 All-branch-establishments-must-be-operated-by-a-person-or
16 persons-holding-a-funeral-director's-license-or-a-license-for-the
17 profession-of-funeral-service,-and-the-license-or-a-copy-thereof
18 must-be-displayed-in-all-such-branch-establishments.

19 All funeral establishments and branches must be operated by
20 a person or persons holding a funeral director's license, which
21 was initially issued before January 1, 1989, or a practitioner of
22 funeral service license. That license must be displayed at or in
23 any such establishment or branch.

25 A funeral establishment, in which the preparation of dead
26 bodies takes place, must contain a preparation room equipped with
27 tile, cement or composition floor, necessary drainage or proper
28 disposal of waste satisfactory to the local health officer, and
29 ventilation, and containing necessary instruments and supplies
30 for the preparation and embalming of dead human bodies for
31 burial, transportation or other disposition.

33 The board may adopt such rules,---regulations and
34 classifications as may be reasonable, sufficient and proper to
35 define what shall be deemed the proper drainage and ventilation
36 and what instruments are necessary and suitable in a funeral
37 establishment.

39 The board may adopt rules and-regulations governing its own
40 procedure. It may adopt rules and-regulations consistent with the
41 law governing the time, place, method and grading of
42 examinations. Written examinations shall be retained for a period
43 of 5 years, but need not be retained for a longer period. The
44 board may waive all or part of the licensing requirements and
45 qualifications of this chapter if in its judgment these
46 requirements and qualifications are in conflict with the
47 religious faith of an applicant.

49 **Sec. 23. 32 MRSA §1503-A, as amended by PL 1983, c. 468, §7,**
50 **is further amended to read:**

1
3 **§1503-A. Resident trainee**

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

27 **Sec. 24. 32 MRSA §1504**, as amended by PL 1983, c. 816, Pt. A,
§33, is repealed and the following enacted in its place:

29 **§1504. Fees; expiration and renewal of licenses**

31 An application fee and an examination fee may be established
33 by the board in amounts which are reasonable and necessary for
their respective purposes.

35 1. Maximum fees. All licenses and certificates of
37 registration which are issued by the board shall expire on
39 December 31st annually or such other time as the Commissioner of
41 Professional and Financial Regulation may designate. Any person
43 holding a license or registration under this law may have the
45 license renewed by making and filing an application with the
47 board, within 30 days preceding the expiration of that license or
certificate of registration, upon blanks prescribed by the board
and upon payment of the established renewal fee. The board shall
establish by rule the initial and renewal fees for licensure and
registration for an embalmer's license, funeral home and branch
registration, practitioner of funeral service license and
practitioner trainee license. The initial and renewal license
and registration fees shall not exceed the following amounts:

49 A. An embalmer's license, \$ 80;

51 B. A funeral director's license, \$ 80;

1 C. A funeral attendant's registration, \$ 80;

3 D. A funeral home and branch registration, \$ 80;

5 E. A practitioner of funeral service license, \$100; and

7 F. A practitioner trainee license, \$ 20.

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

21 **Sec. 25. 32 MRSA §1671, first ¶,** as amended by PL 1983, c. 812,
§212, is further amended to read:

23 The State Board of Registration Licensure for Professional
25 Land Surveyors, as established by Title 5, section ~~12004~~ 12004-A,
subsection ~~1~~ 21, shall administer this chapter. The board shall
27 consist of ~~6~~ 7 members appointed by the Governor, of which 5
shall be land surveyors who have the qualifications required by
29 section 1672 and ~~one~~ 2 shall be a ~~representative~~ representatives
of the public.

31 **Sec. 26. 32 MRSA §3301, sub-§1-C** is enacted to read:

33 1-C. Apprentice. "Apprentice" means any person who is
35 engaged in learning and assisting in the installation of plumbing
and drainage under an apprenticeship program acceptable to the
board.

37 **Sec. 27. 32 MRSA §3301, sub-§2-A,** as enacted by PL 1983, c.
39 468, §12, is amended to read:

41 2-A. Journeyman-in-training license. A "journeyman-in-
43 training license" means that license issued to a person who is in
the process of accumulating experience in order to qualify for a
journeyman plumber's license, pursuant to section 3501,
45 subsection 2, paragraph B, who has met the education requirements
set forth in that paragraph and has achieved a passing grade, as
47 determined by the board, on the journeyman's examination. A
49 licensed journeyman-in-training may assist in making plumbing
installations under the direct supervision of a journeyman
plumber or a master plumber, but may not act as or represent
51 himself as that that journeyman in training is a journeyman
plumber, as defined in subsection 3. A-journeyman-in-training

1 license shall be issued for a single nonrenewable period of 4
2 years, and such a license may be issued only once to any
3 individual. The fee for a journeyman-in-training license shall
4 be \$8.

5
6 **Sec. 28. 32 MRSA §3501, sub-§2**, as amended by PL 1987, c. 597,
7 §10, is further amended to read:

8
9 **2. Journeyman or limited license.** The board may issue a
10 journeyman plumber or limited plumber license to persons who
11 submit an application therefor on a form prescribed by the board
12 and who provide satisfactory evidence of the following
13 qualifications:

14
15 A. A minimum of at least ~~2 4~~ years with ~~4,000~~ 10,000 hours
16 of work in the field of plumbing installations as a trainee
17 plumber under the employment and direct supervision of a
18 master plumber, ~~or the equivalent thereof~~, and obtaining a
19 passing grade as determined by the board on the journeyman's
20 examination; or

21
22 B. A minimum of ~~2,000~~ 4,000 hours of work in the field of
23 plumbing installations as a journeyman-in-training under the
24 employment and direct supervision of a master plumber,
25 ~~provided that the work experience is obtained within 4 years~~
26 ~~of the date upon which the applicant was issued his~~
27 ~~journeyman-in-training license.~~ A journeyman-in-training
28 license shall be issued upon sworn application therefor to
29 any person who has satisfactorily completed one academic
30 year of instruction in plumbing at a Maine
31 vocational-technical institute and ~~who has obtained a~~
32 ~~passing grade, as determined by the board on the~~
33 ~~journeyman's examination.~~ Any person who is enrolled in a
34 course of instruction in plumbing at a Maine
35 veational-technical institute on July 1, 1983, may be
36 licensed as a journeyman upon successful completion of that
37 course of instruction and passage of the journeyman's
38 examination; or

39
40 C. A minimum of 8,000 hours in an approved program
41 registered with the State Apprenticeship and Training
42 Council and completion of 576 hours of related instruction.
43 Persons qualifying under this paragraph may write the
44 journeyman's examination after completion of the 576 hours
45 of instruction.

46
47 **Sec. 29. 32 MRSA §3501, sub-§2-A, ¶A**, as amended by PL 1987,
48 c. 597, §11, is further amended to read:

49
50 A. A minimum of at least one year with 2,000 hours of work
51 in the field of plumbing installations as a journeyman
52 plumber ~~or a minimum of at least 4 years with 8,000 hours of~~

1 ~~work in the field of plumbing installations as a trainee~~
2 plumber under the employment and direct supervision of a
3 master plumber, ~~or the equivalent~~; and

5 **Sec. 30. 32 MRSA §4150, sub-§3**, as enacted by PL 1987, c. 790,
6 §2, is amended to read:

7
8 **3. Deposit of fees.** All fees received by the board shall
9 be paid to the Treasurer of State ~~and deposited into the General~~
10 Fund to be used for carrying out this chapter. Any balance of
11 fees shall not lapse, but shall be carried forward as a
12 continuing account to be expended for the same purposes in the
13 following fiscal years.

15 **Sec. 31. 32 MRSA §4853, sub-§4**, as enacted by PL 1975, c. 477,
16 §4, is amended to read:

17
18 **4. Commissioner.** "Commissioner" means the Commissioner of
19 Agriculture ~~or his duly authorized agent~~ Professional and
20 Financial Regulation.

21 **Sec. 32. 32 MRSA §4854**, as amended by PL 1985, c. 748, §42,
22 is further amended to read:

25 **§4854. State Board of Veterinary Medicine**

27 The State Board of Veterinary Medicine, as established by
28 Title 5, section ~~12004~~ 12004-A, subsection ~~1~~ 42, within the
29 Department of Professional and Financial Regulation, shall
30 consist of 6 members, appointed by the ~~Commissioner of~~
31 ~~Professional and Financial Regulation~~ Governor, 5 of whom shall
32 be licensed Maine veterinarians who are residents of this State,
33 graduates of a veterinary school and who have been licensed to
34 practice veterinary medicine in Maine for the 5 years preceding
35 their appointment and one member who shall be a representative of
36 the public. At least 30 days before the appointment of any
37 licensed Maine veterinarian to the board, the State Veterinary
38 Medical Association shall forward to the ~~commissioner~~ Governor
39 for his consideration the names of 3 or more qualified
40 veterinarians. The term of office of each present member of the
41 board shall expire as now provided. One new member to be
42 appointed to the board shall serve a 3-year term. One new member
43 to be appointed to the board shall serve a 4-year term. The
44 public member to be appointed to the board shall serve a 5-year
45 term. Thereafter, all members shall be appointed for 5-year
46 terms. No person shall may serve 2 consecutive 5-year terms, but
47 a person appointed for a term of less than 5 years may ~~succeed~~
48 himself serve a consecutive term. No person may serve on the
49 board who is, or has been during the 2 years preceding his that
50 appointment, a trustee or a member of the faculty or advisory
51 board of a veterinary school.

1 **Sec. 33. 32 MRSA §4857**, as enacted by PL 1975, c. 477, §4, is
3 amended to read:

5 **§4857. Removal**

7 Members of the board may be removed by the ~~commissioner~~
9 Governor for cause, after notice and hearing.

11 **Sec. 34. 32 MRSA §4863, first ¶**, as amended by PL 1983, c. 48,
13 §6, is further amended to read:

15 All licenses shall expire annually on December 31st, or
17 other such date as the commissioner may designate, and shall be
19 renewed by registration with the board and payment of a renewal
21 fee established by the board. On or before December 1st of each
year, the secretary shall mail a notice to each licensed
veterinarian that his the license will expire on December 31st
and provide him--with a form for reregistration. The secretary
shall issue a renewal certificate to all persons registering
under this chapter.

23 **Sec. 35. 32 MRSA §5011-B**, as amended by PL 1979, c. 285, §3,
25 is further amended to read:

27 **§5011-B. Budget**

29 The board shall submit to the Commissioner of Business
31 Professional and Financial Regulation its budgetary requirements
33 in the same manner as is provided in Title 5, section 1665, and
the commissioner shall in turn transmit these requirements to the
Bureau of the Budget.

35 **Sec. 36. 32 MRSA §5011-C**, as amended by PL 1985, c. 785, Pt.
37 B, §144, is further amended to read:

39 **§5011-C. Employees**

41 The Commissioner of Business, ~~Occupational and~~ Professional
43 and Financial Regulation, with the advice and ~~consent~~ of the
45 board, shall be empowered to appoint, subject to the Civil
47 Service Law, such employees as may be necessary to carry out this
chapter. Any person so employed shall be located in the
Department of Business, ~~Occupational and~~ Professional and
Financial Regulation and under the administrative and supervisory
direction of the ~~Commissioner of Business, Occupational and~~
Professional-Regulation commissioner.

49 **Sec. 37. 32 MRSA §5015**, as amended by PL 1987, c. 395, Pt. A,
51 §187, is further amended by adding at the end a new paragraph to
read:

1
3 The board may require applicants for license renewal to
5 present evidence of satisfactory completion of continuing
7 professional education in accordance with the board's rules.

9 **Sec. 38. 32 MRSA §9702, sub-§§2 and 3,** as enacted by PL 1985,
11 c. 288, §3, are amended to read:

13 **2. Commissioner.** "Commissioner" means the Commissioner of
15 ~~Business, Occupational and Professional~~ and Financial Regulation.

17 **3. Department.** "Department" means the Department of
19 ~~Business, Occupational and Professional~~ and Financial Regulation.

21 **Sec. 39. 32 MRSA §9702, sub-§5, ¶E,** as enacted by PL 1985, c.
23 288, §3, is amended to read:

25 E. Diagnostic and therapeutic use of the following:

27 (1) Administration of medical gases, aerosols and
29 humidification;

31 (2) Environmental control mechanisms and ~~baromedical~~
33 hyperbaric therapy;

35 (3) Pharmacological agents related to respiratory care
37 procedures;

39 (4) Mechanical or physiological ventilatory support;

41 (5) Bronchopulmonary hygiene;

43 (6) Cardiopulmonary resuscitation;

45 (7) Maintenance of natural airways;

47 (8) Insertion and maintenance of artificial airways;

49 (9) Specific diagnostic and testing techniques
51 employed in the medical management of patients to
assist in diagnosis, monitoring, treatment and research
of pulmonary abnormalities, including measurement of
ventilatory volumes, pressures and flows, collection of
specimens of blood and collection of specimens from the
respiratory tract;

 (10) Analysis of blood gases and respiratory
secretions and pulmonary function testing; and

 (11) Hemodynamic and physiologic measurement and
monitoring of cardiac functions as it relates to
cardiopulmonary pathophysiology.

1 **Sec. 40. 32 MRSA §9702, sub-§7** is enacted to read:

3 **7. Respiratory care practitioner trainee.** "Respiratory
5 care practitioner trainee" means an employee of a health care
7 facility who is enrolled in the clinical portion of an approved
respiratory care educational program.

9 **Sec. 41. 32 MRSA §9703, sub-§1**, as enacted PL 1985, c. 288,
11 §3, is amended to read:

13 **1. Establishment and membership.** There is established
15 within the Department of Business, ~~Occupational and Professional~~
17 and Financial Regulation, in accordance with Title 5, section
12004 ~~12004-A~~, subsection 1 35, a Board of Respiratory Care
Practitioners. The board shall consist of 5 members appointed by
the Governor as follows:

19 A. Three respiratory care practitioners who have been
21 engaged in the practice of respiratory care for at least 2
23 years immediately preceding their appointments and who shall
25 be at all times holders of valid licenses for the practice
of respiratory care in the State, except for the members of
the first board, each of whom shall fulfill the requirements
for licensure of this chapter; and

27 B. Two public members who are residents of the State, who
29 do not hold a license to practice respiratory care, and who
31 have no direct or indirect financial interest in the
practice or delivery of respiratory care.

33 **Sec. 42. 32 MRSA §9704, sub-§2**, as enacted by PL 1985, c. 288,
§3, is amended to read:

35 **2. Rules.** The board may, in accordance with the Maine
37 Administrative Procedure Act, Title 5, chapter 375, adopt rules
39 to carry out the policy of this chapter, including, but not
41 limited to, rules relating to professional licensure,
professional conduct, continuing education, approval of
continuing education programs and to the establishment of ethical
standards of practice for persons holding a license to practice
respiratory care in this State.

43 **Sec. 43. 32 MRSA §9706**, as enacted by PL 1985, c. 288, §3, is
45 repealed.

47 **Sec. 44. 32 MRSA §9706-A** is enacted to read:

49 **§9706-A. Persons and practices exempt**

51 Nothing in this chapter may be construed as preventing or
restricting the practice, services or activities of:

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1. Licensed persons. Any medical personnel licensed or registered in this State from engaging in the delivery of respiratory care services for which they have been formally trained;

2. Students. The delivery of respiratory care services by students as an integral part of the study program of students enrolled in education programs of any health care profession, as determined by board rule;

3. Associates. Any person performing respiratory care services in the State, provided that these services are performed for no more than 30 days in a calendar year and are rendered in association with a respiratory care practitioner licensed under this chapter, if:

A. The associate is licensed under the law of another state which has licensure requirements equivalent to the requirements of this chapter; or

B. The associate is certified as a respiratory therapy technician or registered as a respiratory therapist by the National Board of Respiratory Care and resides in a nonlicensure state;

4. Gratuitous care. Family members, friends and others who give gratuitous care to a patient and do not hold themselves out as respiratory care practitioners;

5. Self-care. Persons who administer respiratory care to themselves;

6. Cardiovascular testing. Cardiovascular testing by individuals who have been issued credentials by the National Society of Cardiopulmonary Technicians, the American Cardiology Technologists Association or working in hospital-based cardiology departments;

7. Cardiopulmonary testing. Cardiopulmonary testing by individuals who have been issued credentials by the National Board for Respiratory Care as Certified Pulmonary Function Technologists; or

8. Physician supervision. The delivery of respiratory care services by individuals employed in the office and under the direct supervision and control of a physician licensed to practice by the State.

Sec. 45. 32 MRSA §9707, as enacted by PL 1985, c. 288, §3, is amended to read:

1
3 **§9707. Temporary license**

5 A No more than one temporary license may be granted to a
7 person who has completed the ~~education~~ educational requirements
9 of this chapter. This license allows the holder to practice
11 respiratory care under the direct supervision of a licensed
respiratory care practitioner. This license shall be issued for
a term of one year and may ~~not be renewed~~ extended for not more
than an additional one-year period at the discretion of the
board.

13 **Sec. 46. 32 MRSA §9707-A** is enacted to read:

15 **§9707-A. Respiratory care practitioner trainee registration**

17 The board may register student employees as respiratory care
19 practitioner trainees as defined under section 9702, subsection
7, and promulgate rules for that registration.

21 **Sec. 47. 32 MRSA §9708, sub-§1**, as enacted by PL 1985, c. 288,
23 §3, is repealed.

25 **Sec. 48. 32 MRSA §9708, sub-§4** is enacted to read:

27 4. Restrictions. A respiratory care practitioner trainee
29 shall not perform invasive procedures or procedures related to
31 critical respiratory care, including therapeutic, diagnostic and
palliative procedures. Respiratory care practitioner trainees
shall only perform services under the on-site supervision of a
licensed respiratory care practitioner.

33 **Sec. 49. 32 MRSA §9710, sub-§1, ¶B**, as enacted by PL 1985, c.
35 288, §3, is amended to read:

37 B. For a renewal respiratory care practitioner's license,
\$40 \$80 biennially; and

39 **Sec. 50. 32 MRSA §9712, sub-§1**, as enacted by PL 1985, c. 288,
41 §3, is amended to read:

43 1. Biennial renewal. Licenses shall expire annually
45 biennially on ~~December 31st~~ April 30th or on such other date as
47 the commissioner determines. Notice of expiration shall be
mailed to each licensee's last known address at least 30 days in
advance of the expiration of his the license. The notice shall
include any requests for information necessary for renewal.

49 Licenses may be renewed up to 90 days after the date of
51 expiration upon payment of a late fee of \$10 in addition to the
renewal fee. Any person who submits an application for renewal
more than 90 days after the license renewal date shall be subject

1 to all requirements governing new applicants under this chapter,
3 except that the board may, giving due consideration to the
5 protection of the public, waive examination if that renewal
application is made within 2 years from the date of that
expiration.

7 **Sec. 51. 32 MRSA §9712, sub-§3** is enacted to read:

9 3. Transition. Implementation of biennial license renewal
11 shall occur during the 1990 renewal period.

13 **Sec. 52. 32 MRSA §12228**, as enacted by PL 1987, c. 489, §2,
is amended to read:

15 1. **Certificate grant.** The board shall grant the
17 certificate of "certified public accountant" to any person who
education, examination and experience requirements of, and who
19 pays the fees prescribed by, this section, except that no
21 certificate may be granted to a person who has been issued a
certificate by another state.

23 **Sec. 53. 32 MRSA §12240, sub-§1**, as enacted by PL 1987, c.
489, §2, is amended to read:

25 1. **Certificate grants.** The board shall grant the
27 certificate of "public accountant" to any person who makes
application to the board and who meets the good character,
29 education, examination and experience requirements of, and who
pays the fees prescribed by, subsections 2 to 8, except that no
31 certificate may be granted to a person who has been issued a
certificate by another state.

33 **Sec. 54. Allocation.** The following funds are allocated from
35 Other Special Revenue to carry out the purposes of this Act.

	1989-90	1990-91
39 PROFESSIONAL AND FINANCIAL		
41 REGULATION, DEPARTMENT OF		
43 Board of Licensure of		
45 Railroad Personnel		
45	(1)	(1)
46	Personal Services	\$28,800
47	All Other	12,000
48	\$37,300	\$40,800
49	TOTAL	\$40,800

1			
3	State Board of Social Worker Licensure		
5	Personal Services	\$3,000	\$3,000
7			
9	Board of Occupational Therapy Practice		
11	Personal Services	\$3,000	\$3,000
13			
15	Board of Chiropractic Examination and Registration		
17	Positions	(1)	(1)
19	Personal Services	\$23,500	\$23,500
21	DEPARTMENT OF PROFESSIONAL AND FINANCIAL REGULATION		
23	TOTAL	<u>\$66,800</u>	<u>\$70,300</u>

STATEMENT OF FACT

29 Sections 1 to 3 allow members of the State Board of Social
31 Worker Licensure, the Board of Licensure of Railroad Personnel,
33 the Board of Occupational Therapy Practice and the State Board of
Licensure for Professional Surveyors to be paid a per diem rate
of \$35.

35 Section 4 lists additional boards that have come within the
Department of Professional and Financial Regulation.

37 Section 5 empowers licensing boards to issue reprimands, to
39 require continuing professional education, to request informal
41 conferences and to recover actual costs expended for
investigations by requiring licensees to pay these costs.

43 Section 6 clarifies the auctioneering of real estate so as
45 not to conflict with the laws of the Real Estate Commission.

47 Section 7 adds the definition of commissioner and department
to the licensure act of the Board of Chiropractic Examination and
49 Registration.

51 Section 8 allows the commissioner to hire employees to
provide administrative services to the Board of Chiropractic
53 Examination and Registration and also designates dates of renewal
for licenses.

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Section 9 allows limited electricians to supervise apprentice electricians.

Section 10 allows limited electricians to supervise helper electricians.

Section 11 makes a technical change in the department's name.

Sections 12 to 24 clarify existing language by removing the residency requirements for applicants, change any reference to "resident trainee" to "practitioner trainee," authorize and require the registration of funeral attendants and funeral homes, establishments and branches and clarify that mortuary trust agreement funds can be withdrawn if permitted by contract.

Section 26 empowers the Plumber's Examining Board to issue an apprentice license.

Section 27 removes the requirement that an individual successfully pass a journeyman's examination in order to be issued a journeyman-in-training license.

Section 28 recognizes the fact that current law does not allow adequate training time for a plumber trainee before being allowed to sit for a journeyman's examination. Section 28 allows the Plumbers' Examining Board to recognize a formal apprenticeship program as an avenue to licensure and requires a graduate of a vocational-technical institute program to obtain 8,000 hours of experience before obtaining a journeyman's license.

Section 29 requires every applicant to have served at least one year prior to being allowed to sit for the master's examination.

Section 30 changes the Board of Licensure of Railroad Personnel from a General Fund to a dedicated revenue account.

Section 31 is a technical change resulting from the board's move to the Department of Professional and Financial Regulation.

Section 32 changes the appointing authority for members of the State Board of Veterinary Medicine from the commissioner to the Governor.

Section 33 empowers the Governor, rather than the commissioner, to remove members for cause.

Section 34 allows the Commissioner of Professional and Financial Regulation to establish license renewal dates.

1 Section 36 makes technical changes correcting the
2 department's name and makes the hiring authority of the
3 commissioner consistent with that granted by other board's
4 statutes that are within the Department of Professional and
5 Financial Regulation.

7 Section 37 allows the State Board of Licensure for
8 Professional Foresters authority to mandate continuing education
9 as a prerequisite for renewal.

11 Sections 39 to 51 clarify the respiratory care
12 practitioners' laws by adding new definitions, insituting the new
13 license category of "respiratory care practitioner trainee,"
14 redefining persons and practices which are exempt from licensure,
15 removing the residency requirement for applicants and changing
16 the renewal cycle to a biennial one effective April 1990.

17 Sections 52 and 53 remove the requirement that the Board of
18 Accountancy issue a certificate to an individual who has actually
19 received a certificate in another state.

21 Section 54 makes allocations to the Department of
22 Professional and Financial Regulation to carry out the purposes
23 of this bill.