

MAINE STATE LEGISLATURE

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115th MAINE LEGISLATURE

FIRST REGULAR SESSION-1991

Legislative Document

No. 1589

H.P. 1089

House of Representatives, April 18, 1991

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 KILKELLY of Wiscasset.

Cosponsored by Senator CAHILL of Sagadahoc and Representative REED of Dexter.

STATE OF MAINE

IN THE YEAR OF OUR LORD
NINETEEN HUNDRED AND NINETY-ONE

**An Act to Conform Chiropractic Licensing Laws to Other State
Regulatory Board Laws.**

(EMERGENCY)

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

4
Whereas, it is vital that the funds provided in this
6 legislation are available for the beginning of fiscal year
1991-92; and

8
Whereas, that fiscal year will begin before the expiration
10 of the 90-day period; and

12
Whereas, in the judgment of the Legislature, these facts
create an emergency within the meaning of the Constitution of
14 Maine and require the following legislation as immediately
necessary for the preservation of the public peace, health and
16 safety; now, therefore,

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

20 Sec. 1. 32 MRSA §454 is amended to read:

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

24 Any person who shall ~~practice practices~~ or attempt ~~attempts~~
to practice or use the science or system of chiropractic in
26 treating diseases of the human body, or any person who shall ~~buy~~
~~buys~~, sell ~~sells~~ or fraudulently obtain ~~obtains~~ any diploma,
28 license, record or registration to practice chiropractic, or who
shall ~~aid~~ ~~aids~~ or abet ~~abets~~ in such ~~that~~ selling or fraudulent
30 obtaining; or who shall ~~practice practices~~ chiropractic, under
cover of any diploma, license, record or registration to practice
32 chiropractic, illegally obtained, or signed or issued unlawfully
or under fraudulent representations; or who after conviction of
34 felony shall ~~practice practices~~ chiropractic, or who shall ~~use~~
~~uses~~ any of the forms of letters, "Chiropractic," "Chiropractor,"
36 "Chiropractic Practitioner," "Doctor of Chiropractic," "D.C." or
any other titles or letters, either alone or with qualifying
38 words or phrases, under such circumstances as to induce the
belief that the person who uses such ~~those~~ terms is engaged in
40 the practice of chiropractic, without having complied with this
chapter, ~~shall be deemed guilty of a misdemeanor and upon~~
42 ~~conviction thereof shall be punished by a fine of not less than~~
~~\$50 nor more than \$500, or by imprisonment for not less than 30~~
44 ~~days nor for more than 11 months, or by both~~ commits a Class E
crime. Nothing in this section shall ~~may~~ be construed to prohibit
46 any lawfully qualified chiropractor in any other state meeting a
registered chiropractic practitioner in this State for
48 consultation.

50 Sec. 2. 32 MRSA §501, as amended by PL 1989, c. 503, Pt. B,
§124, is further amended to read:

52

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

4 The Board of Chiropractic Examination and Registration, as
6 established by Title 5, section 12004-A, subsection 8, and in
8 this chapter called the "board," ~~shall consist~~ consists of 6 7
10 persons, ~~who shall be~~ appointed by the Governor. Said ~~These~~
12 persons shall must be residents of this State, 5 shall must be
14 graduates of a legally chartered chiropractic school, college or
16 university having the power to confer degrees in chiropractic and
18 shall ~~have been~~ must be at the time of their appointment actively
20 engaged in the practice of their profession for a period of at
22 least 3 years in this State and ~~one shall~~ . Two members must be
24 a ~~representative~~ representatives of the public. Each appointment
 shall ~~be~~ is for the period of 5 3 years as the terms of the
 present members expire. A member may not serve more than 3
 consecutive terms, exclusive of the minority portion of an
 unexpired term. Any vacancy in said ~~the~~ board caused by death,
 resignation or for any other cause, except completion of a full
 term of service, shall must be filled by the like appointment of
 a person qualified as ~~as~~ as to hold office during the
 unexpired term of the member whose place that person fills. Any
 member of said ~~the~~ board may be removed from office for cause by
 the Governor. Compensation of members of the board is in
 accordance with the provisions of Title 5, chapter 379.

26 **Sec. 3. 32 MRSA §502, first ¶,** as amended by PL 1981, c. 456,
28 Pt. A, §105, is repealed and the following enacted in its place:

30 The board shall meet at least twice each year at such times
32 and places as its chair may designate to consider applications,
34 examine applicants and consider such other business as may
36 properly come before the board. At its first meeting in each
38 calendar year, the board shall elect one of its members as chair
40 for a term of one year and one of its members as secretary to
42 hold office at the pleasure of the board. Special meetings may
44 be called at the pleasure of the chair and, in case of the death
46 or inability of the chair, the secretary may call special
48 meetings. The board shall keep correct records of all
50 proceedings. The chair and secretary are empowered to administer
 oaths in matters connected with the duties of the board. The
 records, or duplicates of the records, must be open to inspection
 and are prima facie evidence of all matters recorded in the
 records. Four members of the board constitute a quorum for the
 transaction of business, but a license to practice chiropractic
 may not be granted except on an affirmative vote of at least 4
 members of the board. The board has the power to make and adopt
 rules and a code of ethics consistent with law necessary for the
 enforcement of its authority, the performance of its duties and
 the governing of the practice of chiropractic, but a rule or code
 of ethics may not be made that is unreasonable or contravenes
 this chapter. In establishing the rules and code of ethics, the

2 board must, in addition to the standards set forth in this
3 chapter, be guided by the following standards setting forth
4 conduct deemed unprofessional:

5 Sec. 4. 32 MRSA §503-A, sub-§1, as enacted by PL 1983, c. 378,
6 §4, is amended by amending the first 2 paragraphs to read:

7 1. **Disciplinary proceedings and sanctions.** The board shall
8 investigate a complaint, on its own motion or upon receipt of a
9 written complaint filed with the board, regarding noncompliance
10 with or violation of this chapter or of any rules adopted by the
11 board.

12 The board shall notify the licensee of the content of a complaint
13 filed against the licensee as soon as possible, ~~but in no event~~
14 ~~later than within 60 days of receipt of this information.~~ The
15 licensee shall respond within 30 days. If the licensee's
16 response to the complaint satisfies the board that the complaint
17 does not merit further investigation or action, the matter may be
18 dismissed, ~~with notice of the dismissal to the complainant, if~~
19 ~~any.~~

20 Sec. 5. 32 MRSA §506, last ¶, as enacted by PL 1989, c. 450,
21 §9, is amended to read:

22 All licenses shall expire ~~on June 1st annually~~ biennially,
23 beginning on December 31, 1992 or at such other time as the
24 commissioner designates.

25 Sec. 6. 32 MRSA c. 9, sub-c. III, first 2 lines are repealed and the
26 following enacted in their place:

27 SUBCHAPTER III

28 LICENSURE

29 Sec. 7. 32 MRSA §551, as amended by PL 1987, c. 74, §1, is
30 further amended to read:

31 **§551. Examination and licensure**

32 Any person, before engaging in the practice of chiropractic
33 in this State, shall make application for a certificate license
34 to practice chiropractic to the board on a form prescribed by the
35 board. The application shall must be filed with the secretary
36 clerk of the board at least 7 30 days before the date of
37 examination, together with a ~~deposit of up to \$100, which deposit~~
38 ~~shall be returned to applicant in case the application is~~
39 rejected an application and examination fee. The application fee
40 is not refundable if an application is denied. Each applicant
41 must be at least 18 years of age and shall present proof of 2
42 years' satisfactory attendance at a college of liberal

arts. Candidates ~~A candidate~~ for licensure shall ~~be~~ is required
2 to present ~~transcripts~~ a transcript from an accredited college or
3 university certifying that ~~they have~~ the candidate has completed
4 2 years of preprofessional work, 2 subjects of which must be
5 English and biology, or otherwise satisfy the members of the
6 board ~~of~~ that the candidate has acquired sufficient prior
7 academic education. The applicant shall present a diploma granted
8 by a legally chartered chiropractic college, school or university
9 in good standing and having the power to confer degrees in
10 chiropractic, which diploma shall must show that it was granted
11 on personal attendance of the applicant and completion of a
12 course of 4 school years of not less than 8 months each and of a
13 total of 4,400 60-minute school hours. If an applicant
14 matriculated in a chiropractic college on or after January 1,
15 1984, ~~his~~ the diploma shall must show that it was granted by a
16 chiropractic college accredited by a chiropractic educational
17 accrediting agency approved by the United States Department of
18 Education or its successor agency or, in the event no such agency
19 exists, approved by the board, or the applicant must have
20 evidence of having successfully passed a licensing procedure from
21 another state having similar requirements. If an applicant
22 matriculated in a chiropractic college before January 1, 1984,
23 ~~his~~ the diploma shall must show that it was granted by a
24 chiropractic college accredited as set out in this section, or
25 the applicant must present evidence of having become a diplomat
26 of the National Board of Chiropractic Examiners, or the applicant
27 must have evidence of having successfully passed a licensing
28 procedure from another state having similar requirements. ~~All~~
29 ~~applicants~~ Each applicant must present a certificate of good
30 moral character signed by ~~some reputable resident of this State~~ a
31 reputable person and such other reasonable and proper facts as
32 the board ~~in its blank application~~ may require in its application
33 form.

34
35 **Sec. 8. 32 MRSA §552, as amended by PL 1987, c. 74, §2, is**
36 **further amended to read:**

37
38 **§552. Examination of applicants; subjects included; license;**
39 **license without examination**

40
41 The board shall require the applicant to submit to an
42 examination as to ~~his~~ qualifications for the practice of
43 chiropractic, ~~which.~~ The examination shall must include the
44 subjects of anatomy, physiology, symptomatology, hygiene,
45 sanitation, chemistry, pathology, electrotherapy, hydrotherapy,
46 dietetics, bacteriology, chiropractic analysis, the principles
47 and practice of chiropractic as taught in reputable chiropractic
48 schools and colleges and such other subjects as the board may
49 ~~deem~~ determines necessary. If such the examination is passed in a
50 manner satisfactory to the board, then the board shall issue to
51 the applicant a ~~certificate~~ license granting ~~him~~ that person the
52 right to practice chiropractic in this State.

2 Any person, licensed by a chiropractic board of any other
4 state or territory having a standard equal to that of the State,
shall ~~may~~ be licensed without examination, upon the payment of
6 ~~\$40--up--to--\$100--production--to--the--board--of--his--diploma--and--the~~
license--obtained a fee not to exceed \$300, submission of a
8 chiropractic diploma and proof of licensure in such other state.
The board may, in its discretion, require an examination of any
such applicant.

10 Sec. 9. 32 MRSA §553, as amended by PL 1987, c. 74, §3, is
12 repealed.

14 Sec. 10. 32 MRSA §553-A is enacted to read:

16 §553-A. Licenses renewal procedure; continuing education and fees

18 1. Renewal procedure. The board shall notify every
licensed chiropractor of the expiration date of the chiropractic
20 license and indicate the amount of the fee required for biennial
renewal. Notice must be mailed to each licensee's last known
22 address at least 30 days in advance of the expiration date of
that license. An expired license may be reissued up to 90 days
24 after the date of expiration upon payment of a late fee of \$10 in
addition to the renewal fee. Any person who submits an
26 application for renewal more than 90 days after the license
expiration date is subject to all requirements governing new
28 applicants under this chapter, except that the board may in its
discretion, giving due consideration to the protection of the
30 public, waive examination if that renewal application is made
within 2 years from the date of that expiration. The board may
32 assess penalty fees for late renewals.

34 2. Continuing education. The board shall require
applicants for license renewal to submit evidence of satisfactory
36 completion of continuing education in accordance with rules
adopted by the board.

38 3. Fees. Fees may be established by the board in amounts
40 that are reasonable and necessary for their respective purposes.
The fees may not exceed the following amounts:

42 A. For the application, \$50;

44 B. For the examination, \$50;

46 C. For the initial license, \$300; and

48 D. For the license renewal, biennially, \$300.

50 All fees received by the board must be paid to the Treasurer of
52 State and used to carry out this chapter. Any balance of these

2 fees may not lapse but must be carried forward as a continuing
3 account to be expended for the same purposes in the following
4 years.

6 **Sec. 11. 32 MRSA §554**, as repealed and replaced by PL 1983,
7 c. 113, §2, is amended to read:

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

10 When the board grants to a person the certificate license
11 mentioned in section 552, the ~~certificate--shall~~ license must
12 designate the holder as a doctor of chiropractic or a
13 chiropractor and shall must be publicly displayed at the person's
14 principal place of business so long as that person shall ~~continue~~
15 continues to practice chiropractic for gain or hire. The
16 ~~certificate--shall--entitle~~ license entitles the person to whom it
17 is granted to practice chiropractic in any county in this State,
18 in all of its branches, but it shall does not authorize its
19 holder to practice obstetrics so far as the same relates to
20 parturition, nor to administer drugs nor perform surgical
21 operations with the use of instruments, except as now allowed by
22 statute. Nothing in this section may be construed to prohibit
23 any legally ~~registered~~ licensed doctor of chiropractic in this
24 State from practicing surgery after having passed a satisfactory
25 examination therein before the State Board of Registration in
26 Medicine.

28 **Sec. 12. Board terms; transition.** Any new appointment to the
29 Board of Chiropractic Examination and Registration after the
30 effective date of this Act is for a term of 3 years.

32 **Emergency clause.** In view of the emergency cited in the
33 preamble, this Act takes effect when approved.

36 **STATEMENT OF FACT**

38 This bill accomplishes the following.

40 1. The bill correctly defines what is issued to
41 chiropractors as a "license," not a "certificate," and changes
42 similar references throughout the laws on chiropractors.

44 2. The bill makes practicing chiropractic without a license
45 a Class E crime, consistent with the other laws relating to
46 medical practice.

48 3. The bill increases the size of the Board of Chiropractic
49 Examination and Registration by one public member and reduces the
50 term of membership of new members to 3 years.

2 4. The bill amends current law concerning meetings to allow
the board more flexibility and corrects a number of
gender-specific terms in the law.

4
6 5. The bill clarifies the notice provisions regarding
complaint resolutions.

8
10 6. The bill changes the renewal cycle to 2 years from one
year in order to reduce the administrative work involved in
processing the licensing functions.

12
14 7. The bill stipulates that application fees are not
refundable.

16 8. The bill gives the board a new fee cap of \$300 for a
biennial license.

18
20 9. The bill adds to the law language consistent with how
renewals are processed by most state licensure boards. This
process creates a 90-day grace period for licensees to renew by
only paying a late fee and gives the board discretion concerning
22 appropriate penalties and requirements for individuals requesting
renewal more than 90 days after the expiration of their licenses.

24
26 10. The bill allows the board more flexibility in adopting
continuing education requirements than exists in current law.
This makes it easier for individuals to obtain continuing
28 education in order to renew their licenses. The bill also lists
new fee caps should the board find it necessary to increase fees
30 by rulemaking in order to carry out its statutory mandate.

32
34 11. The bill makes several technical and stylistic changes
to the law, such as removing the term "regulation," correcting
grammar and correcting gender-specific language.