

MAINE STATE LEGISLATURE

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116th MAINE LEGISLATURE

SECOND REGULAR SESSION-1994

Legislative Document

No. 1851

H.P. 1368

House of Representatives, February 8, 1994

An Act Related to Periodic Justification of Departments and Agencies of State Government under the Maine Sunset Act.

(EMERGENCY)

Reported by Representative ERWIN for the Joint Standing Committee on Audit and Program Review pursuant to the Maine Revised Statutes, Title 3, chapter 33.

Reference to the Joint Standing Committee on Audit and Program Review suggested and printing ordered under Joint Rule 18.

Joseph W. Mayo
JOSEPH W. MAYO, Clerk

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

4 **Whereas,** certain obligations and expenses incident to the
6 operation of departments and agencies will become due and payable
on or immediately after July 1, 1994; and

8 **Whereas,** these provisions are intended to improve management,
10 performance, organization, program delivery and fiscal
accountability of agencies and independent agencies reviewed; and

12 **Whereas,** certain independent agencies will terminate unless
14 continued by act of the Legislature prior to June 30, 1994; and

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

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

PART A

24
26 **Sec. A-1.** 3 MRSA §927, sub-§3, ¶B, as amended by PL 1991, c.
837, Pt. A, §4 and amended by PL 1993, c. 410, Pt. R, §1 and
28 affected by §4, is repealed and the following enacted in its
place:

B. Independent agencies:

30
32 (1) Maine State Pilotage Commission;

34 (2) State Board of Registration for Professional
36 Engineers;

38 (3) Board of Licensure for Professional Land Surveyors;

40 (4) Local Government Records Board;

42 (5) Maine High-Risk Insurance Organization. This
44 subparagraph is repealed January 1, 1997;

46 (6) Driver Education and Evaluation Programs; and

48 (7) State Soil and Water Conservation Commission.

50 **Sec. A-2.** 3 MRSA §927, sub-§5, as amended by PL 1993, c. 92,
§3, is further amended to read:

2 5. 2005.

4 A. Agencies:

- 6 (1) Department of Mental Health and Mental Retardation;
- 8 (2) Maine Indian Tribal-State Commission; and
- 10 (3) Department of Corrections.

12 B. Independent agencies:

- 14 (1) Board of Chiropractic Examination-and-Registration
Licensure;
- 16 (2) Board of Dental Examiners;
- 18 (3) Nursing Home Administrators Licensing Board;
- 20 (4) Board of Registration Licensure in Medicine;
- 22 (5) State Board of Nursing;
- 24 (6) State Board of Optometry;
- 26 (7) Board of Osteopathic Examination-and-Registration
Licensure;
- 28 (8) Board of the Maine Children's Trust Fund;
- 30 (9) Examiners--of--Pediatrists Board of Licensure of
32 Podiatric Medicine;
- 34 ~~(10)--Maine-Medical-Laboratory-Commission;~~
- 36 (11) Maine Developmental Disabilities Council;
- 38 (12) Maine Advisory Committee on Mental Retardation;
- 40 (13) Governor's Committee on Employment of People with
42 Disabilities; and
- 44 (14) Capitol Planning Commission--and
- 46 ~~(15)--Maine-Turnpike-Authority.~~

48 Sec. A-3. 3 MRSA §927, sub-§6, ¶C is enacted to read:

50 C. Independent agencies:

2 (1) Saco River Corridor Commission;

4 (2) Acupuncture Licensing Board;

6 (3) Board of Licensing of Auctioneers;

8 (4) Board of Licensing of Dietetic Practice;

10 (5) Board of Commercial Driver Education;

12 (6) Advisory Board for the Licensing of Taxidermists;
and

14 (7) Maine Turnpike Authority.

16 Sec. A-4. 5 MRSA §12004-I, sub-§66, as enacted by PL 1987, c.
786, §5, is amended to read:

18	66. Mental	State-Plan-	Expenses	34-B MRSA
20	Health	ning and	Only	§1211
22	and Mental	Advisory		
24	Retardation	Council-on		
26		Maine		
28		Developmental		
30		Disabilities		
32		Council		

34 Sec. A-5. 10 MRSA §8001, sub-§§20-A and 22-A are enacted to
read:

36 20-A. State Board of Optometry. Optometry, State Board of;

38 22-A. Board of Licensure of Podiatric Medicine. Podiatric
Medicine, Board of Licensure of;

40 Sec. A-6. 10 MRSA §8001, sub-§33, as repealed and replaced by
PL 1991, c. 548, Pt. B, §1, is amended to read:

42 33. Board of Chiropractic Licensure. Chiropractic
44 Examination-and-Registration Licensure, Board of;

46 Sec. A-7. 10 MRSA §8001-A, sub-§4, as enacted by PL 1989, c.
450, §5, is amended to read:

48 4. Board of Licensure in Medicine. Medicine, Board of
50 Registration Licensure in;

Sec. A-8. 10 MRSA §8001-A, sub-§6, as enacted by PL 1989, c.
450, §5, is repealed.

2 **Sec. A-9. 10 MRSA §8001-A, sub-§7**, as enacted by PL 1989, c.
3 450, §5, is amended to read:

4 **7. Board of Osteopathic Licensure.** Osteopathic Examination
5 and-Registration Licensure, Board of;

6 **Sec. A-10. 10 MRSA §8001-A, sub-§8**, as enacted by PL 1989, c.
7 450, §5, is repealed.

8 **Sec. A-11. 10 MRSA §8003, sub-§10** is enacted to read:

9 **10. National disciplinary record system.** Within the limits
10 of available revenues, all boards or commissions internal or
11 affiliated with the department shall join or subscribe to a
12 national disciplinary record system used to track interstate
13 movement of regulated professionals who have been the subject of
14 discipline by state boards, commissions or agencies.

15 **Sec. A-12. 10 MRSA §§8007 to 8009** are enacted to read:

16 **§8007. Board member candidate information**

17 The Commissioner of Professional and Financial Regulation or
18 the chief executive officer for an occupational and professional
19 regulatory board shall work with the Executive Department to
20 prepare general information regarding the purpose of an
21 occupational and professional regulatory board and the role,
22 responsibility and perspective of a member of an occupational and
23 professional regulatory board, including a public member. The
24 material must also include information specific to the board for
25 which the individual is a prospective member, including but not
26 limited to the time commitment, remuneration and any other
27 pertinent details.

28 This information must be provided to all new candidates for
29 membership on an occupational and professional regulatory board
30 and to members seeking reappointment in order to fully inform
31 the candidate or member about the nature of the position. Prior
32 to gubernatorial appointment or reappointment, the candidate or
33 member shall sign a statement indicating that the candidate or
34 member has read the material and is prepared to properly
35 discharge the duties of a member of an occupational and
36 professional regulatory board. Failure to sign this statement
37 disqualifies the candidate or member for appointment or
38 reappointment on a board.

39 **§8008. Reappointment**

40 Board members who are eligible for reappointment are
41 automatically reappointed upon the expiration of the current term

42 unless the Governor objects to the reappointment. In the event
43 of objection, the Governor shall make an appointment to fill the
44 expired term within 8 months. If the appointment is not made
45 within this period, the board with the vacant position shall
46 notify the Legislative Council and the joint standing committees
47 of the Legislature having jurisdiction over business legislation
48 matters and audit and program review matters that the vacancy has
49 not been filled.

50 When a member is not eligible for reappointment, the
51 Governor shall make an appointment to fill the expired term
52 within 8 months. If the appointment is not made within this
53 period, the board with the vacant position shall notify the
54 Legislative Council and the joint standing committees of the
55 Legislature having jurisdiction over business legislation matters
56 and audit and program review matters that the vacancy has not
57 been filled.

58 **§8009. Purpose of occupational and professional regulatory boards**

59 The sole purpose of an occupational and professional
60 regulatory board is to protect the public health and welfare. A
61 board carries out this purpose by ensuring that the public is
62 served by competent and honest practitioners and by establishing
63 minimum standards of proficiency in the regulated professions by
64 examining, licensing, regulating and disciplining practitioners
65 of those regulated professions. Other goals or objectives may
66 not supersede this purpose.

67 **Sec. A-13. 10 MRSA §9003, sub-§2**, as repealed and replaced by
68 PL 1989, c. 271, §2, is amended to read:

69 **2. Composition and terms of members.** The members of the
70 board shall include:

71 A. A representative who is a manufactured housing owner,
72 and whose home is not located in a mobile home park or
73 similar rental community;

74 B. Two representatives who are manufactured housing owners,
75 and the whose manufactured housing units in-which-the-owners
76 live are located on lots within mobile home parks or similar
77 rental communities which the manufactured housing owners do
78 not own;

79 C. A representative who is a professional engineer with
80 demonstrated experience in construction and building
81 technology;

82 D. A representative who is a dealer;

2 E. A representative who is an owner or operator of a mobile
home park with 15 or fewer lots;

4 F. A representative who is an owner or operator of a mobile
6 home park with more than 15 lots;

8 G. A representative who is a builder of manufactured
housing; and

10 H. A representative with a minimum of 2 years of practical
12 experience in building code administration and enforcement
14 and is currently employed with current employment as a code
enforcement officer.

16 The term of office of the members is 4 years. ~~Members may be~~
18 ~~appointed to successive terms. Members shall serve for their~~
~~appointed terms and until their successors are appointed and duly~~
20 ~~qualified, except that any appointment of a member must comply~~
with Title 32, section 60. A member of the board may be removed
22 for cause by the Governor. No A board member may not serve more
than 2 consecutive terms.

24 Sec. A-14. 10 MRSA §9003, sub-§3, as enacted by PL 1977, c.
550, §1, is repealed.

26 Sec. A-15. 22 MRSA c.1052, as amended, is repealed.

28 Sec. A-16. 22 MRSA c.1058 is enacted to read:

30 CHAPTER 1058

32 MAINE CHILDREN'S TRUST FUND

34 §3881. Definitions

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

40 1. Board. "Board" means the Board of the Maine Children's
Trust Fund.

42 2. Eligible organization. "Eligible organization" means a
44 nonprofit organization, local government or public school system.

46 3. Fund. "Fund" means the Maine Children's Trust Fund.

48 4. Income. "Income" means annual contributions made to the
50 fund through the income tax checkoff and any other sources, plus
interest earned by the fund.

2 5. Prevention policies. "Prevention policies" means laws,
4 rules, policies, procedures and practices, whether in the public
or private sector, that have an actual or potential impact on the
6 nature and incidence of child abuse and neglect.

8 6. Prevention programs. "Prevention programs" means
10 programs, plans or training associated with the primary
12 prevention of child abuse and neglect.

14 §3882. Establishment; purpose; nonprofit organization

16 The Maine Children's Trust Fund, referred to in this chapter
18 as the "fund," is established to provide a mechanism for
20 voluntary contributions by individuals and groups for annual and
22 long-term funding of prevention programs. The fund is the
24 repository for funds donated by taxpayers of the State through an
26 income tax checkoff pursuant to Title 36, section 5285 as well as
28 federal grants and contracts, privately donated funds and in-kind
30 donations for prevention programs.

32 The fund is a private nonprofit corporation with a broad
34 public purpose pursuant to this chapter. The exercise by the
36 fund of the powers conferred by this chapter is held to be an
38 essential governmental function.

40 §3883. Board; establishment

42 1. Establishment. The Board of the Maine Children's Trust
44 Fund, referred to in this chapter as the "board," is established.

46 2. Membership. The board consists of 17 members, appointed
48 as follows:

A. One Senator, appointed by the President of the Senate
for a 2-year term served concurrently with the legislative
term;

B. One Representative, appointed by the Speaker of the
House of Representatives for a 2-year term served
concurrently with the legislative term;

C. Four members of the Maine Association of Child Abuse and
Neglect Councils, selected by that association. Of the
initial appointees, one is appointed for a one-year term,
one is appointed for a 2-year term and 2 are appointed for
3-year terms. After the initial appointments, appointees
are appointed for 3-year terms;

2 D. Two representatives of the Department of Human Services
3 appointed by the Commissioner of Human Services. One member
4 must be a senior policy-making official and the other must
5 be a line manager with several years of experience in child
6 abuse and neglect. Of the initial appointees, one is
7 appointed for a 2-year term and the other is appointed for a
8 3-year term. After the initial appointments, appointees are
9 appointed for 3-year terms; and

10 E. Nine members of the public and the business community.

12 (1) Three members must be appointed by the Governor.
13 Of the initial appointees, one is appointed for a
14 one-year term, one is appointed for a 2-year term and
15 one is appointed for a 3-year term. After the initial
16 appointments, appointees are appointed for 3-year terms.

18 (2) Three leaders from the business community must be
19 appointed by the Maine Chamber of Commerce and
20 Industry. Of the initial appointees, one is appointed
21 for a one-year term, one is appointed for a 2-year term
22 and one is appointed for a 3-year term. After the
23 initial appointments, appointees are appointed for
24 3-year terms.

26 (3) Three members must be elected by majority vote of
27 the board. Of the initial appointees, one is appointed
28 for a one-year term, one is appointed for a 2-year term
29 and one is appointed for a 3-year term. After the
30 initial appointments, appointees are appointed for
31 3-year terms.

32 The public members may include representatives of the
33 following groups: parents; persons under the age of 21; the
34 business and labor communities; the legal community; the
35 religious community; and providers of child abuse and
36 neglect prevention services.

38 3. Board officers. The board shall elect annually a chair
39 from among its members to serve for one year. The chair may be
40 reelected. The board shall elect annually a member to serve as a
41 secretary, who shall maintain the minutes of board meetings, and
42 another member to serve as treasurer, who shall maintain and
43 oversee financial records and issue an annual financial report at
44 the end of each fiscal year. The secretary and treasurer may be
45 reelected. The board may elect from among its members other
46 officers it determines necessary to carry out the board's
47 purposes.

2 4. Compensation. The members are ineligible for per diem
3 compensation, but may be reimbursed for travel expenses and other
4 out-of-pocket expenses associated with board business pursuant to
5 board policy.

6 5. Meetings. The board shall meet at least 4 times
7 annually. A simple majority constitutes a quorum.

8 6. Advice and consultation. The Commissioner of Human
9 Services, the Commissioner of Mental Health and Mental
10 Retardation, the Commissioner of Education, the Commissioner of
11 Corrections and the Commissioner of Public Safety, upon request,
12 shall provide the board with technical information, assistance
13 and advice.

14 §3884. Powers

15 The board may:

17 1. Plan. Develop a biennial working plan for fund
18 activities that sets overall statewide goals and objectives for
19 child abuse prevention activities, establishes priorities for
20 distribution of money in the fund and provides a working plan for
21 the fund for the biennium. In developing the plan, the board may:

22 A. Review and evaluate existing prevention programs;

23 B. Ensure that equal opportunity exists for the
24 establishment of prevention programs and receipt of money
25 from the fund among all geographic areas in the State;

26 C. Review and evaluate public and private funding sources;
27 and

28 D. Submit the plan to the Legislature biennially;

29 2. Application for and receipt of funds. Apply for and
30 receive funds from any private source or governmental entity,
31 whether by way of grant, donation, loan or other means;

32 3. Public and private partnerships. Create partnerships
33 between the public and private sectors to facilitate the purposes
34 of this chapter and to:

35 A. Bridge the gap in knowledge and communication between
36 the public and private sectors regarding prevention programs
37 and prevention policies;

2 B. Build the leadership capacity of public and private
3 sector individuals and institutions regarding prevention
4 programs and prevention policies; and

5 C. Encourage active financial and in-kind participation
6 from the public and private sectors in carrying out the
7 purposes of this chapter;

8 4. Recommendations and information. Develop, initiate,
9 propose or recommend ideas or innovations in rules, laws,
10 policies and programs concerning child abuse and neglect to the
11 Governor, the Legislature, state executive agencies, the business
12 community and other entities. The board may also assist in the
13 coordination and exchange of information and the maintenance of
14 prevention programs;

15 5. Criteria for awarding grants. Publicize criteria and
16 review applications for grants and award those grants to
17 recipients that best address the purposes of this chapter;

18 6. Review. Establish a process for monitoring and review of
19 grants awarded pursuant to this chapter;

20 7. Education. As a primary prevention activity of the fund,
21 develop and implement a campaign to provide statewide education
22 and public information to enhance public awareness concerning
23 child abuse and neglect;

24 8. Contracts; grants or gifts. Enter into contracts with
25 public or private agencies and accept gifts or grants from
26 federal, state or private sources to carry out this chapter;

27 9. Bylaws. Adopt bylaws, have the general powers accorded
28 corporations under Title 13-A, section 202 and perform other acts
29 as necessary or convenient to carry out the lawful purposes of
30 the fund;

31 10. Staff. Employ staff as the board determines necessary to
32 implement its responsibilities;

33 11. Suit. Sue or be sued in the board's own name;

34 12. Real and personal property. Purchase, receive, hold,
35 lease or acquire by foreclosure, operate, manage, license and
36 sell, convey, transfer, grant or lease real and personal
37 property, together with those rights and privileges that may be
38 incidental and appurtenant to the property and the use of the
39 property, including, but not limited to, real or personal
40 property acquired by the board from time to time in the
41 satisfaction of debts or enforcement of obligations;

2 13. Expenditures and obligations regarding real and
3 personal property. Make expenditures and incur obligations
4 reasonably required in the exercise of sound business principles
5 to secure possession of, preserve, maintain, insure and improve
6 real and personal property interests acquired by the board;

7 14. Securities. Acquire, subscribe for, own, hold, sell,
8 assign, transfer, mortgage or pledge the stock, shares, bonds,
9 debentures, notes or other securities and evidences of interest
10 in or indebtedness of a person, firm, corporation, joint stock
11 company, partnership, association or trust, and, while the owner
12 or holder of stock, shares, bonds, debentures, notes or other
13 securities, exercise the rights, powers and privileges of
14 ownership, including the right to vote on the stock, shares,
15 bonds, debentures, notes or other securities;

16 15. Encumbrance of property. Mortgage, pledge or otherwise
17 encumber any property right or thing of value acquired pursuant
18 to the powers contained in subsection 12, 13 or 14 as security
19 for the payment of any part of the purchase price of the property
20 right or thing of value;

21 16. Cooperation with agencies and organizations. Cooperate
22 with and avail itself of the services of governmental agencies
23 and the University of Maine System; and cooperate with, assist
24 and otherwise encourage local or regional, private or public
25 organizations in the various communities of the State in the
26 prevention of abuse and neglect among children in the community
27 and the State; and

28 17. Endowment fund. Expend principal from the endowment
29 fund as established in section 3885, subsection 5, only under
30 emergency circumstances by 2/3 vote of the board.

31 §3885. Funds

32 1. Control. The board may accept funds from a public or
33 private source. Revenue to the fund must be managed, deposited,
34 invested and disbursed by the board in a manner that is
35 independent of control by the Department of Administrative and
36 Financial Services.

37 2. Grants disbursement. The board shall establish a
38 procedure and form for applications for grants of fund resources
39 under this chapter. Upon board approval of an application, the
40 board may disburse money from the fund to eligible recipients for
41 the development, operation or awareness of prevention programs
42 and prevention policies under this chapter.

2 3. Administrative expenses. Income must be allocated for
3 the support of administrative expenses as follows.

4 A. The board may expend, for administrative expenses, no
5 more than 45% in calendar year 1994, 40% in calendar year
6 1995, 35% in calendar year 1996, 30% in calendar year 1997
7 and 25% in calendar year 1998 of annual revenues from the
8 state income tax checkoff contributed by individuals. After
9 1998, the board may expend, for administrative expenses, no
10 more than 20% of annual revenues from the state income tax
11 checkoff contributed by individuals.

12 B. Income from federal grants may only be allocated to
13 support prevention programs.

14 4. Discretion. The board has sole discretion in the use of
15 resources from sources other than the income tax checkoff by
16 individuals and federal grants pursuant to subsection 3.

17 5. Endowment fund. An endowment fund is established pursuant
18 to this subsection. A minimum of 10% of tax checkoff revenue
19 received each year from individuals must be set aside for
20 allocation to the segregated endowment fund. Up to 90% of the
21 checkoff revenue and other income received by the endowment fund
22 may be expended annually by the board in accordance with this
23 chapter.

24 6. Income greater than \$200,000. At least 1/3 of the total
25 annual revenue that exceeds \$200,000 must be allocated to the
26 endowment fund established under subsection 5.

27 **§3886. Limitation of powers**

28 The board, notwithstanding section 3884, subsection 8, may
29 not enter into contracts, obligations or commitments of any kind
30 on behalf of the State or its agencies, nor does it have the
31 power of eminent domain or other powers not provided to business
32 corporations generally. Bonds, notes and other evidences of
33 indebtedness of the board are not debts or liabilities of the
34 State and do not constitute a pledge of the faith and credit of
35 the State.

36 **§3887. Liability of officers, directors and employees**

37 Officers, directors, employees and other agents of the board
38 entrusted with the custody of the securities of the fund or
39 authorized to disburse the money of the fund must be bonded,
40 either by a blanket bond or individual bonds, with a surety bond
41 or bonds with a minimum limitation of \$100,000 coverage for each
42 person covered by the bond, conditioned upon the faithful
43 performance of their duties, the premiums for which must be paid
44 out of the assets of the fund.

45 §3888. Prohibited interests of officers, directors and employees

46 An officer, director or employee of the fund or a spouse or
47 dependent child of an officer, director or employee of the fund
48 may not receive direct personal benefit from the activities of
49 the fund in assisting a private entity. This provision does not
50 prohibit corporations or other entities with which an officer,
51 director or employee is associated by reason of ownership or
52 employment from participating in prevention programs of the fund,
53 if that ownership or employment is made known to the board and
54 the officer, director or employee abstains from voting on matters
55 relating to that participation. This prohibition does not extend
56 to corporators who are not officers, directors or employees of
57 the fund.

58 **§3889. Donations to the State**

59 The State, through the Governor, may accept donations,
60 bequests, devises, grants or other interests of any nature on
61 behalf of the fund and shall transfer those funds, that property
62 or other interests to the fund.

63 **§3890. Annual report; audit**

64 By February 15th, the board shall provide an annual report
65 and an annual independent audit of its activities to the
66 Governor, the joint standing committee of the Legislature having
67 jurisdiction over human resources matters and the public. The
68 annual report must provide a summary of the fund for the previous
69 fiscal year according to generally accepted accounting principles.

70 **§3890-A. General conditions; dissolution**

71 The following conditions apply to the operation or
72 dissolution of the fund.

73 1. Net earnings of the fund. A member, officer, director
74 or employee may not benefit from any part of the net earnings of
75 the fund. Net earnings of the fund may be used to pay reasonable
76 compensation for services rendered and to hold, manage and
77 dispose of its property in furtherance of the purposes of the
78 fund.

79 2. Dissolution of fund. Upon dissolution of the fund, the
80 members shall transfer any unexpended General Fund appropriations
81 to the State and pay or make provisions for the payment of all
82 other liabilities of the fund.

2 All other principal and accrued interest in the fund must be
4 transferred to the Maine Association of Child Abuse and Neglect
6 Councils and restricted to the support of primary prevention of
8 child abuse and neglect in the State.

10 **§3890-B. Liberal construction**

12 This chapter must be construed liberally to effect the
14 interests and purposes of the fund for the prevention of child
16 abuse and neglect in the State and must be broadly interpreted to
18 effect the intent and purposes and may not be interpreted as a
20 limitation of powers.

22 **Sec. A-17. 26 MRSA §800**, as amended by PL 1983, c. 819, Pt.
24 A, §57, is further amended to read:

26 **§800. Membership**

28 Members of the committee shall must be citizens of the State
30 who have an unselfish and demonstrated interest in equal
32 opportunity for disabled people individuals. No more than 5
34 members may be individuals employed, retained or otherwise
36 compensated by or representative of the executive branch of State
38 Government. The committee shall include representatives of
health, educational, labor, business, public, private, voluntary
and advocacy organizations.

Members shall ~~be~~ are appointed for terms of 3 years, except
that, of the members first appointed, 6 shall ~~be~~ are appointed
for terms of one year, 6 shall ~~be~~ are appointed for terms of 2
years and 6 shall ~~be~~ are appointed for terms of 3 years, as
designated by the Governor at the time of appointment; and except
that any a member appointed to fill a vacancy occurring prior to
the expiration of the term for which ~~his~~ the member's predecessor
was appointed shall ~~be~~ is appointed only for the remainder of
that term.

~~Members shall be~~ A member is not eligible for reappointment
for ~~not~~ more than 2 consecutive full terms of 3 years each ~~and~~
but may serve after the expiration of ~~their terms~~ that period
until ~~their successors~~ have a successor has been appointed,
qualified and taken office. The Governor may terminate the
appointment of any a member of the committee for good and just
cause and the reason for the termination of each appointment
shall must be communicated to each member so terminated. The
appointment of any a member of the committee shall must be
terminated if a member is absent from 3 consecutive meetings
without good and just cause that is communicated to the chairman
chair.

2 Any A vacancy in the committee shall does not affect its
4 powers, but shall must be filled in the same manner by which the
original appointment was made.

6 The Governor shall designate the chairman chair from among
8 the members appointed to the committee. ~~The chairman may not be~~
~~an individual employed, retained or otherwise compensated by or~~
~~representative of the executive branch of State Government.~~
Members shall elect a vice-chairman vice chair from among the
membership. The committee shall meet at the call of the chairman
chair, but not less often than 4 times a year. Meetings shall
must be publicly announced.

14 The committee may appoint subcommittees consisting of its
16 own members and such other persons individuals as are deemed
18 determined necessary.

20 **Sec. A-18. 26 MRSA §801, sub-§1**, as enacted by PL 1983, c.
22 176, Pt. A, §9, is amended to read:

24 1. **Advise, consult and assist.** Advise, consult and assist
26 the executive and legislative branches of State Government on
28 activities of State Government which that affect the employment
of disabled people individuals. The committee shall ~~be~~ is solely
advisory in nature. The committee may advise regarding state and
federal plans, and proposed budgetary, legislative or policy
actions affecting disabled persons individuals;

30 **Sec. A-19. 26 MRSA §801, sub-§5**, as amended by PL 1989, c. 49,
32 §5, is further amended to read:

34 5. **Architectural barriers.** Inform the public of the
36 benefits of making buildings accessible to and usable by persons
38 individuals with disabilities; monitor the enforcement of state
and federal laws regarding architectural accessibility; and
advise and assist building owners by disseminating information
about accessibility and by making technical assistance available
when appropriate.

40 A. A wheelchair symbol shall must be appropriately
42 displayed to identify buildings with facilities which that
are accessible to disabled and elderly persons individuals.
44 accessibility to be determined by the Governor's Committee
46 on Employment of People with Disabilities.

48 B. The symbol shall must be that adopted by the
Rehabilitation International's World Congress in 1969.

2 C. Application for display of the wheelchair symbol shall
3 must be made by the Governor's Committee on Employment of
4 People with Disabilities, who which shall obtain and keep on
5 file a supply of symbols.

6 Sec. A-20. 26 MRSA §803 is enacted to read:

8 §803. Authorization

10 The committee may receive and accept, from any source,
11 allocations, appropriations, loans, grants and contributions of
12 money or other things of value to be held, used or applied to
13 carry out this chapter, subject to the conditions upon which the
14 loans, grants and contributions may be made, including, but not
15 limited to, appropriations, allocations, loans, grants or gifts
16 from a private source, federal agency or governmental subdivision
17 of the State or its agencies.

18 Sec. A-21. 30 MRSA §6212, as amended by PL 1985, c. 295, §§46
19 and 47, is further amended to read:

21 §6212. Maine Indian Tribal-State Commission

23 1. Commission created. The Maine Indian Tribal-State
24 Commission is established. The commission shall ~~consist~~ consists
25 of 9 members, 4 to be appointed by the Governor ~~of the State,~~
26 subject to review by the Joint Standing Committee on Judiciary
27 and to confirmation by the Legislature, 2 each to be appointed by
28 the Passamaquoddy Tribe and 2 to be appointed by the Penobscot
29 Nation and a chairman chair, to be selected in accordance with
30 subsection 2. The members of the commission, other than the
31 chairman ~~shall~~ chair, each serve for a term of 3 years and may
32 be reappointed. In the event of the death, resignation or
33 disability of any a member, the appointing authority may fill the
34 vacancy for the unexpired term.

35 2. Chair. The commission, by a majority vote of its 8
36 members, shall select a ~~person~~ an individual who is a resident of
37 the State to act as chairman chair. ~~In the event that~~ When 8
38 members of the commission by majority vote are unable to select a
39 chairman chair within 120 days of the first meeting of the
40 commission, the Governor shall, after consulting with the
41 governors of the Penobscot Nation and the Passamaquoddy Tribe,
42 shall appoint an interim chairman chair for a period of one year
43 or for the period until ~~sueh-time--as~~ the commission selects a
44 chairman chair in accordance with this section, whichever is
45 shorter. In the event of the death, resignation or disability of
46 the chairman chair, the commission may select, by a majority vote
47 of its 8 remaining members, a new chairman chair. ~~In the event~~
48 ~~that~~ When the commission is unable to select a chairman chair
49

2 within 120 days of the death, resignation or disability, the
3 Governor shall, after consulting with the governors of the
4 Penobscot Nation and the Passamaquoddy Tribe, shall appoint an
5 interim chairman chair for a period of one year or for the period
6 until ~~sueh-time--as~~ the commission selects a chairman chair in
7 accordance with this section, whichever is shorter. The chairman
8 shall ~~be~~ chair is a full-voting member of the commission and,
9 except when appointed for an interim term, shall serve for 4
10 years.

11 3. Responsibilities. In addition to the responsibilities
12 set forth in this Act, the commission shall continually review
13 the effectiveness of this Act and the social, economic and legal
14 relationship between the Passamaquoddy Tribe and the Penobscot
15 Nation and the State and shall make such reports and
16 recommendations to the Legislature, the Passamaquoddy Tribe and
17 the Penobscot Nation as it deems determines appropriate.

18 Seven members shall constitute a quorum of the commission and no
19 a decision or action of the commission shall ~~be~~ is not valid
20 unless 5 members vote in favor of ~~sueh~~ the action or decision.

21 4. Personnel, fees, expenses of commissioners. The
22 commission shall ~~have authority to~~ may employ ~~sueh~~ personnel as
23 it deems considers necessary and desirable in order to
24 effectively discharge its duties and responsibilities. ~~Sueh~~ These
25 employees shall are not be subject to state personnel laws or
26 rules.

27 The commission members shall ~~be paid~~ are entitled to receive \$75
28 per day for their services and shall ~~be~~ reimbursed to
29 reimbursement for reasonable expenses, including travel.

30 5. Interagency cooperation. In order to facilitate the work
31 of the commission, all other agencies of the State ~~are directed~~
32 to shall cooperate with the commission and shall make available
33 to it without charge information and data relevant to the
34 responsibilities of the commission.

35 6. Funding. The commission may receive and accept, from
36 any source, allocations, appropriations, loans, grants and
37 contributions of money or other things of value to be held, used
38 or applied to carry out this chapter, subject to the conditions
39 upon which the loans, grants and contributions may be made,
40 including, but not limited to, appropriations, allocations,
41 loans, grants or gifts from a private source, federal agency or
42 governmental subdivision of the State or its agencies.
43 Notwithstanding Title 5, chapter 149, upon receipt of a written
44 request from the commission, the State Controller shall pay the
45

2 commission's full state allotment for each fiscal year to meet
3 the estimated annual disbursement requirements of the commission.

4 Sec. A-22. 32 MRSA §§59-A, 60 and 60-A are enacted to read:

6 §59-A. Consumer information

8 The occupational and professional regulatory boards listed
9 in Title 10, sections 8001 and 8001-A shall develop a publication
10 that contains the information necessary to educate consumers of
11 the regulated products and services. The publication must inform
12 the consumer of the consumer's right to bring complaints to the
13 attention of the board. The publication must contain the board's
14 office location, mailing address and telephone number. The
15 publication must inform citizens of the procedure by which
16 complaints may be submitted.

18 Consumer information must be made available by the board to
19 all practicing licensees in reasonable quantities at no charge.
20 The publication must be placed in a conspicuous location in the
21 public area of every office where the practice of the regulated
22 profession is conducted and copies made readily available to
23 consumers by each regulated professional as well as by the board.

24 The occupational and professional regulatory boards shall
25 adopt rules to address a violation of this provision, including
26 establishing appropriate enforcement action.

28 The Commissioner of Professional and Financial Regulation
29 shall notify all internal and affiliated boards about the
30 requirements of this section.

32 §60. Standardized terms

34 Notwithstanding any other provision of law, by December 1996
35 the Governor shall adjust terms of appointment for members of all
36 boards and commissions internal and affiliated with the
37 Department of Professional and Financial Regulation to ensure
38 that no more than 1/3 of the terms expire in the same year. An
39 adjusted term is a full term.

42 Notwithstanding any other provision of law, upon expiration
43 of a member's term, that member serves until a successor is
44 appointed. The successor's term commences at the expiration of
45 the preceding term, regardless of the date of appointment. A
46 vacancy occurring prior to the expiration of a specified term
47 must be filled by appointment of a similarly qualified individual
48 as a replacement. The replacement member serves for the
49 remainder of the unexpired term, regardless of the date of
50 appointment. Members may not serve more than 2 consecutive

2 full-term appointments, plus a portion of an unexpired term that
3 the member may have been initially appointed to fill.

4 §60-A. Consumer complaints of board procedure

6 Complaints received by an occupational and professional
7 regulatory board regarding that board's administrative procedure
8 must be filed with the Department of the Attorney General to
9 enable the Attorney General to take remedial action as necessary
10 with that board.

12 Sec. A-23. 32 MRSA §61, as amended by PL 1991, c. 341, §§1
13 and 2, is further amended to read:

16 §61. Requirement for license

18 No A medical care facility other than a hospital may not
19 operate except under the supervision of a licensed administrator
20 and no person an individual may not be an administrator of a
21 medical care facility other than a hospital unless that person
22 individual is the holder of a current administrator's license or
23 a temporary permit issued pursuant to this chapter.

24 Sec. A-24. 32 MRSA §63-A, as amended by PL 1991, c. 341, §3,
25 is further amended to read:

28 §63-A. Board established; membership and organization

30 1. Membership. The Nursing Home Administrators Licensing
31 Board, as established by Title 5, section 12004-A, subsection 23,
32 and referred to in this section as the "board," consists of 8 7
33 members appointed by the Governor. The members must be citizens
34 of the United States and residents of this State. One member
35 must be a hospital administrator with not less than 5 years of
36 active practice in the State as a hospital administrator. One
37 member must be a registered nurse with not less than 5 years of
38 active practice in nursing homes in the State. Two members must
39 be representatives of the public. Three members must be
40 administrators of nursing homes with not less than 5 years of
41 active experience in the State. One member must be an
42 administrator of an intermediate care facility for the mentally
43 retarded with not less than 5 years of active practice in that
44 capacity.

46 2. Terms. Appointments are for 3-year terms, except that
47 the terms of no more than 3 members may expire in any calendar
48 year and appointments for terms of less than 3 years may be made
49 in order to comply with this limitation. No person may be
50 eligible to serve more than 3 consecutive full terms, provided
that for this purpose only a period actually served which exceeds

1/2 of the 3 year term is considered a full term. Upon expiration of a member's term, that member shall serve until a successor is appointed and qualified. The successor's term is for 3 years from the date of expiration, regardless of the date of appointment. Any vacancy occurring prior to the expiration of the specified term must be filled by appointment for the unexpired term. Appointments of members must comply with section 60. A member may be removed by the Governor for cause.

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

4. **Compensation.** Members of the board are compensated according entitled to compensation in accordance with the provisions of Title 5, chapter 379.

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

6. **Fees.** All fees received by the board must be paid to the Treasurer of State to be used for carrying out this chapter. Any balance of these fees may not lapse, but must be carried forward as a continuing account to be expended for the same purposes in the following fiscal years.

7. **Reports; budget.** Not No later than August 1st of each year, the board shall submit to the commissioner a report of its transactions of the preceding fiscal year ending June 30th, and shall transmit to the commissioner a complete statement of all receipts and expenditures of the board, attested by affidavit of its chair. The board shall submit to the commissioner its budgetary requirements in the same manner as provided in Title 5, section 1665.

Sec. A-25. 32 MRSA §63-B, sub-§§3 and 5, as enacted by PL 1985, c. 233, §6, are amended to read:

3. **Temporary licenses.** The board may by rule determine conditions and procedures by which that it may issue temporary licenses. Temporary licenses may be issued for periods of up to

one year. In no event may the The total length of multiple temporary licenses may not extend beyond one year.

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

Sec. A-26. 32 MRSA §63-B, sub-§6, as amended by PL 1991, c. 341, §4, is further amended to read:

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

Sec. A-27. 32 MRSA §63-B, sub-§8, as enacted by PL 1985, c. 233, §6, is amended to read:

8. **Exception.** Nothing in this This chapter or the rules under this chapter may not be construed to require an applicant for a license as a nursing home administrator who is certified by a recognized church or religious denomination which that teaches reliance on spiritual means alone for healing as having been approved to administer institutions certified by that church or denomination for the care and treatment of the sick in accordance with its teachings to demonstrate proficiency in any medical techniques or to meet any medical educational qualifications or medical standards not in accord with the remedial care and treatment provided in those institutions. Any person An individual licensed under this exception may act as an

2 administrator only in those institutions described in this
3 subsection.

4 Sec. A-28. 32 MRSA §64-A, as amended by PL 1991, c. 341, §5,
5 is further amended to read:

6 §64-A. Disciplinary actions

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

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

21 If, in the opinion of the board, the factual basis of the
22 complaint is or may be true, and it the complaint is of
23 sufficient gravity to warrant further action, the board may
24 request an informal conference with the licensee. The board shall
25 provide the licensee with adequate notice of the conference and
26 of the issues to be discussed. The conference shall must be
27 conducted in executive session of the board, pursuant to Title 1,
28 section 405, unless otherwise requested by the licensee.
29 Statements made at the conference may not be introduced at a
30 subsequent formal hearing unless all parties consent.

31 If the board finds that the factual basis of the complaint is
32 true and is of sufficient gravity to warrant further action, it
33 may take any of the following actions it deems determines
34 appropriate:

35 A. With the consent of the licensee, enter into a consent
36 agreement which that fixes the period and terms of probation
37 best adapted to protect the public health and safety and to
38 rehabilitate or educate the licensee. A consent agreement
39 may be used to terminate a complaint investigation, if
40 entered into by the board, the licensee and the Attorney
41 General's office;

42 B. In consideration for acceptance of a voluntary surrender
43 of the license, negotiate stipulations, including terms and
44 conditions for reinstatement, which that ensure protection

2 of the public health and safety and which serve to
3 rehabilitate or educate the licensee. These stipulations
4 shall may be set forth only in a consent agreement signed by
5 the board, the licensee and the Attorney General's office;

6 C. If the board concludes that modification or nonrenewal
7 of the license might-be is in order, the board shall hold an
8 adjudicatory hearing in accordance with the provisions of
9 the Maine Administrative Procedure Act, Title 5, chapter
10 375, subchapter IV; or

11 D. If the board concludes that suspension or revocation of
12 the license is in order, the board shall file a complaint in
13 the Administrative Court in accordance with Title 4, chapter
14 25.

15
16 2. Grounds for discipline. The board may suspend or revoke
17 a license pursuant to Title 5, section 10004. The following are
18 grounds for an action to refuse to issue, modify, suspend, revoke
19 or refuse to renew the license of a person an individual licensed
20 under this chapter:

21 A. The practice of fraud or deceit in obtaining a license
22 under this chapter or in connection with service rendered
23 within the scope of the license issued;

24 B. ~~Habitual intemperance--in-the-use-of--alcohol--or--the~~
25 ~~habitual-use-of-narcotic-or-hypnotic-or-other-substances--the~~
26 ~~use--of-which~~ substance abuse that has resulted or may is
27 foreseeably likely to result in the licensee performing
28 assigned duties services in a manner which that endangers
29 the health or safety of patients;

30 C. A professional diagnosis of a mental or physical
31 condition which that has resulted or may result in the
32 licensee performing assigned duties services in a manner
33 which that endangers the health or safety of patients;

34 D. Aiding or abetting the practice of administration of a
35 medical care facility by a person an individual who is not
36 duly licensed under this chapter and who purports-himself
37 claims to be so legally licensed;

38 E. Incompetence in the practice for which that person
39 individual is licensed. A licensee is considered
40 incompetent in the practice if the licensee has:

41 (1) Engaged in conduct which that evidences a lack of
42 ability or fitness to discharge the duty owed by the

licensee to a client or patient or the general public;
or

(2) Engaged in conduct which ~~that~~ evidences a lack of knowledge, or inability to apply principles or skills to carry out the practice for which that ~~person~~ licensee is licensed;

F. Unprofessional conduct. A licensee is considered to have engaged in unprofessional conduct if that ~~person~~ licensee violates any a standard of professional behavior which ~~that~~ has been established in the practice for which the licensee is licensed;

G. Subject to the limitations of Title 5, chapter 341, conviction of a crime which ~~that~~ involves dishonesty or false statement or which relates directly to the practice for which the licensee is licensed, or conviction of any a crime for which incarceration for one year or more may be imposed;

H. Any A violation of this chapter or any a rule adopted by the board; or

I. Engaging in false, misleading or deceptive advertising.

Sec. A-29. 32 MRSA §65, as enacted by PL 1985, c. 233, §6, is amended to read:

§65. License renewal

All licenses issued under this chapter, except temporary licenses, expire annually on a date established by the commissioner and become invalid if not renewed. Every ~~person~~ individual licensed under this chapter shall pay, on or before the expiration date, pay a fee for renewal of license to the board. The board shall notify every--~~person~~ each individual licensed under this chapter of the date of expiration of his ~~that~~ individual's license and the amount of fee required for its renewal for a one-year period. The notice shall ~~must~~ be mailed to the ~~person's~~ individual's last known address at least 30 days ~~in-advance-of~~ before the expiration of the license. Renewals are contingent upon evidence of participation in continuing professional education. A license may be renewed up to 90 days after the date of its expiration upon payment of a late fee of \$10 in addition to the renewal fee. Any ~~person~~ An individual who submits an application for renewal more than 90 days after the license expiration date shall be ~~is~~ subject to all requirements governing new applicants under this chapter, except that the board may, in its discretion, ~~and~~ giving due consideration to the

protection of the public, waive examination if that renewal application is made within 2 years from the date of the expiration.

Sec. A-30. 32 MRSA §66, as repealed and replaced by PL 1991, c. 341, §6, is amended to read:

§66. Enforcement

1. Injunction. The State may bring an action in Superior Court to enjoin any--~~person~~ an individual 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.

2. Criminal penalty. Any ~~person~~ An individual who operates a medical care facility other than a hospital without holding a current license as an administrator or a temporary permit issued pursuant to this chapter commits a Class E crime.

Sec. A-31. 32 MRSA §90-A, sub-§3, as amended by PL 1991, c. 588, §19, is further amended to read:

3. Informal conference. If, in the opinion of the board, the factual basis of the complaint is or may be true and the complaint is of sufficient gravity to warrant further action, the board or staff may request an informal conference with the licensee. The board shall provide the licensee with adequate notice of the conference and of the issues to be discussed. The conference must be conducted in executive session of the board, subcommittee or staff, pursuant to Title 1, section 405, unless otherwise requested by the licensee. Statements made at the conference may not be introduced at any a subsequent formal administrative or judicial hearing unless all parties consent. The licensee may, without prejudice, refuse to participate in an informal conference if the licensee prefers to immediately hold a formal hearing. If the licensee participates in the informal conference, the licensee waives the right to object to any a participant at the hearing who participated at the informal conference.

Sec. A-32. 32 MRSA §211, last ¶, as amended by PL 1991, c. 396, §4, is further amended to read:

~~Appointments are for 3-year terms, except that no more than 3 members' terms may expire in any one calendar year. Appointments for terms of less than 3 years may be made in order to comply with this limitation. A person is not eligible to serve more than 3 full consecutive terms. A period actually served that exceeds 1/2 of the 3-year term is deemed a full~~

~~term. Upon expiration of a member's term, the member serves until the member's successor is qualified and appointed. The successor's term is for 3 years from the date of the expiration, regardless of the date of the successor's appointment. Any vacancy must be filled by appointment for the unexpired term. Appointments of members must comply with section 60. A member may be removed by the Governor for cause.~~

Sec. A-33. 32 MRSA §271, 2nd ¶, as repealed and replaced by PL 1985, c. 748, §30, is amended to read:

Appointments shall must be made by the Governor for 3-year terms, ~~with no person being eligible to serve more than 3 full consecutive terms, provided that for this purpose only a period actually served which exceeds 1/3 of the 3-year term shall be deemed a full term. Upon expiration of a member's term, he shall serve until his successor is qualified and appointed. The successor's term shall be 3 years from the date of the expiration, regardless of the date of his appointment. Any vacancy shall be filled by appointment for the unexpired term.~~ Appointments of members must comply with section 60. A board member may be removed by the Governor for cause.

Sec. A-34. 32 MRSA §452 is amended to read:

§452. Application of laws regarding reporting contagious diseases and deaths

All laws, ~~and rules and regulations now in force in this State or which shall hereafter be enacted for the purpose of~~ regulating the reporting of contagious diseases and deaths to the proper authorities, and to which the registered licensed practitioner of medicine is subject, ~~shall~~ apply equally to the practitioner of chiropractic.

Sec. A-35. 32 MRSA §453, as amended by PL 1991, c. 178, §1, is further amended to read:

§453. Legally licensed practitioners of other schools or professions not affected

~~Nothing in this~~ This chapter may not be construed to: restrain or restrict legally licensed physicians, surgeons, dentists, osteopaths, physical therapists or nurses in the practice of their professions; ~~nor does this chapter apply to~~ masseurs in their particular sphere of labor who publicly represent themselves as such masseurs; ~~nor apply to any a~~ commissioned medical officer in the United States Army or Public Health Service in the performance of their duties as such; ~~nor to~~

~~or prohibit gratuitous service or the rendering of assistance to emergency cases.~~

Sec. A-36. 32 MRSA §454, as amended by PL 1991, c. 392, §1, is further amended to read:

§454. Practicing without license; fraudulent licenses

~~Any person~~ An individual who practices or attempts to practice or use the science or system of chiropractic in treating diseases of the human body, ~~or any person, an individual~~ who buys, sells or fraudulently obtains any a diploma, license, or record ~~of registration~~ to practice chiropractic, or who aids or abets in that selling or fraudulent obtaining; ~~or~~ an individual who practices chiropractic, under cover of any a diploma, license, or record ~~of registration~~ to practice chiropractic, illegally obtained, or signed or issued unlawfully or under fraudulent representations; or an individual who, after conviction of felony, practices chiropractic, or who uses any of the forms of letters, "Chiropractic," "Chiropractor," "Chiropractic Practitioner," "Doctor of Chiropractic," "D.C." or any other titles or letters, either alone or with qualifying words or phrases, under such circumstances as ~~to~~ that induce the belief that the ~~person~~ individual who uses those terms is engaged in the practice of chiropractic, without having complied with this chapter, commits a Class E crime. ~~Nothing in this~~ This section may not be construed to prohibit any a lawfully qualified chiropractor in any other state meeting with a registered licensed chiropractic practitioner in this State for consultation.

Sec. A-37. 32 MRSA c. 9, sub-c. II, first 3 lines are repealed and the following enacted in their place:

SUBCHAPTER II

BOARD OF CHIROPRACTIC LICENSURE

Sec. A-38. 32 MRSA §501, amended by PL 1991, c. 392, §2, is further amended to read:

§501. Membership; qualifications; term; removal

The Board of Chiropractic Examination ~~and Registration~~ Licensure, as established by Title 5, section 12004-A, subsection 8, and in this chapter called the "board," consists of 7 persons individuals appointed by the Governor. These persons individuals must be residents of this State, 5 must be graduates of a legally chartered chiropractic school, college or university having the power to confer degrees in chiropractic and must be, at the time of their appointment, actively engaged in the practice of their

profession for a period of at least 3 years in this State. Two members must be representatives of the public. Each appointment is for the a period of 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 the board caused by death, resignation or for any other cause, except completion of a full term of service, must be filled by the like appointment of a person qualified to hold office during the unexpired term of the member whose place that person fills. Appointments of members must comply with section 60. Any A member of the board may be removed from office for cause by the Governor. ~~Compensation of members~~ Members of the board is are entitled to compensation in accordance with the provisions of Title 5, chapter 379.

Sec. A-39. 32 MRSA §502, sub-§4, as repealed and replaced by PL 1977, c. 458, §2, is amended to read:

4. Advertising. Advertising in a false, misleading or deceptive manner. ~~Any regulations promulgated~~ A rule adopted pursuant to this section on advertising shall may not be inconsistent with ~~any regulations promulgated~~ a rule adopted pursuant to Title 5, section 207, subsection 2; or

Sec. A-40. 32 MRSA §502, sub-§5, as enacted by PL 1973, c. 405, §3, is amended to read:

5. Fee splitting. The splitting or dividing of any a fee with ~~any person~~ an individual who is not an associate licensed as a chiropractor.

Sec. A-41. 32 MRSA §503-A, as amended by PL 1991, c. 392, §4, is further amended to read:

§503-A. Disciplinary actions

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

The board shall notify the licensee of the content of a complaint filed against the licensee as soon as possible. The licensee shall respond within 30 days. If the licensee's response to the complaint satisfies the board that the complaint does not merit further investigation or action, the matter may be dismissed.

If, in the opinion of the board, the factual basis of the complaint is or may be true, and ~~it~~ the complaint is of

sufficient gravity to warrant further action, the board may request an informal conference with the licensee. The board shall provide the licensee with adequate notice of the conference and of the issues to be discussed. The conference shall must be conducted in executive session of the board, pursuant to Title 1, section 405, unless otherwise requested by the licensee. Statements made at the conference may not be introduced at a subsequent formal hearing unless all parties consent.

If the board finds that the factual basis of the complaint is true and is of sufficient gravity to warrant further action, it may take any of the following actions it ~~deems~~ considers appropriate:

A. With the consent of the licensee, enter into a consent agreement ~~which that~~ fixes the period and terms of probation best adapted to protect the public health and safety and to rehabilitate or educate the licensee. A consent agreement may be used to terminate a complaint investigation, if entered into by the board, the licensee and the Attorney General's office;

B. In consideration for acceptance of a voluntary surrender of the license, negotiate stipulations, including terms and conditions for reinstatement, ~~which that~~ ensure protection of the public health and safety and ~~which that~~ serve to rehabilitate or educate the licensee. These stipulations shall may be set forth only in a consent agreement signed by the board, the licensee and the Attorney General's office;

C. If the board concludes that modification or nonrenewal of the license ~~might be~~ is in order, the board shall hold an adjudicatory hearing in accordance with the provisions of the Maine Administrative Procedure Act, Title 5, chapter 375, subchapter IV; or

D. If the board concludes that suspension or revocation of the license is in order, the board shall file a complaint in the Administrative Court in accordance with Title 4, chapter 25.

2. Grounds for discipline. The board may suspend or revoke a license pursuant to Title 5, section 10004. The following ~~shall be~~ are grounds for an action to refuse to issue, modify, suspend, revoke or refuse to renew the license of a ~~person~~ an individual licensed under this chapter:

A. The practice of fraud or deceit in obtaining a license under this chapter or in connection with service rendered within the scope of the license issued;

2 B. Habitual intemperance in the use of alcohol or the
habitual use of narcotic or hypnotic or other substances the
4 use of which substance abuse that has resulted or may be
foreseeably likely to result in the licensee performing his
6 duties services in a manner which that endangers the health
or safety of his patients;

8 C. A professional diagnosis of a mental or physical
10 condition which that has resulted or may result in the
licensee performing his duties services in a manner which
12 that endangers the health or safety of his patients;

14 D. Aiding or abetting the practice of chiropractic by a
person an individual who is not duly licensed under this
16 chapter and who represents himself claims to be so legally
licensed;

18 E. Incompetence in the practice for which he the licensee
20 is licensed. A licensee shall be deemed is considered
incompetent in the practice if the licensee has:

22 (1) Engaged in conduct which that evidences a lack of
24 ability or fitness to discharge the duty owed by the
licensee to a client or patient or the general public;
26 or

28 (2) Engaged in conduct which that evidences a lack of
30 knowledge, or inability to apply principles or skills
to carry out the practice for which he the licensee is
32 licensed;

34 F. Unprofessional conduct. A licensee shall be deemed is
considered to have engaged in unprofessional conduct if he
the licensee violates any a standard of professional
36 behavior which that has been established in the practice for
which the licensee is licensed;

38 G. Subject to the limitations of Title 5, chapter 341,
40 conviction of a crime which that involves dishonesty or
false statement or which relates directly to the practice
42 for which the licensee is licensed, or conviction of any a
crime for which incarceration for one year or more may be
44 imposed;

46 H. Any a violation of this chapter or any a rule adopted by
the board; or

48 I. Engaging in false, misleading or deceptive advertising.
50

2 Sec. A-42. 32 MRSA §506, as amended by PL 1991, c. 392, §5,
is further amended to read:

4 §506. Budget

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

12 With the advice of the board, the commissioner may appoint,
subject to the Civil Service Law, such employees as may be
14 necessary to carry out this chapter. Any ~~person so employed~~
shall Employees must be located in the department and shall act
16 under the administrative and supervisory direction of the
commissioner.

18 All licenses expire biennially, beginning on December 31,
20 1992 or at such any other time as the commissioner designates.

22 Sec. A-43. 32 MRSA §551, as amended by PL 1991, c. 392, §7,
is further amended to read:

24 §551. Examination and licensure

26 Any ~~person~~ An individual, before engaging in the practice of
28 chiropractic in this State, shall make application for a license
to practice chiropractic to the board on a form prescribed by the
board. The application must be filed with the clerk of the board
30 at least 30 days before the date of examination, together with an
application and examination fee. The application fee is not
32 refundable if an application is denied. Each applicant must be at
least 18 years of age and shall present proof of 2 years'
34 satisfactory attendance at a college of liberal arts. A candidate
for licensure ~~is required to~~ shall present a transcript from an
36 accredited college or university certifying that the candidate
has completed 2 years of preprofessional work, 2 subjects of
38 which must be English and biology, or otherwise satisfy the
members of the board that the candidate has acquired sufficient
prior academic education. The applicant shall present a diploma
40 granted by a legally chartered chiropractic college, school or
university in good standing and having the power to confer
42 degrees in chiropractic, which diploma must show that it was
granted on personal attendance of the applicant and completion of
44 a course of 4 school years of not less than 8 months each and of
a total of 4,400 60-minute school hours. If an applicant
46 matriculated in a chiropractic college on or after January 1,
1984, the diploma must show that it was granted by a chiropractic
48 college accredited by a chiropractic educational accrediting
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2 agency approved by the United States Department of Education or
3 its successor agency or, ~~in-the-event~~ if no such accrediting
4 agency exists, approved by the board, or the applicant must have
5 evidence of having successfully passed a licensing procedure from
6 another state having similar requirements. If an applicant
7 matriculated in a chiropractic college before January 1, 1984,
8 the diploma must show that it was granted by a chiropractic
9 college accredited as set out in this section, or the applicant
10 must present evidence of having become a diplomat of the National
11 Board of Chiropractic Examiners, or ~~the-applicant-must-have~~
12 ~~evidenece~~ of having successfully passed a licensing procedure from
13 another state having similar requirements. Each applicant must
14 present a certificate of good moral character signed by a
15 reputable ~~person~~ individual and such any other reasonable and
16 proper facts as the board may require in its application form.

17 **Sec. A-44. 32 MRSA §552**, as amended by PL 1991, c. 392, §8,
18 is further amended to read:

19 **§552. Examination of applicants; subjects included; license;**
20 **license without examination**

21 The board shall require the applicant to submit to an
22 examination as--~~to~~ that demonstrates qualifications for the
23 practice of chiropractic. The examination must include the
24 subjects of anatomy, physiology, symptomatology, hygiene,
25 sanitation, chemistry, pathology, electrotherapy, hydrotherapy,
26 dietetics, bacteriology, chiropractic analysis, the principles
27 and practice of chiropractic as taught in reputable chiropractic
28 schools and colleges and such any other subjects as the board
29 determines necessary. If the examination is passed in a manner
30 satisfactory to the board, then the board shall issue to the
31 applicant a license granting that ~~person~~ individual the right to
32 practice chiropractic in this State.

33 ~~Any-person, An individual~~ licensed by a chiropractic board
34 of any other state or territory having a standard equal to that
35 of the this State, may be licensed without examination upon the
36 payment of a fee of \$225, and submission of a chiropractic
37 diploma and proof of licensure in such that other state. The
38 board may, in its discretion, require an examination of ~~any-such~~
39 the applicant.

40 **Sec. A-45. 32 MRSA §553-A, sub-§1**, as enacted by PL 1991, c.
41 392, §10, is amended to read:

42 1. **Renewal procedure.** The board shall notify every
43 licensed chiropractor of the expiration date of the chiropractic
44 license and indicate the amount of the fee required for biennial
45 renewal. Notice must be mailed to each licensee's last known
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2 address at least 30 days ~~in-advance-of~~ before the expiration date
3 of that license. An expired license may be reissued up to 90
4 days after the date of expiration upon payment of a late fee of
5 \$10 in addition to the renewal fee. ~~Any-person~~ An individual who
6 submits an application for renewal more than 90 days after the
7 license expiration date is subject to all requirements governing
8 new applicants under this chapter, except that the board may, in
9 its discretion, and giving due consideration to the protection of
10 the public, waive examination if that renewal application is made
11 within 2 years from the date of that expiration. The board may
12 assess penalty fees for late renewals.

13 **Sec. A-46. 32 MRSA §554**, as amended by PL 1991, c. 392, §11,
14 is further amended to read:

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

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

33 **Sec. A-47. 32 MRSA §§555, 556 and 558**, as enacted by PL 1991,
34 c. 884, §1, are amended to read:

35 **§555. Assistants**

36 This chapter does not prohibit an individual from rendering
37 ancillary diagnostic or therapeutic services as used in
38 chiropractic practice, other than the adjustive or manipulative
39 techniques, if those services are rendered under the supervision
40 and control of a licensed chiropractor as long as that ~~person~~
41 individual has successfully completed a training program
42 recognized by the board. "Supervision and control" may not be
43 construed as requiring the personal presence of the supervising
44 and controlling chiropractor at the place where those services
45 are rendered, unless physical presence is necessary to provide
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2 patient care of the same quality as provided by the
3 chiropractor. This chapter does not prohibit a chiropractor from
4 delegating to an employee certain activities relating to the care
5 and treatment being performed by custom and usage when those
6 activities are under the direct control of and in the person
7 presence of the chiropractor. The chiropractor delegating those
8 activities, either to an employee, to a program graduate or to a
9 participant in an approved training program, is legally liable
10 for those activities performed by such a person an individual and
11 that person individual is deemed considered to be the
12 chiropractor's agent.

14 §556. Certificates

15 An individual may not render any ancillary services under
16 section 555 until that person individual has applied for and
17 obtained a certificate of qualification or a temporary
18 certificate issued by the board and a certificate of registration
19 that, which must be renewed biennially. The board shall adopt
20 rules regarding the training and certification of individuals
21 permitted to render any ancillary services under section 555.

22 §558. Fees

23 The board shall establish by rule an application fee not to
24 exceed \$25 and a biennial registration certification renewal fee
25 not to exceed \$50.

26 Sec. A-48. 32 MRSA §1061, sub-§2, as enacted by PL 1981, 440,
27 §1, is amended to read:

28 2. Failure; fee. For failure to comply with this section, a
29 person licensee is subject to a fee imposed by the board of not
30 more than \$25, to be imposed by the board.

31 Sec. A-49. 32 MRSA §1062, as amended by PL 1973, c. 303, §3,
32 is repealed.

33 Sec. A-50. 32 MRSA §1062-A is enacted to read:

34 §1062-A. Penalties; injunction

35 I. Penalties. A person who practices or falsely claims
36 legal authority to practice dentistry, dental hygiene, denture
37 technology (denturism) or dental radiography in this State
38 without first obtaining a license as required by this chapter, or
39 after the license has expired, has been suspended or revoked or
40 has been temporarily suspended or revoked, commits a Class E
41 crime.

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

7 Sec. A-51. 32 MRSA §1071, as amended by PL 1989, c. 152, §2,
8 is further amended to read:

9 §1071. Membership; appointment; vacancies; removal; nominations; 10 compensation

11 The Board of Dental Examiners, established by Title 5,
12 section 12004-A, subsection 10, and in this chapter called the
13 "board," shall ~~cease~~ consists of 7 members, appointed by the
14 Governor as follows: five members of the dental profession, one
15 dental hygienist and one representative of the public.

16 1. Membership. ~~No~~ A person is not eligible for appointment
17 to the board who has been convicted of a violation of any of the
18 provisions of this or any other prior dental practice act, or who
19 has been convicted of a crime punishable by more than one year's
20 imprisonment. ~~No~~ A person is not eligible for appointment to the
21 board who has served 10 years or more on a dental examining board
22 in this State. ~~Any vacancy on the board shall be filled by the~~
23 ~~appointment of a person qualified under this section to hold~~
24 ~~office during the unexpired term of the member whose place is to~~
25 ~~be filled or, in the case of a public member, by appointment of~~
26 ~~another public member~~ Appointment of members must comply with
27 section 60. The Governor may remove any a member of the board on
28 proven charges of inefficiency, incompetence, immorality or
29 unprofessional conduct.

30 2. Dentists. The Governor may accept nominations from the
31 Maine Dental Association and from other organizations and
32 individuals.

33 Members of the dental profession must hold a valid dental license
34 and must have been in the actual practice of dentistry in this
35 State for at least 10 years immediately preceding the
36 appointment. ~~One dentist shall be appointed annually, as the~~
37 ~~terms of present members expire, to hold office for 5 years from~~
38 ~~the first day of January and until a successor is appointed~~ The
39 term for a member who is a dentist is 5 years. ~~No~~ A dentist is
40 not eligible to serve as a member of the board while employing a
41 dental hygienist ~~when the dentist employs is serving as~~ who is
42 a member of the board.

43 3. Dental hygienist. The dental hygienist must be qualified
44 pursuant to subchapter IV, must be a legal resident of the State
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and must have been in practice practiced in the State for at least 3 years immediately preceding appointment. The dental hygienist member of the board shall be is a full-voting full-voting member of the board. The term of the dental hygienist is 4- 5 years, except that the member shall serve until a successor is appointed. The Governor shall consult with may accept nominations from the Maine Dental Hygienists Association and from other organizations and individuals prior to before the appointment of a hygienist to the board. No A dental hygienist is not eligible to serve as a member of the board while employed by a dentist who is a member of the board.

4. Public member. The public member shall be is appointed to a 5-year term and shall serve until a successor is appointed.

5. Compensation. The members of the board shall each be compensated are entitled to compensation according to the provisions of Title 5, chapter 379. Expenses of the board shall members must be certified by the secretary of the board.

Sec. A-52. 32 MRSA §1072, as amended by PL 1989, c. 152, §3, is repealed and the following enacted in its place:

§1072. Elections; quorum; reports; records; treasurer; expenses

At its annual meeting, the board shall elect from among its members a president, a vice-president and a secretary-treasurer. Five members constitute a quorum. The board shall have a common seal. At a time and place to be fixed by the board, the board shall hold at least one regular meeting each year and special meetings as necessary. The board may recognize nationally or regionally administered examinations given at least annually for applicants to practice dentistry in the State. The board may make rules, not contrary to law, necessary for the performance of its duties. On or before August 1st, the board shall annually make a report of its proceedings to the Commissioner of Professional and Financial Regulation. The secretary-treasurer of the board shall keep records of all proceedings of the board and be the custodian of these records. Records that constitute and are recognized as the official records of the board must be open for public inspection at reasonable times.

The secretary-treasurer of the board shall collect all fees, charges and assessments payable to the board and account for and pay them according to law. The secretary-treasurer is entitled to receive an annual salary, to be fixed by the board, in lieu of per diem compensation. The secretary-treasurer is entitled to necessary expenses incurred in the discharge of official duties, including clerical and stenographic assistance, printing and

postage. The allowance for expenses must be certified by the president of the board.

Sec. A-53. 32 MRSA §1073, sub-§1, as repealed and replaced by PL 1983, c. 378, §6, is amended to read:

1. Employees and offices; funds. Employ such persons as it may deem necessary to assist it in carrying out its duties in the administration and enforcement of this chapter; provide offices, furniture, fixtures, supplies, or printing or secretarial service; and may expend such funds as may be deemed determined necessary therefore;

Sec. A-54. 32 MRSA §1073, sub-§2, as repealed and replaced by PL 1989, c. 90, §1, is amended to read:

2. Rules. Adopt rules in accordance with the Maine Administrative Procedure Act, Title 5, chapter 375, which that are necessary for the implementation of this chapter. The rules may include, but need not be limited to, requirements for licensure, interviews for licensing and renewal, continuing education, inactive licensure status, and use of general anesthesia and fees for providing a list of addresses of licensed professionals upon request; and

Sec. A-55. 32 MRSA §1074, as enacted by PL 1967, c. 544, §80, is amended to read:

§1074. Affiliation with American Association of Dental Examiners

The board may affiliate with the American Association of Dental Examiners as an active member and pay regular dues to said that association and may send one or more delegates to the meetings of the said American Association of Dental Examiners. Such These delegates shall are entitled to receive compensation provided for in section 1071.

Sec. A-56. 32 MRSA §1075, as amended by PL 1985, c. 748, §42, is further amended to read:

§1075. Liaison; limitations

On or before August 1st of each year, the board shall submit to the Commissioner of Professional and Financial Regulation, for the preceding fiscal year ending June 30th, its annual report of its operations and financial position, together with such comments and recommendations as the board deems considers essential.

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

4 The commissioner shall ~~may~~ not have ~~the~~ authority ~~to~~
exercise or interfere with ~~the~~ exercise of discretionary,
6 regulatory or licensing authority granted by statute ~~law~~ to the
board.

8 Sec. A-57. 32 MRSA §1077, as enacted by PL 1983, c. 378, §7,
10 is amended to read:

12 **§1077. Disciplinary actions**

14 1. Disciplinary proceedings and sanctions. The Regarding
noncompliance with or violation of this chapter or of rules
16 adopted by the board, the board shall investigate a complaint, on
its own motion or upon receipt of a written complaint filed with
18 the board, ~~regarding noncompliance with or violation of this~~
~~chapter or of any rules adopted by the board.~~

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

30 If, in the opinion of the board, the factual basis of the
complaint is or may be true, and it ~~is~~ the complaint is of
32 sufficient gravity to warrant further action, the board may
request an informal conference with the licensee. The board shall
34 provide the licensee with adequate notice of the conference and
of the issues to be discussed. The conference shall must be
36 conducted in executive session of the board, pursuant to Title 1,
section 405, unless otherwise requested by the licensee.
38 Statements made at the conference may not be introduced at a
subsequent formal hearing unless all parties consent.

40 If the board finds that the factual basis of the complaint is
42 true and is of sufficient gravity to warrant further action, it
may take any of the following actions it ~~deems~~ considers
44 appropriate:

46 A. With the consent of the licensee, enter into a consent
agreement which that fixes the period and terms of probation
48 best adapted to protect the public health and safety and to
rehabilitate or educate the licensee. A consent agreement
50 may be used to terminate a complaint investigation, if

2 entered into by the board, the licensee and the Attorney
General's office;

4 B. In consideration for acceptance of a voluntary surrender
of the license, if a consent agreement is signed by the
6 board, the licensee and the Attorney General's office,
negotiate stipulations, including terms and conditions for
8 reinstatement, which that ensure protection of the public
health and safety and which that serve to rehabilitate or
educate the licensee. ~~These stipulations shall be set forth~~
10 ~~only in a consent agreement signed by the board, the~~
12 ~~licensee and the Attorney General's office;~~

14 C. If the board concludes that modification or nonrenewal
of the license ~~might be~~ is in order, the board shall hold an
16 adjudicatory hearing in accordance with the provisions of
the Maine Administrative Procedure Act, Title 5, chapter
18 375, subchapter IV; or

20 D. If the board concludes that suspension or revocation of
the license is in order, the board shall file a complaint in
22 the Administrative Court in accordance with Title 4, chapter
25.

24 2. Grounds for discipline. The board may suspend or revoke
a license pursuant to Title 5, section 10004. The following
26 shall be are grounds for an action to refuse to issue, modify,
suspend, revoke or refuse to renew the license of a person
28 licensed under this chapter:

30 A. The practice of fraud or deceit in obtaining a license
under this chapter or in connection with service rendered
32 within the scope of the license issued;

34 B. Habitual ~~intemperance in the use of alcohol or the~~
~~habitual use of narcotic or hypnotic or other substances the~~
36 ~~use of which~~ substance abuse ~~that~~ has resulted or may is
38 foreseeably likely to result in the licensee performing his
duties services in a manner which that endangers the health
40 or safety of his patients;

42 C. A professional diagnosis of a mental or physical
condition which that has resulted or may result in the
44 licensee performing his ~~duties~~ services in a manner which
that endangers the health or safety of his patients;

46 D. Aiding or abetting the practice of a dental profession
48 by a person an individual who is not duly licensed under
this chapter and who ~~represents himself~~ claims to be so
50 legally licensed;

2 E. Incompetence in the practice for which he the licensee
3 is licensed. A licensee shall--be--deemed is considered
4 incompetent in the practice if the licensee has:

6 (1) Engaged in conduct which that evidences a lack of
7 ability or fitness to discharge perform the duty duties
8 owed by the licensee to a client or patient or the
10 general public; or

12 (2) Engaged in conduct which that evidences a lack of
13 knowledge, or inability to apply principles or skills
14 to carry out the practice for which he the licensee is
licensed;

16 F. Unprofessional conduct. A licensee shall--be--deemed is
17 considered to have engaged in unprofessional conduct if he
18 the licensee violates any a standard of professional
19 behavior which that has been established in the practice for
20 which the licensee is licensed;

22 G. Subject to the limitations of Title 5, chapter 341,
23 conviction of a crime which that involves dishonesty or
24 false statement or which that relates directly to the
25 practice for which the licensee is licensed, or conviction
26 of any a crime for which incarceration for one year or more
27 may be imposed;

28 H. Any A violation of this chapter or any a rule adopted by
29 the board; or

31 I. Engaging in false, misleading or deceptive advertising.

33 Sec. A-58. 32 MRSA §1081, as amended by PL 1987, c. 402, Pt.
34 A, §167, is further amended to read:

35 **§1081. Definitions; persons excepted**

37 1. Practicing dentistry. Any A person shall--be--deemed is
38 considered to be practicing dentistry when that person
39 performs, or attempts or professes to perform, any a dental
40 operation or oral surgery or dental service of any kind,
41 gratuitously or for a salary, fee, money or other remuneration
42 paid, or to be paid, directly or indirectly, to himself the
43 person or to any other person or agency who is a proprietor of a
44 place where dental operations, oral surgery or dental services
45 are performed--of. A person who directly or indirectly, by any
46 means or method, takes impressions of the a human tooth, teeth,
47 jaws or performs any a phase of any an operation incident to the
48 replacement of a part of a tooth; or supplies artificial
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2 substitutes for the natural teeth, or who furnishes, supplies,
3 constructs, reproduces or repairs any a prosthetic denture,
4 bridge, appliance or any other structure to be worn in the human
5 mouth, except on the written prescription of a duly licensed and
6 registered dentist; or who places such--appliance--or--structure
7 dental appliances or structures in the human mouth, or adjusts or
8 attempts or professes to adjust the same, or delivers the same to
9 any a person other than the dentist upon whose prescription the
10 work was performed; or who professes to the public by any method
11 to furnish, supply, construct, reproduce or repair any a
12 prosthetic denture, bridge, appliance or other structure to be
13 worn in the human mouth, or who diagnoses or professes to
14 diagnose, prescribes for or professes to prescribe for, treats or
15 professes to treat, disease, pain, deformity, deficiency, injury
16 or physical condition of the human teeth or jaws or adjacent
17 structure, or who extracts or attempts to extract human teeth, or
18 corrects or attempts to correct malformations of teeth or of the
19 jaws--or is also considered to be practicing dentistry. A
20 person who repairs or fills cavities in the human teeth; or who
21 diagnoses, makes and adjusts appliances to artificial casts or
22 malposed teeth for treatment of the malposed teeth in the human
23 mouth, with or without instruction; or who uses a--x-ray--or--an
24 x-ray machine for the purpose of taking dental x rays or
25 roentgenograms, or who gives or professes to give interpretations
26 or readings of dental x rays or--roentgenograms; or who
27 administers an anaesthetic of any nature in connection with a
28 dental operation; or who uses the words dentist, dental surgeon,
29 oral surgeon or the letters D.D.S., D.M.D. or any other words,
30 letters, title or descriptive matter which that in any way
31 represents him that person as being able to diagnose, treat,
32 prescribe or operate for any a disease, pain, deformity,
33 deficiency, injury or physical condition of the teeth or jaws or
34 adjacent structures; or who states, or professes or permits to be
35 stated or professed by any means or method whatsoever that he--or
36 she the person can perform or will attempt to perform dental
37 operations or render a diagnosis connected therewith with dental
38 operations is also considered to be practicing dentistry.

39 2. Exemptions. Nothing in this chapter shall--apply applies
40 to the following practices, acts and operations:

41 A. The practice of his the profession by a licensed
42 physician or surgeon licensed-as-such under the laws of this
43 State, unless he that person practices dentistry as a
44 specialty;

45 B. The giving by a qualified anaesthetist anesthetist or
46 registered nurse anesthetist of an anaesthetic anesthetic
47 for a dental operation; the giving by a certified registered
48 nurse of an anesthetic for a dental operation under the
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2 direct supervision of either a licensed dentist who holds a
3 valid anesthesia permit or a licensed physician; and the
4 removing of sutures, the dressing of wounds, the application
5 of dressings and bandages and the injection of drugs
6 subcutaneously or intravenously by a certified registered
7 nurse under the direct supervision of a licensed dentist or
8 physician;

10 C. The practice of dentistry in the discharge of their
11 official duties by graduate dentists or dental surgeons in
12 the United States Army, Navy, Public Health Service, Coast
13 Guard or Veterans Bureau;

14 D. The practice of dentistry by a licensed dentist of other
15 states or countries at meetings of the Maine State Dental
16 Association or ~~committees thereof~~ its affiliates or other
17 like dental organizations approved by the board, while
18 appearing as clinicians;

20 E. The filling of prescriptions of a licensed and
21 registered dentist by any person ~~or persons~~, association,
22 corporation or other entity, for the construction,
23 reproduction or repair of prosthetic dentures, bridges,
24 plates or appliances to be used or worn as substitutes for
25 natural teeth, provided that such this person or persons,
26 association, corporation or other entity shall does not
27 solicit nor advertise, directly or indirectly, by mail,
28 card, newspaper, pamphlet, radio or otherwise, to the
29 general public to construct, reproduce or repair prosthetic
30 dentures, bridges, plates or other ~~appliances~~ appliances to
31 be used or worn as substitutes for natural teeth; and

32 G. ~~Impressions taken~~ The taking of impressions by dental
33 hygienists or dental assistants for study purposes only.

36 3. Proprietor. The term proprietor, as used in this
37 chapter, ~~shall be deemed to include any~~ includes a person who:

38 A. Employs dentists or dental hygienists or other dental
39 auxiliaries in the operation of a dental office; or

42 B. Places in possession of a dentist or a dental hygienist
43 or other dental auxiliaries auxiliary or other agent such
44 dental material or equipment as that may be necessary for
45 the management of a dental office on the basis of a lease or
46 any other agreement for compensation for the use of such
47 that material, equipment or ~~offices~~ office; or

50 C. Retains the ownership or control of dental equipment or
material or a dental office and makes the same available in

5 other agents, provided except that nothing in this
6 subsection ~~may apply~~ applies to bona fide sales of dental
7 equipment or material secured by a chattel mortgage or
8 retain title agreement. A person licensed to practice
dentistry shall may not enter into ~~any of these~~ arrangements
with a person who is not licensed to practice dentistry.

10 4. Corporations; names. No A corporation shall may not
11 practice, offer or undertake to practice or hold itself out as
12 practicing dentistry. Every person practicing dentistry as an
13 employee of another shall cause his that person's name to be
14 conspicuously displayed and kept in a conspicuous place at the
15 entrance of the place where such the practice is conducted. This
16 subsection shall does not prohibit a licensed dentist from
17 practicing dentistry as an employee of another licensed dentist
18 in this State, as an employee of a nonprofit corporation, as an
19 employee of any a state hospital or state institution where his
20 the only remuneration is from the State or from any a corporation
21 which that provides dental service for its employees at no profit
22 to the corporation. This subsection shall does not prohibit the
23 practice of dentists who have incorporated their practices as
24 permitted by Title 13, chapter 22.

26 5. Dentist of record; office manager. Each patient shall in
27 a multidentist practice must be provided with a dentist of
28 record. The patient entering a ~~multi-dentist~~ multidentist
29 practice, at the onset of treatment, shall must be informed as to
30 the identity of the patient's dentist of record. The identity
31 shall must at least consist of the name and telephone number.

32 Each office established or maintained in this State for the
33 practice of dentistry by a person or persons subject to this
34 chapter shall ~~be registered and shall~~ must be under the direct
35 general supervision of a resident manager, ~~who may be either a~~
36 principal or staff employee holding a permit under section 1084
37 ~~or 1085 which is in full force and effect~~ licensed dentist.

38 Sec. A-59. 32 MRSA §1082, as amended by PL 1983, c. 378, §11,
39 is further amended to read:

42 §1082. Qualifications

44 Before receiving a certificate license to practice dentistry
45 in this State, a person shall must be at least 18 years of age
46 and shall must be a graduate of or have a diploma from an
47 acceptable a dental college, school or dental department of a
university accredited by an agency approved by the board.

2 Sec. A-60. 32 MRSA §1083, as amended by PL 1981, c. 440, §§4
and 5, is further amended to read:

4 **§1083. Application for examination; subjects; reexamination**

6 ~~Not less than 10 days prior to the date upon which an~~
7 ~~examination is held, each applicant for a certificate to practice~~
8 ~~dentistry shall file an application for examination, pay to the~~
9 ~~secretary of the board a fee of \$100 and present himself for~~
10 ~~examination at the first regular meeting of the board after such~~
11 ~~application is filed. Such fee may be refunded to the applicant~~
12 ~~by the board for good cause shown. The examination may be~~
13 ~~clinical or theoretical, or both. The theoretical examination may~~
14 ~~be written or oral, or both, at the option of said board, and may~~
15 ~~include such subjects as the board may deem appropriate. The~~
16 ~~board may at its discretion recognize the results of any an~~
17 ~~examination given by the National Board of Dental Examiners or~~
18 ~~any an accredited clinical testing agency approved by the board~~
19 ~~in lieu of or in addition to such the examination or examinations~~
20 ~~as that it may require. The board may require as part of the~~
21 ~~examination a clinical demonstration of the candidate's skill in~~
22 ~~dentistry. An applicant who fails to pass the first examination to~~
23 ~~the satisfaction of the board shall be is entitled to one~~
24 ~~reexamination with a charge of \$50 and the fee for any subsequent~~
25 ~~examination shall be \$100. Applicants for licensure shall pay a~~
26 ~~fee set by the board for the examination.~~

28 Sec. A-61. 32 MRSA §1084, as amended by PL 1981, c. 440, §§6
and 7, is further amended to read:

30 **§1084. Licenses; fees**

32 The board shall issue under its seal, to all persons any
33 ~~person~~ who shall successfully pass said examination, its
34 ~~certificate of ability meets all licensure requirements a license~~
35 ~~to practice dentistry in this State, signed by its president and~~
36 ~~secretary the members of the board. Whenever requested by a~~
37 ~~member or authorized agent of the board, a dentist shall~~
38 ~~publicly exhibit his certificate the dentist's license. The~~
39 ~~certificate shall be license is prima facie evidence of authority~~
40 ~~to practice dentistry in this State, except that it shall be is~~
41 ~~unlawful for any a person to practice dentistry in this State in~~
42 ~~any year after the year in which said certificate is issued to~~
43 ~~that person, after the expiration date that appears on the~~
44 ~~license unless, the practitioner shall pay pays to the secretary~~
45 ~~of the board on or before January 1st of even-numbered years a~~
46 ~~fee of not more than \$100 \$200 to be determined by the board, fee~~
47 ~~which the practitioner shall receive a registration card, which~~
48 ~~card shall be placed beside or attached to the certificate and~~
49 ~~meets other conditions that the board may require. Upon receipt~~
50

2 ~~of the required fee, the board shall issue a renewal of the~~
3 ~~practitioner's license, which the practitioner shall place beside~~
4 ~~or attach to the practitioner's initial license. Practitioners~~
5 ~~who have not paid as provided shall and who otherwise qualify for~~
6 ~~renewal may be reinstated upon payment of a fee to be determined~~
7 ~~by the board of not more than \$50 \$100 if paid before February~~
8 ~~1st. A license to practice is automatically suspended on February~~
9 ~~1st for nonpayment of registration the license renewal fee and~~
10 ~~may be reinstated, if approved by the board, on payment of a fee~~
11 ~~to be determined by the board, of not more than \$100 \$200. New~~
12 ~~applicants A new applicant having paid the examination~~
13 ~~application fee shall pay either the biennial registration~~
14 ~~licensure fee, if they register the applicant applies on an~~
15 ~~even-numbered year, or half the biennial registration licensure~~
16 ~~fee if they register the applicant applies in an odd-numbered~~
17 ~~year.~~

18 Sec. A-62. 32 MRSA §1084-A, as enacted by PL 1989, c. 90,
§2, is amended to read:

20 **§1084-A. Continuing education**

22 As a condition of renewal of a certificate license to
23 practice, a practitioner shall dentist must provide evidence of
24 having successfully completed 40 hours of continuing education
25 during the 2 years prior to application for renewal. To qualify
26 as meeting meet this requirement, the education must relate to
27 professional competency and relate to those aspects of the
28 profession in which the practitioner is currently engaged. The
29 board shall specify the desired content of the program of
30 continuing education, establish criteria for approving providers
31 of continuing education and approve those providers. The board
32 shall specify the criteria for successful completion of a
33 continuing education requirement. All actions by the board in
34 the implementation of this program shall must be by rule and
35 shall follow the provisions of the Maine Administrative Procedure
36 Act, Title 5, chapter 375.

38 The board may indicate to an individual practitioner
39 specific subject areas on which that practitioner's continuing
40 education is to focus in the future. Providers shall be are
41 required to obtain and retain for 3 years a written course
42 assessment from each student, which shall must be reviewed
43 periodically by the board.

46 Sec. A-63. 32 MRSA §1085, as amended by PL 1981, c. 440, §8,
is further amended to read:

48 **§1085. Endorsement; fees**

2 The board is authorized, at its discretion, without the
3 examination as provided, to issue its certificate a license to
4 any ~~an~~ applicant therefor who shall ~~shall~~ furnishes proof,
5 satisfactory to the board, that he the applicant has been duly
6 licensed to practice dentistry in another state after full
7 compliance with the requirements of its dental laws. If an
8 applicant is licensed to practice dentistry in said other another
9 state after the first day of January, 1913, his that applicant's
10 professional education shall may not be less than is required in
11 this State, and such the applicant shall must have been at least
12 5 years in actual practice in the state in which said the license
13 was granted. Every license ~~so given shall~~ of this type issued by
14 the board must state upon its face the grounds upon which it is
15 granted, issued and the applicant may be required to furnish his
16 proof upon affidavit. The fee for such the license shall ~~be~~ is
determined by the board, but may not be more than \$150 \$300.

18 Sec. A-64. 32 MRSA §1086, as repealed and replaced by PL
19 1977, c. 694, §560, is amended to read:

20 **§1086. Permits for internship**

22 The board shall ~~have~~ has the authority, upon presentation of
23 satisfactory credentials under the rules and regulations as the
24 board may prescribe, to issue permits to a graduate of an
25 approved dental school or college who has not been licensed or
26 registered to practice dentistry in this State, who has ~~not~~
27 ~~failed to pass~~ passed an examination for licensure in this State
28 and who, in the board's judgment, has not violated any a
29 provision of this chapter or rules ~~prescribed~~ adopted by the
30 board, to serve as a dental intern in a licensed hospital,
31 providing the hospital maintains a dental staff ~~or of~~ at least
32 one licensed dentist. Permits shall expire at the end of one
33 month and may be renewed by the board. The intern shall ~~function~~
34 functions under the supervision and direction of the dental staff
35 of the hospital, and his the intern's work shall ~~be~~ is limited to
36 patients admitted to the hospital. The intern shall is not
37 eligible to receive a fee or compensation in addition to the
38 salary or other remuneration he ~~receives~~ received from the
39 hospital.

42 ~~Special permits shall~~ A special permit may be issued by the
43 board to dentists ~~of good standing and morality~~ a licensed
44 dentist practicing outside this State when the request for the
45 dentist dentist comes from a charitable or social organization
46 within the State and when the purpose for that permit is to
47 provide free dental care for the public when no resident dental
48 service is not available. The board may provide an expiration
49 date for any a permit issued ~~provided no~~ except that a permit
50 shall ~~be good~~ may not be valid for more than one year.

2 The board shall ~~have~~ has the authority, upon presentation of
3 satisfactory proof of academic affiliation and good academic
4 standing, and providing, in the board's judgment judgment, no
5 violation or any provision of this chapter or of the board's
6 rules has not occurred, to issue a permit to a bona fide dental
7 student of a school or university acceptable to the board, after
8 the completion of satisfactory training to perform limited dental
9 service in institutional and public health service programs
10 within the State, commensurate with his the student's level of
11 training under the supervision and control of a licensed dentist
12 or a teaching school ~~in institutional and public health service~~
13 ~~programs within the State~~. The board shall must, prior to the
14 issuance of this permit, determine that the supervision and
15 control of the services to be performed by the student are
16 adequate and that the performance of these services by the
17 student will add to the student's knowledge and skill in
18 dentistry. Permits shall expire at the end of each month and may
19 be renewed by the board.

22 Specialists in particular fields of dentistry practicing
23 outside of the State, may be issued a permit to practice within
24 the State for a period not to exceed 6 months.

26 The board may charge a fee up to \$50 for licenses issued
27 pursuant to this section.

28 Sec. A-65. 32 MRSA §1087, as amended by PL 1981, c. 440, §9,
29 is further amended to read:

30 **§1087. Fee for duplicate license**

32 An applicant for a duplicate certificate license granted
33 upon proof of loss of the original shall pay a fee of \$15.

36 Sec. A-66. 32 MRSA §1089, as amended by PL 1985, c. 748, §42,
37 is further amended to read:

38 **§1089. Drugs and dental procedure**

42 A dentist shall ~~have~~ has the right to prescribe drugs or
43 medicines, perform such surgical operations, administer general
44 and local anesthetics and use such appliances as may be necessary
45 for proper dental treatment. A dentist is authorized to take case
46 histories and perform physical examinations to the extent such
47 the activities are necessary in the exercise of due care in
48 conjunction with the provision of dental treatment or the
49 administration of general or local anesthetics. ~~Nothing contained~~
50 ~~herein shall permit a dentist~~ A dentist is not permitted to
perform physical examinations within a hospital licensed by the

Department of Professional and Financial Regulation, Human Services unless such activities are this activity is permitted by the hospital.

Sec. A-67. 32 MRSA §1090, as enacted by PL 1967, c. 544, §80, is amended to read:

§1090. Prescription required for dental laboratory

1. ~~Prescription. Any A dentist who shall use uses the services of any a person, which word when used in this section shall include all legal entities,~~ not licensed to practice dentistry in this State, to construct, alter, repair or duplicate any a denture, plate, partial plate, bridge, splint, orthodontic or prosthetic appliance, shall first furnish such the unlicensed person with a written prescription, ~~ex-forms prescribed by the board, which shall must~~ contain:

A. The name and address of such the unlicensed person;

B. The patient's name or number. In the event such the number is used, the name of the patient shall must be written upon the duplicate copy of such the prescription retained by the dentist;

C. The date on which it was written;

D. A prescription of the work to be done, with diagrams if necessary;

E. A specification of the type and quality of materials to be used; and

F. The signature of the dentist and the number of his-Maine the dentist's state license.

Such The unlicensed person shall retain the original prescription and the dentist shall retain for 2 years a duplicate copy thereof for inspection by the board or its agent ~~for 2 years. For purposes of this subsection, "unlicensed person" includes all legal entities.~~

Sec. A-68. 32 MRSA §1092, as amended by PL 1975, c. 484, §10, is further amended to read:

§1092. Unlawful practice

Whoever practices dentistry without obtaining the ~~certificate and subsequently the registration card required by law a license,~~ or whoever practices dentistry under a false or

assumed name, or under the license or registration of another person of the same name, or under the name of a corporation, company, association, parlor or trade name, or whoever, being manager, proprietor, operator or conductor of a place for performing dental operations, employs a person who is not a lawful practitioner of dentistry of this State to do dental operations as defined in section 1081, or permits such persons to practice dentistry under a false name, or assumes a title or appends or prefixes to his that person's name the letters which ~~that~~ falsely represent him the person as having a degree from a dental college, or who impersonates another at an examination held by the board, or who knowingly makes a false application or false representation in connection with such the examination, or whoever practices as a dental hygienist without having a ~~certificate as such license,~~ or whoever employs a person as a dental hygienist who is not licensed to practice ~~as such shall be punished by a fine of not less than \$200 nor more than \$500, or by imprisonment for not more than 30 days, or by both commits a Class E crime. Each act constituting a violation of any of the provisions of this chapter shall be held to be a separate offense and on each day on which any such violation shall continue a separate offense within the meaning of this law shall be held to be committed. A subsequent conviction shall be punished by the maximum penalties prescribed in this section, and the offender be required to furnish a recognizance conditioned to refrain from further unlawful practice.~~

Sec. A-69. 32 MRSA §1092-A, sub-§2 and 3, as enacted by PL 1981, c. 211, §2, are amended to read:

2. General rule of privilege. A patient has a privilege to refuse to disclose and to prevent any other another person from disclosing confidential communications made for the purpose of diagnosis or treatment of his the patient's physical, mental or emotional conditions, including alcohol or drug addiction, among himself the patient, his the patient's dentist and persons who are participating in the diagnosis or treatment under the direction of the dentist, including members of the patient's family.

3. Who may claim the privilege. The privilege may be claimed by the patient, by his the patient's guardian or conservator or by the personal representative of a deceased patient. The ~~person who was the dentist or dental auxiliary at the time of the communication is presumed to have authority to claim the privilege, but only on behalf of the patient.~~

Sec. A-70. 32 MRSA §1092-A, sub-§4, as amended by PL 1985, c. 296, §2, is further amended to read:

4. Exceptions. Notwithstanding any other provisions of law, the following are exceptions.

A. If the court orders an examination of the physical, mental or emotional condition of a patient, whether a party or a witness, communications made in the course thereof of the examination are not privileged under this section with respect to the particular purpose for which the examination is ordered unless the court orders otherwise.

B. There is no not any privilege under this section as to communications relevant to an issue of the physical, mental or emotional condition of the patient in any a proceeding in which the condition of the patient is an element of the claim or defense of the patient, or of any a party claiming through or under the patient, or because of the patient's condition, or claiming as a beneficiary of the patient, through a contract to which the patient is or was a party, or after the patient's death, in any a proceeding in which any a party puts the condition in issue.

C. There is no not any privilege under this section as to information regarding any a patient which that is sought by the Chief Medical Examiner or his the Chief Medical Examiner's designee in a medical examiner case, as defined by Title 22, section 3025, in which the Chief Medical Examiner or his the Chief Medical Examiner's designee has reason to believe that information relating to dental treatment may assist in determining the identity of a deceased person.

D. There is no not any privilege under this section as to disclosure of information concerning a patient when that disclosure is required by law and nothing in this section may modify or affect the provisions of Title 22, sections 4011 to 4015 and Title 29, section 1312-E.

Sec. A-71. 32 MRSA §1093, as amended by PL 1991, c. 797, §14, is further amended to read:

§1093. Fraudulent sale or alteration of diplomas

Whoever A person who sells or offers to sell a diploma conferring a dental degree or a certificate license granted pursuant to the laws of this State, or who procures such certificate a license or diploma with intent that it be used as evidence of the right to practice dentistry by a person other than the one upon whom the diploma or certificate license was conferred, or who with fraudulent intent alters such the diploma or certificate license, or uses or attempts to use the same when

altered, or whoever who attempts to bribe a member of the board by the offer or use of money or other pecuniary reward or by other undue influence commits a Class E crime.

Sec. A-72. 32 MRSA §1094, as amended by PL 1991, c. 797, §14, is further amended to read:

§1094. Penalties

Whoever A person who violates any a provision of this chapter, for the violation of which no a penalty has not been prescribed, commits a Class E crime. The several prosecuting officers of this State, on notice from any a member of the board, shall institute prosecutions for offenses under this chapter.

Sec. A-73. 32 MRSA §1094-B, as amended by PL 1985, c. 748, §42, is further amended to read:

§1094-B. Removable dental prostheses; owner identification

1. Identification required. Every complete upper and lower denture and removable dental prosthesis fabricated by a dentist licensed under this chapter, or fabricated pursuant to his the dentist's work order or under his the dentist's direction or supervision, shall must be marked with the name and social security number of the patient for whom the prosthesis is intended. The markings shall must be done during fabrication and shall must be permanent, legible and cosmetically acceptable. The exact location of the markings and the methods used to apply or implant them--shall the markings must be determined by the dentist or dental laboratory fabricating the prosthesis. If, in the professional judgment of the dentist or dental laboratory, this identification is not practical, identification shall must be provided as follows:

A. The social security number of the patient may be omitted if the name of the patient is shown;

B. The initials of the patient may be shown alone, if use of the name of the patient is impracticable; or

C. The identification marks may be omitted in their entirety if none of the forms of identification specified in paragraphs A and B are practicable or clinically safe.

2. Dentures already in existence. Any A removable dental prosthesis in existence prior to the effective date of this section--which that was not marked in accordance with subsection 1 at the time of its fabrication--shall must be so marked in

2 accordance with subsection 1 at the time of any a subsequent
rebasng.

4 ~~3. Technical assistance. The Commissioner of Professional
and Financial Regulation shall provide technical assistance for
6 marking methods and materials and other matters necessary to
effectuate the provisions of this section.~~

8 4. Violations. Failure of any a dentist to comply with
10 this section is a violation for which the dentist may be is
12 subject to proceedings pursuant to section 1091 1077, provided
that he the dentist is charged with the violation within 2 years
of initial insertion of the dental prosthetic device.

14 Sec. A-74. 32 MRSA §1095, as amended by PL 1981, c. 440, §10,
16 is further amended to read:

18 **§1095. Definition**

20 The dental hygienist may perform, who practices under the
supervision of a dentist of record, ~~such may perform~~ duties as
22 shall be defined and set forth in the rules and regulations of
the Board of Dental Examiners, ~~provided, except~~ that nothing in
24 this subchapter shall ~~may~~ be construed to affect the practice of
medicine or dentistry or to prevent students of a dental college,
26 university or school of dental hygiene from practicing dental
hygiene under the supervision of their instructors.

28 Sec. A-75. 32 MRSA §1096, as amended by PL 1983, c. 378, §14,
30 is further amended to read:

32 **§1096. Qualifications**

34 A person, 18 years old or over, who has successfully
completed 2 years' training in a school of dental hygiene
36 approved by the board, or who is a full-time dental student who
has satisfactorily completed at least half of the prescribed
38 course of study in an accredited dental college, but who has not
graduated from any a dental college, shall be is eligible to
40 apply for examination.

42 Sec. A-76. 32 MRSA §1097, as amended by PL 1981, c. 440, §11,
is further amended to read:

44 **§1097. Application; fee**

46 Any An eligible person desiring to practice dental hygiene
48 shall must make written application to the Board of Dental
Examiners to take the examination. ~~Such~~ The application shall
50 must be accompanied by an examination a fee of ~~\$25~~ to be

determined by the board not to exceed \$100. Any applicant
failing to pass the examination shall be entitled to one
additional examination for which the fee will be \$25. The fee
4 for each examination after the first shall be \$25. All
examinations may be given by the full board or by a subcommittee
6 of said board which it may appoint. Applicants for licensure
shall pay a fee set by the board for the examination. The board
8 may recognize a nationally or regionally administered examination
for applicants to practice dental hygiene in the State.

10 Sec. A-77. 32 MRSA §1098, as amended by PL 1981, c. 440, §12,
12 is further amended to read:

14 **§1098. License; biennial fee**

16 The board shall issue certificates of ability a license to
practice as a dental hygienists hygienist in this State to those
18 an individual who have passed the examination, which certificate
shall has met the licensure requirements. The license must be
20 exhibited whenever requested by a member or authorized agent of
the board publicly at the person's place of employment. The
22 certificate shall be considered a license to authorizes practice
as a dental hygienist in this State for the year in which it is
24 issued and in subsequent years when properly renewed under this
section until the expiration date that appears on the license.
26 Thereafter, and on On or before January first 1st of each
odd-numbered year, the dental hygienist shall must pay to the
28 secretary of the board a registration license renewal fee of not
more than \$25 \$100 to be determined by the board, except that all
30 dental hygienists shall pay a registration fee to be determined
by the board of not more than \$17.50 in 1982 or 1/2 of the
32 biennial licensure fee if the applicant applies in an
even-numbered year. A registration card will then be issued,
34 which card is to be placed beside or attached to the certificate.
Dental hygienists who have not paid as provided shall must be
36 reinstated upon payment of a fee of not more than \$17.50 \$50 to
be determined by the board if paid before February first 1st of
38 the year in which license renewal is due. Failure to be properly
registered licensed by February first will result 1st results in
40 automatic suspension of a license to practice dental hygiene.
Reinstatement may be made, if approved by the board, by payment
42 to the secretary-treasurer of the board of a fee determined by
the board of not more than \$25 to the secretary of the board \$100.

44 The board may issue temporary licenses to dental hygienists
46 who present credentials satisfactory to the board. The board may
48 charge a fee of up to \$25 for a temporary license.

50 Sec. A-78. 32 MRSA §1098-A, as enacted by PL 1981, c. 440,
§13, is amended to read:

2 **§1098-A. Fee for duplicate license**

4 An applicant for a duplicate certificate license granted
6 upon proof of loss of the original shall pay a fee of \$15.

8 Sec. A-79. 32 MRSA §1098-B, as enacted by PL 1989, c. 90, §3,
is amended to read:

10 **§1098-B. Continuing education**

12 As a condition of renewal of a certificate license to
14 practice, a practitioner--shall dental hygienist must submit
16 evidence of successful completion of 20 hours of continuing
18 education consisting of board-approved courses in the 2 years
preceding the application for renewal. The board and the
practitioners dental hygienist shall follow and be are bound by
the provisions of section 1084-A in the implementation of this
section.

20 Sec. A-80. 32 MRSA §1099, as amended by PL 1983, c. 378, §15,
22 is further amended to read:

24 **§1099. Endorsement**

26 The board may at its discretion, without examination, issue
28 its certificate a license to any an applicant to practice dental
30 hygiene who shall--furnish furnishes proof satisfactory to the
32 board that the dental hygienist has been duly licensed to
34 practice in another state after full compliance with the
36 requirements of its dental laws, provided except that the
professional education shall may not be less than is required in
this State. The board may require letters of reference as to
ability. Every certificate license so given shall must state upon
its face that it was granted on the basis of reciprocity
endorsement. The fee for that certificate shall license must be
determined by the board, but may not be more than \$50 §100.

38 Sec. A-81. 32 MRSA §1100, as repealed and replaced by PL
40 1983, c. 378, §16, is amended to read:

42 **§1100. Use of former employers' lists; scope of duties**

44 No A dental hygienist may not use or attempt to use in any
46 manner whatsoever any prophylactic lists, call lists, records,
48 reprints or copies of those lists, records or reprints, or
50 information gathered therefrom from these materials, of the names
of patients whom he the hygienist might have served in the office
of a prior employer, unless these names appear on the bona fide
call or prophylactic list of his the present employer and were

2 caused to so appear through the legitimate practice of dentistry
4 as provided for in this chapter. No A dentist may not aid or
6 abet or encourage a dental hygienist in his the dentist's employ
8 to make use of a so-called prophylactic call list, or the calling
to call by telephone or by to use of written letters transmitted
through the mails to solicit patronage from patients, formerly
served in the office of any a dentist formerly employing the
hygienist.

10 No A dentist may not permit any a dental hygienist operating
12 under his the dentist's supervision to perform any an operation
other than that permitted under section 1095.

14 Sec. A-82. 32 MRSA §1100-A, as amended by PL 1977, c. 484,
16 §1, is further amended to read:

18 **§1100-A. Definition**

20 Duties of dental auxiliaries other than dental hygienists
22 shall must be defined and governed by the rules and regulations
of the State Board of Dental Examiners. Dental auxiliaries shall
include, but are not be limited to, dental hygienists, dental
assistants, dental laboratory technicians and denturists.

24 Sec. A-83. 32 MRSA §1100-B, sub-§3, ¶¶A to C, as enacted by PL
26 1977, c. 484, §2, are further amended to read:

28 A. The taking of denture impressions and bite registration
30 for the purpose of or with a view to the making, producing,
32 reproducing, construction, finishing, supplying, altering or
34 repairing of any a complete upper or complete lower
prosthetic denture, or both, to be fitted to an edentulous
arch or arches;

36 B. The fitting of any a complete upper or lower prosthetic
38 denture, or both, to an edentulous arch or arches, including
the making, producing, reproducing, constructing, finishing,
supplying, altering and repairing of such dentures; and

40 C. Other The procedures incidental to the procedures
42 specified in paragraphs A and B, as defined by the board.

44 Sec. A-84. 32 MRSA §1100-D, as amended by PL 1981, c. 440,
46 §§17 and 18, is further amended to read:

48 **§1100-D. Examinations**

50 1. Authority. The board is authorized to prepare and give
examinations in the area of denture technology for the purpose of
licensing denturists. All examinations prepared and given under
this subchapter may be prepared and given by the full board or by

2 a an appointed subcommittee of the board appointed by the board.
3 The board may also recognize a nationally or regionally
4 administered examination given at least annually for applicants
5 to practice denture technology in the State.

6 2. Eligibility for examination. A person shall ~~be~~ is
7 eligible to take the examination pursuant to subsection 1 who:

8 A. Is 18 years of age or older;

9 B. Is a high school graduate; and

10 C. Has successfully completed a minimum of 2 years of
11 training in denture technology and related areas, as
12 approved by the board, or has demonstrated equivalent
13 training and experience, as determined by the board.

14 3. Application for examination; fee. Any An eligible
15 person desiring to take the examination in order to become
16 licensed as a denturist shall make a written application to the
17 board to take the examination. This application shall must be
18 accompanied by an examination a fee of ~~\$35~~ to be determined by
19 the board but not to exceed \$100.

20 4. Additional examinations; fee. Any An applicant failing
21 to pass the examination shall be is entitled to at least one
22 additional examination, ~~for which the and shall pay a fee shall~~
23 ~~be \$35 set by the board. The fee for each additional examination~~
24 ~~after the first additional examination shall be \$35.~~

25 5. ~~Timing of examination. The applicant for an examination~~
26 ~~in denture technology shall present himself for examination at~~
27 ~~the first regular meeting of the board after the application is~~
28 ~~filed.~~

29 Sec. A-85. 32 MRSA §1100-E, as amended by PL 1983, c. 378,
30 §§18 and 19, is further amended to read:

31 **§1100-E. Licenses; reciprocity**

32 1. Authority. The board shall ~~have~~ has the authority to
33 issue licenses to qualified persons to practice denture
34 technology pursuant to this subchapter.

35 2. License issued. The board shall issue a license for the
36 practice in this State to each person who has passed the
37 examination under section 1100-D. This license shall ~~authorize~~
38 authorizes the licensee to practice as a denturist in the State
39 for the year in which it is issued until the expiration date that
40 appears on the license.

2 3. Fee. After a license has been issued under subsection 2,
3 and on or before January 1st of odd-numbered years, any a
4 denturist shall must pay to the secretary ~~of the~~ board a
5 registration license fee of not more than \$35 \$100 to be
6 determined by the board in order to renew the license and to
7 continue to be authorized to practice as a denturist in the
8 State, ~~except that all denturists shall pay a registration fee to~~
9 ~~be determined by the board, of not more than \$17.50 in 1983 or~~
10 ~~1/2 the biennial licensure fee if application is made in an~~
11 ~~even-numbered year.~~

12 A ~~registration card~~ After the requirements for a license renewal
13 have been met, a renewal card of the denturist's license for that
14 year shall then must be issued, which card shall be placed beside
15 or attached to the license the denturist shall place beside or
16 attach to the denturist's initial license. Denturists who have
17 not paid as provided by January 1st shall must be reinstated upon
18 payment of a fee, to be determined by the board, of not more than
19 \$17.50 \$50 if paid by February 1st. A license to practice is
20 automatically suspended on February 1st, and may be reinstated,
21 if approved by the board, on payment of a fee to be determined by
22 the board of not more than \$35 \$100.

23 4. Endorsement. The board may, at its discretion, without
24 examination, issue a license to any an applicant to practice as a
25 denturist who shall ~~provide~~ furnishes proof satisfactory to the
26 board that the denturist has been duly licensed to practice and
27 has actively practiced for a period of 5 years in another state
28 or Canadian province after full compliance with the requirements
29 of its dental laws, provided that if the licensure requirements
30 are, in all essentials, at least equivalent to those of this
31 State. The board may require letters of reference about the
32 denturist. Every license so given shall must state upon its face
33 that it was granted on the basis of ~~reciprocity~~ endorsement. The
34 fee for such certificate shall be the license is \$60 \$100.

35 4-A. Duplicate license. An applicant for a duplicate
36 certificate license granted upon proof of loss of the original
37 shall pay a fee of \$15.

38 5. Additional prohibitions. ~~No~~ A denturist may not:

39 A. ~~Held himself out or permit himself to be represented as~~
40 ~~falsely claim to be a licensed dentist or allow another to~~
41 ~~falsely represent the denturist as a licensed dentist;~~

42 B. Perform otherwise than at the direction and under the
43 direct supervision of a dentist licensed by the board and

practicing in the State. Direct supervision requires the dentist to be on the same premises as the dentist;

C. Perform a task beyond his the dentist's competence; or

D. Administer, dispense or prescribe any a medication or controlled substance.

6. Mental or physical examination. For the purposes of this subsection, by the application for and acceptance of the license, a licensed dentist shall ~~be~~ is deemed by ~~the application for and acceptance of the license~~ to have given his consent to a mental or physical examination when directed by the board. The board may direct the examination whenever it determines a dentist may be suffering from a mental illness which ~~that~~ is interfering with his the competent practice of denture technology or from the use of intoxicants or drugs to an extent that they ~~may be~~ are preventing him the dentist from practicing denture technology competently and with safety to his the patients. A dentist examined pursuant to an order of the board shall does not have as the privilege to prevent the testimony of the examining individual or to prevent the acceptance into evidence of the report of any an examining individual. Failure to comply with an order of the board to submit to a mental or physical exam shall ~~require~~ requires the Administrative Court to immediately order the license of the dentist suspended until such ~~time as he shall submit~~ the dentist submits to the examination.

Sec. A-86. 32 MRSA §§1100-F and 1100-G, as enacted by PL 1977, c. 484, §2, are amended to read:

§1100-F. Persons and practices not affected

Nothing in this subchapter shall may be construed to prohibit a duly qualified dental surgeon, dental laboratory technician or dental hygienist from performing work or services performed by a dentist licensed under this subchapter to the extent those persons are authorized to perform the same services under existing Maiae state law.

Nothing in this subchapter shall may be construed to prevent students of a dental college, university or school of dental hygiene from practicing dental hygiene under the supervision of their instructors.

§1100-G. Liability of dentist for dentist's actions

A dentist, who supervises the activities of a dentist pursuant to this subchapter, ~~shall be deemed~~ is legally liable

for these activities and in such ~~a~~ this relationship, the dentist shall must be construed as the dentist's agent.

Sec. A-87. 32 MRSA §1100-H, as amended by PL 1981, c. 440, §23, is repealed.

Sec. A-88. 32 MRSA §1100-I, sub-§2, as enacted by PL 1983, c. 331, §2, is repealed.

Sec. A-89. 32 MRSA §1100-I, sub-§2-A is enacted to read:

2-A. General supervision. "General supervision" means the supervising dentist is not required to be physically present in the dental office while procedures are being performed on a patient of record.

Sec. A-90. 32 MRSA §1100-J, sub-§1, as amended by PL 1983, c. 712, §1, is further amended to read:

1. License required. ~~On or after January 1, 1985, it shall be~~ It is unlawful for any person, not otherwise authorized by law, to practice dental radiography without having a current license issued by the board.

Sec. A-91. 32 MRSA §1100-J, sub-§3, as enacted by PL 1983, c. 331, §2, is amended to read:

3. Exceptions. The requirement of a license shall does not apply to:

A. Dental hygienists licensed pursuant to subchapter IV;

B. A resident physician or a student enrolled in and attending a school or college of medicine, osteopathy, dentistry, dental hygiene and dental assisting or radiologic technology;

C. Any A person serving in the United States Armed Forces or public health service or employed by the Veterans' Administration or other federal agency while performing his official duties, ~~provided that~~ if the duties are limited to that service or employment; or

D. Those persons having a current license to perform radiologic technology pursuant to section 9854 and who are practicing dental radiography under the ~~direct~~ general supervision of a dentist or physician.

Sec. A-92. 32 MRSA §1100-K, as enacted by PL 1983, c. 331, §2, is amended to read:

2 **§1100-K. Supervision required**

4 1. Supervision. A licensed dental radiographer shall may
6 practice dental radiography only under the direct general
supervision of a dentist.

8 ~~2. Prohibition. It is unlawful for a dentist to allow a~~
10 ~~licensed dental radiographer in his employment to carry out~~
~~radiographic procedures except under direct supervision.~~

12 Sec. A-93. 32 MRSA §1100-L, as amended by PL 1983, c. 712,
14 §2, is further amended to read:

16 **§1100-L. Employment of dental radiographers**

18 1. Dental radiographers; license. ~~On or after January 1,~~
~~1985, it shall be~~ It is unlawful for a dentist to allow a person
20 to practice dental radiography in his the dentist's employment or
22 under his the dentist's supervision who does not hold a license
to practice dental radiography issued by the board or who is
otherwise authorized by law to practice dental radiography.

24 Sec. A-94. 32 MRSA §§1100-N, 1100-O and 1100-Q, as enacted by
26 PL 1983, c. 331, §2, are amended to read:

28 **§1100-N. Application**

30 To apply for a license to practice dental radiography, an
32 applicant shall submit a written application with supporting
documents to the board, on forms provided by the board, and shall
pay an application fee, which shall may not exceed \$30 ~~\$50~~.

34 **§1100-O. Renewal**

36 1. Term of license; renewal. All licenses to practice
38 dental radiography issued by the board are valid for 5 years from
the date of issuance and may be renewed upon application to the
40 board and payment of a renewal fee, which shall may not exceed
\$50.

42 **§1100-Q. Disciplinary action**

44 1. Suspension; revocation; refusal to issue or renew
46 license. The board may suspend or revoke a license pursuant to
Title 5, section 10004. In addition, the board may refuse to
48 issue or renew a license or the Administrative Court may revoke,
suspend or refuse to renew a license ~~of a person~~ issued under
50 this subchapter for any ~~of~~ the following reasons:

2 A. The practice of fraud or deceit in obtaining a license
under this subchapter or in connection with service rendered
within the scope of the license issued;

4 B. ~~Habitual intemperance in the use of alcohol or the~~
~~habitual use of narcotic or hypnotic or other drugs listed~~
~~as controlled substances by the drug enforcement~~
8 ~~administration, which use substance abuse that has resulted~~
10 ~~or is foreseeably likely to result in the licensed dental~~
12 ~~radiographer being unable to perform his the duties of the~~
14 ~~profession or perform those duties in a manner which that~~
would endanger the health or safety of the patients to be
served;

16 C. Incompetence in the practice of dental radiography. A
18 licensed dental radiographer shall be deemed is considered
incompetent in the practice if he the dental radiographer
has:

20 (1) Engaged in conduct which that evidenced a lack of
22 ability or fitness to discharge the duty owed by ~~him~~ to
a client or patient or the general public; or

24 (2) Engaged in conduct which that evidenced a lack ~~of~~
26 ~~of~~ knowledge, or inability to apply principles or
28 skills to carry out the practice ~~for which he is~~
certified of dental radiography;

30 D. Unprofessional conduct. In this context, unprofessional
32 conduct means the violation of any a standard of
34 professional behavior which that through professional
experience has been established in the practice of dental
radiography;

36 E. Subject to the limitations of Title 5, chapter 341,
38 conviction of a crime which that involves dishonesty or
false statement or which that relates directly to the
40 practice of dental radiography, or conviction of any a crime
for which incarceration for one year or more may be imposed;
or

42 F. Any A violation of this chapter or any a rule adopted by
the board.

44 Sec. A-95. 32 MRSA §1100-R, as enacted by PL 1983, c. 331,
46 §2, is repealed.

48 Sec. A-96. 32 MRSA §1151, 3rd ¶, as amended by PL 1991, c.
50 438, §1, is further amended to read:

Appointments are made for a 3-year term, except that at least one appointive member's term expires each calendar year and appointments for terms of less than 3 years may be made in order to comply with this limitation. A person is not eligible to serve more than 3 full consecutive terms, provided that for this purpose only a period actually served that exceeds 1/2 of the 3-year term is determined a full term. Upon expiration of a member's term, the member shall serve until the member's successor is qualified and appointed. The successor's term is 3 years from the date of that expiration, regardless of the date of the successor's appointment. Appointments of members must comply with section 60.

Sec. A-97. 32 MRSA §1151, 4th ¶, as amended by PL 1991, c. 438, §1, is repealed.

Sec. A-98. 32 MRSA §1301, last ¶, as repealed and replaced by PL 1983, c. 413, §42, is amended to read:

Appointments shall be for 5-year terms, except that no more than one engineer member's term may expire in any one calendar year and appointments for terms of less than 5 years may be made in order to comply with this limitation. No person may be eligible to serve more than 2 full consecutive terms, provided that for this purpose only a period actually served which exceeds 1/2 of the 5-year term shall be deemed a full term. Upon expiration of a member's term, he shall serve until his successor is qualified and appointed. The successor's term shall be 5 years from the date of that expiration, regardless of the date of his appointment. Appointments of members must comply with section 60.

Sec. A-99. 32 MRSA §1304, as amended by PL 1983, c. 413, §43, is further amended to read:

§1304. Removal

The Governor may remove any a member of the board for cause. Vacancies in the membership of the board shall be filled for the unexpired term by appointment by the Governor in accordance with section 1301.

Sec. A-100. 32 MRSA §1451, first ¶, as repealed and replaced by PL 1989, c. 878, Pt. B, §27, is amended to read:

The State Board of Funeral Service, as established by Title 5, section 12004-A, subsection 18, and in this chapter called the "board," shall consist consists of 8 members, 6 of whom shall must be persons licensed for the practice of funeral service for 10 consecutive years or who have had 10 consecutive years'

experience as a practitioner of funeral service in this State immediately preceding their appointment and 2 of whom shall must be representatives of the public. Members shall be are appointed by the Governor for a term of 4 years, except that no more than 2 members' terms may expire in any one calendar year and appointments for terms of less than 4 years may be made in order to comply with this limitation. Upon expiration of a member's term, that member shall serve until a successor is qualified and appointed. The successor's term shall be 4 years from the date of the expiration, regardless of the date of the successor's appointment. Any vacancy in the board shall be filled by appointment of a person, qualified as was the board member being replaced, to hold office during the unexpired term. No person may be eligible to serve more than 2 full consecutive terms, provided that for this purpose only a period actually served that exceeds 1/2 of the 4-year term shall be deemed a full term. Appointments of members must comply with section 60. A board member may be removed by the Governor for cause.

Sec. A-101. 32 MRSA §1660-A, sub-§3, as repealed and replaced by PL 1983, c. 413, §83, is amended to read:

3. **Appointment; term of office; chair.** All members of the board shall be are appointed by the Governor. The term of office of each member shall be for is 3 years, except that the terms of 2 members shall expire each calendar year and appointments for terms of less than 3 years may be made in order to comply with this limitation. No person may be eligible to serve more than 2 full consecutive terms, provided that for this purpose only a period actually served which exceeds 1/2 of the 3-year term shall be deemed a full term. Upon expiration of a member's term, he shall serve until his successor is qualified and appointed. The successor's term shall be 3 years from the date of the expiration, regardless of the date of his appointment. A vacancy in the office of a member shall be filled by appointment by the Governor for the unexpired term. Appointments of members must comply with section 60. A board member may be removed by the Governor for cause. At the first meeting in each calendar year, the members of the board shall designate one such member to serve as chairman chair and another to serve as secretary-treasurer.

Sec. A-102. 32 MRSA §2001, 2nd ¶, as amended by PL 1989, c. 502, Pt. B, §38, is further amended to read:

Appointments shall be are for 5-year terms, except that no more than one appointed member's term may expire in any one calendar year and appointments for terms of less than 5 years may be made in order to comply with this limitation. No appointed member may be eligible to serve more than 2 full consecutive terms, provided that for this purpose only a period actually

~~2 served which exceeds 1/2 of the 5 year term shall be deemed a full term. Upon expiration of a member's term, the member shall serve until a successor is qualified and appointed. The successor's term shall be 5 years from the date of appointment. Any vacancy occurring prior to the expiration of the specified term shall be filled by appointment for the unexpired term. Appointments of members must comply with section 60. A board member may be removed by the Governor for cause.~~

10 Sec. A-103. 32 MRSA §2101, as amended by PL 1985, c. 724, §1, is further amended to read:

14 **§2101. Purpose**

14 The State Board of Nursing is the state regulatory agency charged with protection of the public health and welfare in the area of nursing service. In order to safeguard the life and health of the people in this State, any person an individual who for compensation practices or offers to practice professional nursing or practical nursing in this State shall hereafter be required to submit evidence that he or she the individual is qualified so to practice, and shall that individual must be licensed as provided. It shall be is unlawful for any person an individual not licensed under this chapter to practice or to offer to practice professional or practical nursing in this State; or to use any a sign, card or device to indicate that the individual is a professional registered nurse or a licensed practical nurse; or in any way to hold oneself out to the public to indicate that such person is as a professional registered nurse or a licensed practical nurse.

32 Sec. A-104. 32 MRSA §2102, first ¶, as enacted by PL 1977, c. 696, §244, is amended to read:

34 As used in this chapter, unless the context indicates otherwise, the following words shall have the following meanings.

38 Sec. A-105. 32 MRSA §2102, sub-§2, as amended by PL 1991, c. 731, §1, is further amended to read:

42 2. Professional nursing. The practice of "professional nursing" means the performance, by a registered professional nurse, for compensation of professional services defined as follows:

46 A. Diagnosis and treatment of human responses to actual or potential physical and emotional health problems, through such services as case finding, health teaching, health counseling and provision of care supportive to or restorative of life and well-being and execution of the

2 medical regimen as prescribed by a licensed physician, podiatrist or dentist or otherwise legally authorized person individual acting under the delegated authority of a physician, podiatrist or dentist:

8 (1) "Diagnosis" in the context of nursing practice means that identification of and discrimination between physical and psychosocial signs and symptoms essential to effective execution and management of the nursing regimen. This diagnostic privilege is distinct from medical diagnosis;

12 (2) "Human responses" means those signs, symptoms and processes that denote the individual's health needs or reaction to an actual or potential health problem; and

16 (3) "Treatment" means selection and performance of those therapeutic measures essential to the effective management and execution of the nursing regimen;

20 B. Medical diagnosis or prescription of therapeutic or corrective measures when those services are delegated by a licensed physician to a registered nurse who has completed the necessary additional educational program required for the proper performance of those services and whose credentials must be approved by the board.

24 The board may adopt, pursuant to the ~~Maine Administrative Procedure Act~~, Title 5, chapter 375, subchapter II, rules defining the appropriate scope of practice for nurses practicing under this paragraph. The rules shall must also define the appropriate relationship with the physician. In adopting the rules, the board shall invite comment from the Board of Registration Licensure in Medicine;

28 C. Delegation of selected nursing services to licensed practical nurses when the services use standardized protocols and procedures leading to predictable outcomes in the observation and care of the ill, injured and infirm; in the maintenance of health; in action to safeguard life and health; and in the administration of medications and treatments prescribed by any person an individual authorized by state law to prescribe. The board shall issue such rules concerning delegation as it deems considers necessary to ensure quality health care to the patient;

32 D. Delegation of selected nursing services to assistants to nurses who have completed or are currently enrolled in a course sponsored by a state-approved facility or a facility licensed by the Department of Professional and Financial

2 Regulation. This course shall ~~must~~ include a curriculum
3 approved by the State-Board-of-Nursing ~~board~~. The board
4 shall issue such rules concerning delegation as it deems
5 ~~considers~~ necessary to ensure quality of health care to the
6 patient;

7 E. Supervision and teaching of nursing personnel;

8 F. Administration of medications and treatment as
9 prescribed by a legally authorized ~~person~~ individual.
10 Nothing in this section may be construed as limiting the
11 administration of medication by licensed or unlicensed
12 personnel as provided in other laws; and

13 G. Teaching activities of daily living to care providers
14 designated by the patient and family.

15 Sec. A-106. 32 MRSA §2102, sub-§§5 and 6, as amended by PL
16 1985, c. 724, §4, are further amended to read:

17 5. Professional nurse. The terms "professional nurse,"
18 "registered nurse" or "registered professional nurse" mean a
19 ~~person~~ an individual who is currently licensed under this chapter
20 and who practices professional nursing as defined in subsection
21 2. "R.N." is the abbreviation for the title of "registered
22 professional nurse".

23 6. Licensed practical nurse. The term "licensed practical
24 nurse" means a ~~person~~ an individual who is currently licensed
25 under this chapter and who practices practical nursing as defined
26 in subsection 3. "L.P.N." is the abbreviation for the title of
27 "licensed practical nurse".

28 Sec. A-107. 32 MRSA §2102, sub-§8, as repealed and replaced by
29 PL 1991, c. 421, §2, is amended to read:

30 8. Certified nursing assistant. "Certified nursing
31 assistant" means a ~~person~~ an individual whose duties are assigned
32 by a registered professional nurse and who:

33 A. Has successfully completed a training program or course
34 with a curriculum prescribed by the State-Board-of-Nursing
35 ~~board~~, holds a certificate of training from that program or
36 course and is listed on the Maine Registry of Certified
37 Nursing Assistants; or

38 B. Was certified before September 29, 1987 and is listed on
39 the Maine Registry of Certified Nursing Assistants.

40 Sec. A-108. 32 MRSA §2103, as amended by PL 1985, c. 724, §§5
41 to 9, is further amended to read:

2 §2103. Exceptions

3 This chapter does not prohibit:

4 1. Emergency. The rendering of nursing assistance in the
5 case of emergency;

6 2. Students. The practice of nursing that is an integral
7 part of a program by students enrolled in board-approved nursing
8 education programs leading to initial licensure; and the practice
9 of nursing by graduates of board-approved programs pending the
10 results of the first licensing examination for which they are
11 eligible following graduation, ~~provided--that if~~ they practice
12 under on-site delegation and supervision of a registered
13 professional nurse and only in the practice setting. The board
14 may, by rule, define what constitutes supervision and practice
15 setting;

16 4. Licensure in another state. The practice of:

17 A. Nursing by a registered nurse or a licensed practical
18 nurse currently licensed in another state for a period of 90
19 days pending licensure in Maine ~~provided--that the State if~~
20 the nurse, upon employment, has furnished the employer with
21 satisfactory evidence of current licensure in another state
22 and ~~provided--that~~ the nurse furnishes a letter of
23 authorization to the prospective employer of having
24 submitted proper application and fees to the board for
25 licensure prior to employment;

26 B. Any A currently licensed nurse of another United States
27 jurisdiction or foreign country who is providing educational
28 programs or consultative services within this State for a
29 period not to exceed a total of 21 days per year;

30 C. Any A currently licensed nurse of another state who is
31 transporting patients into, out of or through this State.
32 The exemption shall ~~be~~ is limited to a period not to exceed
33 48 hours for each transport; or

34 D. Nursing in this State by any a currently licensed nurse
35 whose employment was made contracted outside this State but
36 ~~required~~ requires the nurse to accompany and care for the
37 patient while in this State. This practice is limited to
38 the particular patient, to 3 months within one year and is
39 at the discretion of the board; or

40 6. Nursing services; practice of religious principles.
41 This chapter does not prohibit nursing services by ~~anyone--when~~

2 ~~these performed~~ in accordance with the practice of the religious
principles or tenets of any a church or denomination which that
relies upon prayer or spiritual means alone for healing.

4 Sec. A-109. 32 MRSA §2104, as amended by PL 1991, c. 421, §4,
6 is further amended to read:

8 **§2104. Education programs**

10 1. Application for approval. An institution desiring to
conduct a nursing education program to prepare professional or
12 practical nurses shall must apply to the board and submit
evidence that:

14 A. It is prepared to carry out the prescribed professional
nursing curriculum or the prescribed curriculum for
16 practical nursing, as the case may be; and

18 B. It is prepared to meet such other standards as shall-be
20 established by this chapter and by the board.

22 2. Survey. A survey of the institution and its entire
nursing education program shall must be made by either or both
24 the executive director or other authorized appointee of the
board, who shall submit a written report of the survey to the
26 board. If, in the opinion of the board, the requirements for an
approved nursing education program are met, ~~it--shall~~ the
28 institution must be approved as a nursing education program for
professional or practical nurses.

30 From time to time as deemed determined necessary by the board, it
32 shall-be is the duty of the board, through its executive director
or other authorized representative of the board, to survey all
34 nursing education programs in the State. Written reports of such
the surveys shall must be submitted to the board. If the board
36 determines that any an approved nursing education program is not
maintaining the standards required by statute and by the board,
38 notice thereof in writing specifying the defect or defects shall
must be immediately given to the institution conducting the
40 program. A- If a program which fails to correct these conditions
to the satisfaction of the board within a reasonable time shall
42 ~~be discontinued after a hearing, the board shall take appropriate~~
action pursuant to section 2153.

44 3. In-service training. Nothing in this chapter applies to
46 in-service teaching or training programs for paramedical
personnel.

48 4. Approval and monitoring of nursing assistant training
50 curriculum and faculty. An educational institution or health care

2 facility desiring to conduct an educational program for nursing
assistants to prepare individuals for a certificate of training
and subsequent listing on the Maine Registry of Certified Nursing
4 Assistants shall must apply to the Department of Education and
submit evidence:

6 A. That it is prepared to carry out the curriculum for
nursing assistants as prescribed by the ~~State--Board--of~~
8 Nursing board;

10 B. That it is prepared to meet those standards established
12 by the ~~State--Board--of--Nursing~~ board;

14 C. That it is prepared to meet those standards for
educational programming and faculty as established by the
16 Department of Education; and

18 D. With respect to an application by a health care
facility, that an educational institution ~~can--not~~ cannot
20 provide a nursing assistant training program within 30 days
of the application date.

22 The Department of Education shall issue a notice of approval to
24 any an educational institution or health care facility that meets
the requirements of this subsection.

26 The Department of Education shall consult with the ~~State--Board--of~~
28 Nursing board in approving and monitoring of nursing assistant
training programs.

30 Sec. A-110. 32 MRSA §2104-A, as enacted by PL 1989, c. 579,
32 §7, is amended to read:

34 **§2104-A. Nurse orientation in institutions**

36 A nurse who is employed in a hospital or nursing home and
involved in direct patient care shall, at the beginning of the
38 nurse's employment, participate in an individualized controlled
learning experience adjusted for competency based upon practice
standards and protocols. Each hospital or nursing home shall
40 develop a plan with the employee for compliance with this
section, which shall must contain a mutually agreed upon
42 completion date. A copy of the plan shall must be made a part of
the nurse's personnel file. The staffing plan for the hospital
44 or nursing home shall must reflect current trainee competence.

46 Sec. A-111. 32 MRSA §2105-A, as amended by PL 1985, c. 724,
48 §§11 and 12, is further amended to read:

50 **§2105-A. Disciplinary actions**

2 1-A. Disciplinary proceedings and sanctions. The board
4 shall investigate a complaint, on its own motion or upon receipt
6 of a written complaint filed with the board, regarding
8 noncompliance with or violation of this chapter or of any rules
10 adopted by the board. Investigation may include a hearing before
12 the board to determine whether grounds exist for suspension,
14 revocation or denial of a license, or as otherwise deemed
16 considered necessary to the fulfillment of its responsibilities
18 under this chapter. The board may subpoena witnesses, records
20 and documents, including records and documents maintained by a
22 health care facility, in any an investigation or hearing it
conducts.

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

24 If, in the opinion of the board, the factual basis of the
26 complaint is or may be true, and it is of sufficient gravity to
28 warrant further action, the board may request an informal
30 conference with the licensee. The board shall provide the
32 licensee with adequate notice of the conference and of the issues
34 to be discussed. The conference shall must be conducted in
executive session of the board, pursuant to Title 1, section 405,
unless otherwise requested by the licensee. Statements made at
the conference may not be introduced at a subsequent formal
hearing unless all parties consent.

34 If the board finds that the factual basis of the complaint is
36 true and is of sufficient gravity to warrant further action, it
38 may take any of the following actions it deems considers
appropriate:

40 A. Warn, censure or reprimand;

42 B. With the consent of the licensee, enter into a consent
44 agreement which that fixes the period and terms of probation
46 best adapted to protect the public health and safety and to
rehabilitate or educate the licensee. A consent agreement
may be used to terminate a complaint investigation, if
entered into by the board, the licensee and the Attorney
General's office;

2 C. In consideration for acceptance of a voluntary surrender
4 of the license, negotiate stipulations, including terms and
6 conditions for reinstatement, ~~which that~~ ensure protection
8 of the public health and safety and which serve to
rehabilitate or educate the licensee. These stipulations
shall may be set forth only in a consent agreement signed by
the board, the licensee and the Attorney General's office;

10 D. If the board concludes that modification or nonrenewal
12 of the license ~~might be~~ is in order, hold an adjudicatory
14 hearing in accordance with the provisions of the ~~Maine~~
Administrative ~~Procedure Act~~, Title 5, chapter 375,
subchapter IV; or

16 E. If the board concludes that suspension or revocation of
18 the license is in order, file a complaint in the
Administrative Court in accordance with Title 4, chapter 25.

20 2. Grounds for discipline. The board may suspend or revoke
22 a license pursuant to Title 5, section 10004. The following
24 shall ~~be~~ are grounds for an action to refuse to issue, modify,
suspend, revoke or refuse to renew the license of a ~~person~~ an
individual licensed under this chapter:

26 A. The practice of fraud or deceit in obtaining a license
28 under this chapter or in connection with service rendered
within the scope of the license issued;

30 B. Habitual ~~intemperance in the use of alcohol or the~~
32 ~~habitual use of narcotic or hypnotic or other substances the~~
34 ~~use of which substance abuse that~~ has resulted or may is
foreseeably likely to result in the licensee performing his
duties services in a manner which that endangers the health
or safety of his patients;

36 C. A professional diagnosis of a mental or physical
38 condition which that has resulted or may is foreseeably
likely to result in the licensee performing his the
licensee's duties in a manner which that endangers the
health or safety of his the licensee's patients;

40 D. Aiding or abetting the practice of nursing by a ~~person~~
42 an individual not duy licensed under this chapter and who
44 represents himself claims to be legally licensed;

46 E. Incompetence in the practice for which he the licensee
48 is licensed. A licensee shall ~~be deemed~~ is considered
incompetent in the practice if the licensee has:

2 (1) Engaged in conduct which that evidences a lack of
ability or fitness to discharge the duty owed by the
licensee to a client or patient or the general public;
4 or

6 (2) Engaged in conduct which that evidences a lack of
knowledge, or inability to apply principles or skills
8 to carry out the practice for which he the licensee is
licensed;

10 F. Unprofessional conduct. A licensee shall ~~be deemed is~~
12 considered to have engaged in unprofessional conduct if he
the licensee violates any a standard of professional
14 behavior which that has been established in the practice for
which the licensee is licensed;

16 G. Subject to the limitations of Title 5, chapter 341,
18 conviction of a crime which that involves dishonesty or
false statement or which that relates directly to the
20 practice for which the licensee is licensed, or conviction
of any a crime for which incarceration for one year or more
22 may be imposed;

24 H. Any A violation of this chapter or any a rule adopted by
the board; or

26 I. Engaging in false, misleading or deceptive advertising.

28 3. Confidentiality of information. Any ~~reports~~ Reports,
30 information or records provided to the board by a health care
facility pursuant to this chapter shall ~~be~~ are confidential
32 insofar as the reports, information or records identify or permit
identification of any a patient, ~~provided~~ except that the board
34 may disclose any confidential information:

36 A. In an adjudicatory hearing or informal conference before
the board or in any a subsequent formal proceeding to which
38 the information is relevant; and

40 B. In a consent agreement or other written settlement, when
the information constitutes or pertains to the basis of
42 board action.

44 A copy of any a report, information or record received by the
board under this subsection shall must be provided to the
46 licensee.

48 Sec. A-112. 32 MRSA §2106, as amended by PL 1991, c. 797,
§15, is further amended to read:

2 §2106. Violations; penalties

4 It is a crime for any person, including any a corporation,
or association or individual, to:

6 1. Fraudulent diploma or record. Sell or fraudulently
obtain or furnish any a nursing diploma, license, renewal or
8 record or provide aid or ~~abet~~ therein in doing so; or

10 2. Fraudulent license. Practice nursing as defined by this
chapter under cover of any a diploma, license or record illegally
12 or fraudulently obtained or signed or issued unlawfully or under
fraudulent representation; or

14 3. Practice without license. Practice professional nursing
or practical nursing as defined by this chapter unless duly
16 licensed to do so ~~under this chapter~~; or

18 4. Implying license. Use in connection with the person's
name any a designation tending to imply that the person is a
20 licensed registered nurse or a licensed practical nurse unless
duly so licensed ~~to practice~~ under this chapter; or

22 5. License suspended or revoked. Practice professional
nursing or practical nursing during the time the person's license
24 issued under this chapter is suspended or revoked; or

26 6. Violation of chapter. Otherwise violate any provisions
of this chapter.

28 A person who violates this section commits a Class E crime.

30 The District Court has original and concurrent jurisdiction
with the Superior Court over all prosecutions for violation of
32 this chapter. All fines and forfeitures collected under this
chapter must accrue to the county where the offense is
34 prosecuted. It is necessary to prove in any a prosecution or
hearing under this section only a single act prohibited by law or
36 a single holding out or an attempt without proving a general
course of conduct, in order to constitute a violation. Such These
38 crimes are prosecuted by the district attorney.

40 Sec. A-113. 32 MRSA §2107 is amended to read:

42 §2107. Injunctions

44 The Superior Court shall ~~have~~ has jurisdiction, upon
information filed by the county attorney at the request of the
46 board, to restrain or enjoin any ~~person~~ an individual from
committing any an act declared to be a misdemeanor by this

chapter. If it be is established that the defendant has been or is committing an act declared to be a misdemeanor by this chapter, the court shall enter a decree perpetually enjoining said the defendant from further committing such that act. In case of violation of any an injunction issued under this section, the court may summarily try and punish the offender for contempt of court. Such--injunction Injunction proceedings shall--be are in addition to, and not in lieu of, all penalties and other remedies provided in this chapter.

Sec. A-114. 32 MRSA §2108-A, as enacted by PL 1983, c. 769, §3, is amended to read:

§2108-A. Immunity

Any-person An individual or health care facility acting in good faith shall--be is immune from civil liability to the licensee or applicant for licensure for the following actions:

1. Making information available to the board. Making any a report or other information available to the board under this chapter; and

2. Assisting the board. Assisting the board in carrying out any-of its duties.

Sec. A-115. 32 MRSA §2151, as amended by PL 1989, c. 503, Pt. B, §133, is further amended to read:

§2151. Appointment; term; removal

-A- The State Board of Nursing, as established by Title 5, section 12004-A, subsection 25, shall--consist consists of 9 members who shall-be are appointed by the Governor. Five-members of-the-board-shall-be-professional-nurses.--Two-members-shall-be licensed-practical-nurses.--One-of-the-nurse-members-of-the-board must-be-a-nurse-who-is-currently-practicing-long-term-care nursing.--Two-members-shall-be-representatives-of-the-public. Except-to-fill-vacancies-in-unexpired-terms--all-appointments shall-be-for-a-term-of-5-years-after-such-appointment-or-until their-successors-have-been-duly-appointed-and-qualified.--No person-may-be-eligible-for-more-than-one-reappointment.--Any vacancy-on-the-board-shall-be-filled-for-the-unexpired-term-by the-appointment-of-another-member-by-the-Governor.--Any-members A full-term appointment is for 4 years. Appointment of members must comply with section 60. Members of the board may be removed from office for cause by the Governor.

Sec. A-116. 32 MRSA §2152, as repealed and replaced by PL 1985, c. 724, §13, is amended to read:

§2152. Qualifications

Each member of the board must be a citizen of the United States and a resident of this State for at least 3 consecutive years prior to appointment and shall file with the Secretary of State an oath of office before beginning his--term-of-office service. The State-Board-of-Nursing-shall-be board is composed of:

1. Professional nurses. Five professional nurses, each of whom:

A. Must be a graduate of a state-approved educational program in professional nursing;

B. Holds a current Maine state license to practice nursing; and

C. Has at least 3 years' experience in active practice immediately preceding appointment.

A minimum of 2 professional nurses must be active in an approved educational program in nursing. A minimum of 2 professional nurses must be active in nursing service. One of the professional nurse members of the board must be practicing long-term care nursing;

2. Licensed practical nurse. Two licensed practical nurses who:

A. Must be a graduate of a state-approved state-approved educational program in practical nursing;

B. Holds a current Maine state license to practice practical nursing; and

C. Has at least 3 years' experience in active practice immediately preceding appointment; and

3. Public members. Two public members. No A person may not qualify for appointment as a public member of the board if that person or any a member of his that person's immediate family is currently serving as:

A. A member of any-ether another state licensing board;

B. On the board of any-ether another health care agency; and

2 C. Engaged for compensation in the provision of health
services or the provision of health research, instruction or
4 insurance.

6 Sec. A-117. 32 MRSA §2153, as amended by PL 1985, c. 819, Pt.
A, §§31 and 32, is repealed.

8 Sec. A-118. 32 MRSA §2153-A is enacted to read:

10 §2153-A. Powers and duties

12 The board shall hold annual meetings at which it shall elect
14 from its members a chair and a secretary. It may hold such other
16 meetings during the year as it determines necessary to transact
18 its business. Special meetings must be called by the secretary on
20 the request of 2 members. Five members of the board constitute a
22 quorum at a meeting.

24 The board:

26 1. Bylaws. May adopt bylaws, rules for the transaction of
28 the business of the board and the government and management of
30 its affairs, not inconsistent with the laws of this State and of
32 the United States, as it considers expedient;

34 2. Seal. May adopt a seal, which must be placed in the care
36 of the executive director;

38 3. Curricula. May prescribe curricula and standards for
40 educational programs preparing individuals for licensure under
42 this chapter;

44 4. Surveys. May provide for surveys of the programs
46 described in subsection 3 as it determines necessary;

48 5. Approval. May approve such nursing educational programs
within the State as meet the requirements of this chapter and of
the board;

6. Denial. May place nursing educational programs on
probation, or warn, or deny, condition, withdraw or discontinue
approval from nursing educational programs for failure to meet
approved curricula or other standards as established by this
chapter or pursuant to law;

7. Licenses. May examine, license and renew the licenses of
qualified applicants;

2 8. Prosecution. May cause the prosecution and enjoinder of
4 individuals violating this chapter and incur necessary expenses
6 for those activities;

8 9. Records. May keep a record of all its proceedings;

10 10. Report. May make an annual report to the Commissioner
12 of Professional and Financial Regulation for each fiscal year
14 showing its receipts and disbursements and giving a full account
16 of its activities during the previous 12-month period;

18 11. Budget. Shall submit to the Commissioner of
20 Professional and Financial Regulation its budgetary requirements
22 in the same manner as is provided in Title 5, section 1665 and
24 the commissioner shall in turn transmit these requirements to the
26 Bureau of the Budget without revision or change;

28 12. Executive and assistant director. May appoint and
30 employ qualified individuals, not members of the board, to serve
32 as executive director and assistant executive director to the
34 board, fix their compensation and define their duties;

36 13. Other employees. May employ other individuals as may be
38 necessary to carry out the work of the board; and

40 14. Funds. May set aside and budget funds for, make
42 contracts for, and procure goods or services the board determines
44 necessary to accomplish its duties under this chapter.

The Commissioner of Professional and Financial Regulation
shall act as a liaison between the board and the Governor. The
commissioner does not have the authority to exercise or interfere
with the exercise of discretionary, regulatory or licensing
authority granted by statute to the board.

36 Sec. A-119. 32 MRSA §2154, as amended by PL 1985, c. 724,
38 §16, is further amended to read:

40 §2154. Qualifications of executive employee

42 The executive director shall must meet all the
44 qualifications for professional nurse board members required in
section 2152 and shall must, in addition, hold a master's degree
in nursing.

46 Sec. A-120. 32 MRSA §2156 is amended to read:

48 §2156. Disposition of funds

2 All moneys money received by the board under this chapter
3 shall must be paid to the Treasurer of State. The Treasurer of
4 State shall place the money to the credit of the State Board of
5 Nursing Fund. All amounts paid into this fund shall must be held
6 subject to the order of the board to be used only for the
7 expenses incurred in the performance of the purpose of this
8 chapter and the duties imposed thereby, by it as well as the
9 promotion of nursing education and standards of nursing care in
10 this State.

11 Sec. A-121. 32 MRSA §2201, as amended by PL 1987, c. 402, Pt.
12 A, §169, is further amended to read:

13 **§2201. Qualifications**

14 An applicant for a license to practice professional nursing
15 shall submit to the board written evidence, verified by oath,
16 that the applicant:

17 2. High school. Has completed an approved 4-year high
18 school course of study or the its equivalent ~~thereof~~; and

19 3. Professional school. Has completed a course of study of
20 not less than 2 years in an approved program in professional
21 ~~school~~-of nursing and holds a degree, diploma or certificate.

22 In case of transfer of a student from one approved school of
23 nursing to another, the time allowance for previous preparation
24 shall must be determined by the board, provided except that not
25 less than one year shall must have been spent in the school from
26 which ~~she--receives--her~~ the diploma is received. In case of
27 transfer of a student because of closing of a school of nursing,
28 the board shall determine the length of time required to be spent
29 in the school of nursing granting her the diploma.

30 Sec. A-122. 32 MRSA §2202, as amended by PL 1991, c. 153, §1
31 and affected by §5, is further amended to read:

32 **§2202. Licenses; examination**

33 The applicant is required to pass a written examination in
34 subjects deemed determined necessary by the board to determine
35 ascertain the fitness of the applicant to practice professional
36 nursing. Upon If the applicant successfully passing passes
37 the examination, the board shall issue to the applicant a license to
38 practice professional nursing as a registered nurse, the license
39 to be in force for a period of at least one year until the birth
40 date of the licensee. The initial license is renewable as
41 provided in section 2206.

2 Sec. A-123. 32 MRSA §2204 is amended to read:

3 **§2204. Examination; time**

4 The board shall hold at least one examination annually at
5 such a place and at such a time as determined by the board shall
6 ~~fix and determine~~. Notice thereof shall of the examination must
7 be given by publication at least one month previous to the date
8 of the examination in such newspapers and nursing journals as
9 determined by the board ~~may-determine~~.

10 Sec. A-124. 32 MRSA §2206, as amended by PL 1991, c. 153, §2
11 and affected by §5, is further amended to read:

12 **§2206. Renewals**

13 The license of every registered nurse licensed under this
14 chapter is renewable every 2 years, except as otherwise provided.
15 At least 30 days before the date that the license expires, the
16 board shall mail an application for renewal of license to each
17 professional nurse who holds a valid license. The application
18 must be mailed to the most recent address of that ~~person~~
19 individual as it appears on the records of the board. That
20 ~~person individual~~ shall complete the renewal application and
21 return it to the board with the renewal fee as designated by the
22 board ~~designates~~, but not to exceed \$100, before the expiration
23 date of the license. Upon receipt of the application and fee,
24 the board shall verify the accuracy of the application and issue
25 to the applicant a ~~certificate-of~~ renewal of license for a period
26 of 2 years, expiring on the anniversary of the applicant's birth.

27 Any A registered nurse who fails to renew the license as
28 provided may be reinstated by the board on satisfactory
29 explanation for failure to renew the license and on payment of a
30 reinstatement fee of \$10, in addition to the current renewal fee.

31 Any ~~person~~ An individual practicing professional nursing
32 during the time the ~~person's~~ individual's license has lapsed is
33 considered an illegal practitioner and is subject to the
34 penalties provided for violations of this chapter.

35 A ~~person~~ An individual who is not engaged in professional
36 nursing in the State is not required to pay a renewal fee for as
37 long as the ~~person individual~~ does not practice, but shall notify
38 the board of inactive status in writing. Prior to resumption of
39 the practice of professional nursing, that ~~person individual~~
40 is required to notify the board and remit a renewal fee for the
41 current period.

2 Sec. A-125. 32 MRSA §2207, as amended by PL 1989, c. 609, §5,
3 is further amended to read:

4 **§2207. Registered nurse; fees**

5 Every applicant applying for a license to practice as a
6 registered nurse shall pay a fee to the board as follows:

7 1. Examination. For examination, a fee of ~~ef--\$60~~ not to
8 exceed \$100 payable on application;

9 2. Reexamination. For reexamination, a fee to be
10 determined by the board based on the number of areas to be
11 covered and not to exceed \$60 \$100; and

12 3. Endorsement. For endorsement, a fee of ~~ef--\$60~~ not to
13 exceed \$100 payable on application.

14 Sec. A-126. 32 MRSA §2208, as amended by PL 1985, c. 724,
15 §22, is further amended to read:

16 **§2208. Title and abbreviation**

17 ~~Any person~~ An individual who holds a current license to
18 practice professional nursing in this State shall ~~have~~ has the
19 right to use the title "Registered Nurse" and the abbreviation
20 "R.N.". No other person shall ~~individual may~~ assume such the
21 title or use such the abbreviation or any other words, letters,
22 signs or devices to indicate that the person individual using the
23 same is a registered nurse.

24 Sec. A-127. 32 MRSA §2209 is amended to read:

25 **§2209. Registration under prior law**

26 ~~Any person~~ An individual holding a license ~~or certificate of~~
27 registration as a registered nurse in Maine the State issued by
28 the former Board of Registration of Nurses, ~~which that~~ is valid
29 on September 12, 1959, shall be is licensed as a registered nurse
30 under this chapter, and the renewal of said the licenses for said
31 persons ~~shall those individuals must~~ be effectuated under this
32 section.

33 Sec. A-128. 32 MRSA §2251-A, sub-§1, as enacted by PL 1985, c.
34 724, §24, is amended to read:

35 1. Education. The applicant must have completed an
36 approved 4-year high school course of study or the its equivalent
37 thereof.

2 Sec. A-129. 32 MRSA §2255, as amended by PL 1991, c. 153, §4
3 and affected by §5, is further amended to read:

4 **§2255. Renewals**

5 The license of every practical nurse licensed under this
6 chapter is renewable every 2 years, except as otherwise
7 provided. At least 30 days before the date that the license
8 expires, the board shall mail an application for renewal of
9 license to each practical nurse who holds a valid license. The
10 application must be mailed to the most recent address of that
11 person individual as it appears on the records of the board.
12 That person individual shall complete the renewal application and
13 return it to the board with the renewal fee as designated by the
14 board designates, but not to exceed \$100, before the expiration
15 date of the license. Upon receipt of the application and fee,
16 the board shall verify the accuracy of the application and issue
17 to the applicant a ~~certificate of~~ renewal of license for a period
18 of 2 years, expiring on the anniversary of the applicant's birth.

19 Any A practical nurse who fails to renew the license as
20 provided may be reinstated by the board on satisfactory
21 explanation for failure to renew the license and on payment of a
22 reinstatement fee of \$10, in addition to the renewal fee.

23 ~~Any person~~ An individual practicing nursing as a licensed
24 practical nurse during the time the person's individual's license
25 has lapsed is considered an illegal practitioner and is subject
26 to the penalties provided for violations of this chapter.

27 ~~A person~~ An individual who is not engaged in practical
28 nursing in the State is not required to pay a renewal fee as long
29 as the person individual does not practice, but shall notify the
30 board of inactive status in writing prior to the expiration date
31 of that person's individual's current license. Before the
32 resumption of practice as a licensed practical nurse and transfer
33 to active status, that person individual is required to notify
34 the board, complete a renewal application and remit the current
35 renewal fee.

36 Sec. A-130. 32 MRSA §2256, as amended by PL 1989, c. 609, §§8
37 and 9, is further amended to read:

38 **§2256. Licensed practical nurse; fees**

39 Every applicant applying for a license to practice as a
40 licensed practical nurse shall pay a fee to the board as follows:

41 1. Examination. For examination, a fee of ~~ef--\$50~~ not to
42 exceed \$100 payable on application;

2 2. Reexamination. For reexamination, a fee to be
determined by the board and shall not to exceed \$50 \$100; and

4 3. Endorsement. For endorsement, a fee of \$50 not to
6 exceed \$100 payable on application.

8 Sec. A-131. 32 MRSA §2257, as amended by PL 1985, c. 724,
10 §28, is further amended to read:

12 §2257. Title and abbreviation

14 Any person An individual who holds a current license to
practice as a licensed practical nurse in this State shall have
16 has the right to use the title "Licensed Practical Nurse" and
abbreviation "L.P.N.". No other person shall individual may
assume such that title or use such that abbreviation or any other
18 words, letters, signs or figures to indicate that the person
individual using the same is a licensed practical nurse.

20 Sec. A-132. 32 MRSA §2258 is amended to read:

22 §2258. Registration under prior law

24 Any person An individual holding a license as a licensed
practical nurse in in the State issued by the former Board
26 of Registration of Nurses, ~~which that~~ is valid on September 12,
1959, ~~shall be~~ is licensed as a licensed practical nurse under
28 this chapter, and the renewal of said the licenses for said
persons shall those individuals must be effectuated under this
subchapter.

30 Sec. A-133. 32 MRSA §2258-A, as amended by PL 1977, c. 497,
32 §11, is further amended to read:

34 §2258-A. Administration of medication

36 Any employee of any an institution under the control of the
Department of Mental Health and Mental Retardation or of an
40 institution licensed by the State as a hospital, nursing home,
extended care facility or boarding home who, in the exercise of
42 due care, is authorized by the head of such that institution or
his a designee to perform selected activities in the
44 administration of medications and any person individual who, in
the exercise of due care, is delegated those functions by a
46 licensed allopathic or osteopathic physician shall be is immune
from criminal prosecution and civil liability for any such that
48 administration of medication prior to January 1, 1978, but not
thereafter after January 1, 1978.

2 Sec. A-134. 32 MRSA §2273, sub-§2, as enacted by PL 1983, c.
746, §2, is amended to read:

4 2. Terms of appointment. The Governor, within 60 days
following the effective date of this chapter, shall appoint 2
board members for a term of one year, 2 for a term of 2 years and
one for a term of 3 years. Appointments made thereafter shall be
6 after the initial appointments are for 3-year terms, ~~but no~~
person may be appointed to serve more than 2 consecutive terms.
8 Terms shall begin on the first day of the calendar year and end
on the last day of the calendar year ~~or until successors are~~
appointed, except for the first appointed members who shall serve
10 through the last calendar day of the year in which they are
appointed, ~~before commencing the terms prescribed by this~~
12 section. Appointments of members must comply with section 60.

14 Any A member of the board may be removed from office for cause by
the Governor. ~~A member may not serve more than 2 full successive~~
16 ~~terms, provided that, for this purpose only, a period actually~~
served which exceeds 1/2 of the 3-year term shall be deemed a
full term.

22 Sec. A-135. 32 MRSA §2351, 3rd ¶, as amended by PL 1983, c.
413, §117, is further amended to read:

24 The appointive members shall be are appointed for terms of 4
years, ~~except that at least one appointive member's term shall~~
26 ~~expire in each calendar year and appointments for terms of less~~
than 4 years may be made in order to comply with this
28 limitation. ~~Upon expiration of a member's term, he shall serve~~
until his successor is qualified and appointed. ~~The successor's~~
30 ~~term shall be 4 years from the date of that expiration,~~
regardless of the date of his appointment. ~~No appointive member~~
32 ~~may be eligible to serve more than 2 full consecutive terms,~~
provided that for this purpose only a period actually served
34 which exceeds 1/2 of the 4-year term shall be deemed a full
term. Appointments of members must comply with section 60.

36 Sec. A-136. 32 MRSA §2351, 4th ¶, as amended by PL 1983, c.
413, §117, is repealed.

38 Sec. A-137. 32 MRSA §2411, sub-§1, as amended by PL 1987, c.
542, Pt. K, §§2, 3 and 20, is further amended to read:

40 1. Practice of optometry. The practice of optometry is
42 defined as any one or any a combination of the following
practices:

2 A. The examination of the eye and related structures
without the use of surgery or other invasive techniques to
ascertain defects, abnormalities or diseases of the eye;

4 B. ~~Functional--examination.~~ The determination of the
6 accommodative or refractive states of the human eye and
evaluation of visual functions. ~~1~~

8 C. The correction, treatment or referral of vision problems
10 and ocular abnormalities by the prescribing, adapting and
application of ophthalmic lenses, devices containing lenses,
12 prisms, contact lenses, orthoptics, vision therapy, ocular
pharmaceutical agents and prosthetic devices and other
14 optical aids, and by using other corrective procedures to
preserve, restore or improve vision, excluding invasive,
16 laser or other surgery;

18 D. ~~Fitting--of--eyeglasses.~~ The fitting, bending and
adjusting of eyeglasses with ophthalmic lenses, except that
20 activities covered by this subsection shall ~~are~~ not be
considered as the practice of optometry ~~providing if~~ the
22 fitting, bending and adjusting ~~is~~ are by order of and under
the responsibility of an optometrist or ophthalmologist. ~~1~~
24 and

26 E. ~~Replacement-of--lens.~~ The replacement or duplication of
an ophthalmic lens without a written prescription from a
28 person an individual licensed under the laws of this State
to practice either optometry or medicine.

30 Nothing in this ~~section~~ subsection may be construed to
prevent an optical mechanic from doing the merely mechanical
32 work associated with adapting, fitting, bending, adjusting,
34 replacing or duplicating of eyeglasses with ophthalmic
lenses.

36 An ophthalmic lens ~~within the means of this section~~ shall be
any is a spectacle lens or contact lens which ~~that~~ has a
38 spherical, cylindrical or prismatic power or value or any a
40 lens ground pursuant to a written prescription.

42 Sec. A-138. 32 MRSA §2411, sub-§2, as repealed and replaced by
PL 1975, c. 563, §1, is amended to read:

44 2. Optometrist. "Optometrist" means a ~~person~~ an individual
46 who has obtained a ~~certificate of registration from the Maine~~
State Board of Optometry and a license to practice optometry in
48 the State of Maine.

2 Sec. A-139. 32 MRSA §2415, as amended by PL 1989, c. 503, Pt.
B, §136, is further amended to read:

4 §2415. Appointment; tenure; vacancies; removal

6 The State Board of Optometry, as established by Title 5,
section 12004-A, subsection 28, and in this chapter called the
8 "board," shall ~~consist~~ consists of 6 persons appointed by the
Governor. Five of such ~~persons~~ shall the appointees must have
been resident optometrists engaged in the actual practice of
10 optometry in this State for a period of at least 5 years prior to
their appointment and one of such ~~persons~~ shall the appointees
12 must be a consumer member who shall ~~be~~ is a resident of this
State and shall have ~~has~~ no pecuniary interest in optometry or in
14 the merchandising of optical products. They ~~shall be appointed~~
for terms ~~as the terms of the present members expire, so that~~
16 ~~eventually the term of one member shall expire each year and each~~
shall hold office for a term of 5 years and until a successor is
18 appointed and qualified. ~~Any vacancy in said the board shall be~~
filled by the appointment of a person, qualified as aforesaid, to
20 hold office during the unexpired term of the member whose place
is ~~is~~ filled. Any Appointment is for a term of 5 years.
22 Appointments of members must comply with section 60. A member of
said the board may be removed from office for cause by the
24 Governor. The board shall have has a common seal.

26 Sec. A-140. 32 MRSA §2416, as amended by PL 1983, c. 812,
28 §221, is further amended to read:

30 §2416. Officers; compensation; meetings

32 The board shall annually elect from its members a president
and a secretary ~~who shall be treasurer~~ secretary-treasurer. They
34 shall severally each have authority, during their term of office,
to administer such oaths and take such affidavits as are required
36 by this chapter, ~~certifying thereto under their hand and the seal~~
of the board. The treasurer secretary-treasurer shall receive
all fees, charges and assessments payable to the board, and
38 account for and pay over the same according to law. The board
shall meet at least once in each year at Augusta within the
40 Capital area, and, in addition thereto, whenever and wherever the
president and secretary thereof shall call a meeting necessary to
42 conduct the business of the board. A majority of said the board
shall ~~constitute~~ constitutes a quorum.

44 The members of the board shall ~~are~~ each be ~~compensated~~
46 entitled to compensation according to the provisions of Title 5,
chapter 379, ~~except that the secretary of said board shall~~
48 ~~receive an annual salary of \$500.~~ Any In a year in which the
50 income of the board, ~~from examination fees and annual license~~

2 fees collected under this chapter, plus any unexpended balances
3 on hand, is not sufficient to pay members of the board, available
4 funds shall must be prorated, ~~except that the secretary's~~
5 ~~compensation shall have prior claim to available funds.~~

6 The secretary shall ~~secretary-treasurer is responsible to~~
7 keep a full record of the proceedings of said ~~the~~ board, which
8 shall must be open to public inspection at all reasonable times.

9 Sec. A-141. 32 MRSA §2417, as amended by PL 1991, c. 675, §1,
10 is further amended to read:

11 **§2417. Standards; rules of board**

12
13 1. Standards for licensure. The following shall ~~constitute~~
14 ~~are~~ the requirements which applicants ~~must be complied with by~~
15 ~~applicants for examination before they can be examined or receive~~
16 ~~a certificate meet before licensure:~~

17 A. Be at least 18 years of age;

18 C. Be a graduate of a recognized school of optometry; and

19 D. Have succeeded in an examination as described in section
20 2422.

21 Upon satisfying the foregoing ~~these~~ requirements, an applicant
22 shall may be licensed hereunder ~~by the board~~.

23 3. Standards for minimum eye examination. The following
24 shall ~~constitute are~~ the minimum standards for a competent
25 professional eye examination:

26 A. ~~History~~ A history of the patient's visual problems and
27 care;

28 B. Visual ~~A test of the~~ acuity of each eye, uncorrected and
29 with best correction;

30 C. ~~Examination~~ An examination for any ~~an~~ abnormal condition
31 or any significant characteristics of internal and external
32 ocular tissues;

33 D. Advice for medical treatment or referral, or both;

34 E. Objective and subjective refraction of the eyes; and

35 F. ~~Give~~ A cover test or muscle balance tests, or both.

Each optometrist shall maintain a complete record of all eye
2 examinations given. Each optometrist shall include in his the
3 examination record the findings under paragraphs A through F, as
4 well as any prescriptions or programs of corrective procedure.
5 ~~Such information shall~~ This information for each patient must
6 be available from the optometrist for a period of not less than 10
7 years.

8 4. Minimum prescription requirements. The following shall
9 constitute are the minimum requirements for optometric
10 prescriptions+.

11 A. ~~For ophthalmic lenses, other than contact lenses:~~

12 (1) ~~Dioptric power of spheres, cylinders and prisms,~~
13 ~~axis of cylinders and position of base of prisms;~~

14 (2) ~~Designation of pupillary distance;~~

15 (3) ~~Type and form of lenses;~~

16 (4) ~~Description of type and placements of reading~~
17 ~~segments in multifocal lenses;~~

18 (5) ~~Placement of optical centers for distance seeing~~
19 ~~and near point seeing;~~

20 (6) ~~Name of patient, date of prescription and name and~~
21 ~~office location of prescriber.~~

22 A-1. For ophthalmic lenses and contact lenses:

23 (1) The prescription must contain all the information
24 necessary to be properly dispensed;

25 (2) The prescription must specify whether it is for
26 contact lenses or ophthalmic lenses; and

27 (3) All prescriptions must include the name of the
28 patient, date of prescription, name and office location
29 of prescriber and an expiration date.

30 B. ~~For contact lenses:~~

31 (1) ~~Base curve, peripheral curve, intermediate curve;~~

32 (2) ~~Power;~~

33 (3) ~~Size of lens;~~

2 (4) ~~Size of optical zone;~~

4 (5) ~~Thickness;~~

6 (6) ~~Edge shape;~~

8 (7) ~~Color;~~

10 (8) ~~Form.~~

12 C. All prescriptions shall must be reduced to writing and placed on file as provided in subsection 3.

14 D. For pharmaceutical agents all prescriptions must include:

16 (1) Patient's The patient's name;

18 (2) Date The date;

20 (3) Name The name, quantity and dosage of drugs;

22 (4) Number The number of refills;

24 (5) Name The name of the prescriber;

26 (6) Drug The drug license number of the prescriber;

28 (7) A sequential number; and

30 (8) The prescriber's directions for usage.

32 Sale of pharmaceutical agents by an optometrist is prohibited.

34 4-A. Release of contact lens prescription. After contact lenses have been adequately fitted and the patient released from immediate follow-up care by the optometrist, the patient may request a copy of the contact lens specifications from the optometrist. Upon patient request, the optometrist shall provide a copy of the prescription, at no cost, which must contain the information necessary to properly duplicate the current prescription. The prescription must contain an expiration date. The prescription may contain fitting guidelines and may also contain specific instructions for use by the patient.

46 The prescribing optometrist is not liable for any an injury or condition to a patient that results from negligence in packaging, manufacturing or dispensing lenses by anyone other than the prescribing optometrist.

2 The dispensing party may dispense contact lenses only upon receipt of a written prescription, except that an optometrist may fill a prescription of another optometrist or a physician without a copy of the prescription. Except in the case of a physician who has previously seen the wearer, a contact lens prescription may not be filled by mail, but must be filled by being personally dispensed to the contact lens wearer. ~~A person~~ An individual who fills a contact lens prescription shall maintain a file of that prescription for a period of 6 years. ~~Any person~~ An individual, corporation or other entity that improperly fills a contact lens prescription or fills an expired prescription commits a civil violation for which a forfeiture of not less than \$250 nor more than \$1,000 may be adjudged.

14 ~~Any person~~ An individual may file a complaint with the board seeking disciplinary action concerning violations of this subsection. The board shall investigate or cause to be investigated and shall resolve a complaint in a timely fashion on its own motion or upon receipt of a written complaint. The board shall conduct its actions in accordance with the Maine Administrative Procedure Act.

22 5. Rules. The board shall, in accordance with the Maine Administrative Procedure Act, Title 5, ~~sections~~ sections 8051 et seq. to 8059, make reasonable rules and ~~regulations~~, not inconsistent with law, to govern the following:

28 A. The time, place and manner of conducting state board examinations in optometry and the manner and form in which applications for such examination shall must be filed;

30 B. The fees for registration and licensing under subchapter III; and

34 C. The conduct of the lawful practice of optometry in accordance with the standards established by this section.

36 The board may make such other reasonable rules and ~~regulations~~, in accordance with Title 5, ~~section~~ sections 8051 et ~~seq.~~ to 8059, as shall ~~be otherwise~~ necessary for the proper performance of its duties under ~~this section~~, including rules and ~~regulations~~ relating to false, deceptive and misleading advertising. Any ~~rules or regulations promulgated~~ Rules adopted relating to such advertising shall may not be inconsistent with any rules ~~or regulations promulgated~~ adopted pursuant to Title 5, section 207, subsection 2.

48 Sec. A-142. 32 MRSA §2418, as amended by PL 1985, c. 748, §42, is further amended to read:

2 §2418. Reports; liaison; limitations

4 On or before August 1st of each year, the board shall submit
6 to the Commissioner of Professional and Financial Regulation, for
8 the preceding fiscal year ending June 30th, its annual report of
its operations and financial position, together with such
comments and recommendations as the board deems considers
essential.

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

12 The commissioner shall may not have ~~the authority to~~
14 exercise or interfere with the exercise of discretionary,
regulatory or licensing authority granted by statute to the board.

16 Sec. A-143. 32 MRSA §2418-A, as amended by PL 1985, c. 748,
18 §42, is further amended to read:

20 §2418-A. Budget

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

28 Sec. A-144. 32 MRSA §2418-B, as enacted by PL 1991, c. 675,
30 §2, is repealed.

32 Sec. A-145. 32 MRSA §2419-A, as enacted by PL 1987, c. 542,
Pt. K, §§10 and 20, is amended to read:

34 §2419-A. Licensure for use of therapeutic pharmaceutical agents

36 Use of therapeutic pharmaceutical agents by an optometrist
38 requires a therapeutic license from the State Board of
Optometry. ~~Licensure shall require~~ Initial licensure requires
40 a review of credentials by the State Board of Optometry, including
the successful completion of a transcript quality course in
42 general and ocular pharmacology. A transcript quality course
means a course ~~which is~~ given by a regional or professional
44 accrediting organization approved by the Council on
Post-secondary Accreditation of the United States Department of
Education and approved by the State Board of Optometry. The
46 board shall require a course ~~which that~~ includes a minimum of 100
48 hours of ocular therapeutics, including at least 25 hours of
supervised clinical training, in the examination, diagnosis and

2 treatment of conditions of the eye and its adnexa. Any ~~such~~ That
course shall must include participation by an ophthalmologist.

4 The board shall also require an applicant to successfully
6 complete a graded written examination, administered by the State
Board of Optometry or the National Board of Examiners in
8 Optometry, demonstrating competency in the use of therapeutic
pharmaceutical agents.

10 Sec. A-146. 32 MRSA c. 34-A, sub-c. III, first 2 lines, are repealed
and the following enacted in their place:

12 SUBCHAPTER III

14 LICENSURE

16 Sec. A-147. 32 MRSA §2421, as enacted by PL 1973, c. 788,
18 §156, is repealed and the following enacted in its place:

20 §2421. Licensure required

22 1. Licensure required. An individual may not practice
24 optometry in this State without first obtaining a license from
the board, but this chapter does not apply to individuals already
26 licensed to practice medicine within this State.

28 2. Penalty. An individual who practices optometry in
violation of subsection 1 commits a Class E crime. The State may
30 bring action in Superior Court to enjoin an individual from
violating subsection 1 regardless of whether proceedings have
32 been or may be instituted in Administrative Court and regardless
of the status of criminal proceedings.

34 Sec. A-148. 32 MRSA §2422, as amended by PL 1987, c. 542, Pt.
K, §§11 and 20, is further amended to read:

36 §2422. Examination; fees; initial licensure

38 ~~Except as provided in section 2424, every person~~ Every
40 individual before beginning the practice of optometry in this
State shall must pass an examination before the board. The board
42 shall provide an opportunity for applicants to take the
examination at least twice per year. At the discretion of the
44 board, ~~such the~~ examination may consist of tests in basic
sciences; in anatomy and physiology of the eye; pathology;
46 practical, theoretical and physiological optics; practical and
theoretical optometry; clinical diagnosis and therapeutics; and
48 ~~such other~~ phases of optometric knowledge and skill as the board
may ~~deem~~ determines to be essential. The board shall include an
50 examination on the subject of general and ocular pharmacology as

2 it relates to optometry and the use of pharmaceutical agents for
3 all new applicants for a certificate of registration and license.
4 Any person An individual, having signified to the board his
5 desire who has applied to be examined, shall appear before the
6 board at such the time and place as they may designate the board
7 designates and, before such the examination, shall pay to the
8 board a sum not in excess of \$100 \$200, as established by the
9 board. All persons applicants successfully passing such the
10 examination shall may be registered, in a record which shall be
11 kept by the secretary of the board, as licensed to practice
12 optometry and shall receive a certificate of such registration
13 issued by the board. The board may require applicants who have
14 failed to pass the licensure examination 3 times to enroll in a
15 course of continuing education as prescribed by the board.

16 1. Requirement. All applicants for a therapeutic
17 pharmaceutical license under this section shall submit proof of:

18 A. Satisfactory completion of a course in general and
19 ocular pharmacology with particular emphasis on the
20 application and use of pharmaceutical agents for the purpose
21 of examination, diagnosis and treatment of conditions of the
22 eye and its adnexa. The course shall constitute must
23 include a minimum of 100 hours of ocular therapeutics,
24 including at least 25 hours of supervised clinical training
25 and shall must be taught by an accredited institution and
26 approved by the board; or

27 B. Graduation from an accredited optometric institution and
28 passing an examination on therapeutic pharmaceuticals
29 administered by the National Board of Examiners in
30 Optometry; and

31 C. Completion of one year of acceptable practice as a
32 licensed optometrist.

33 Sec. A-149. 32 MRSA §2423, as amended by PL 1983, c. 378,
34 §27, is further amended to read:

35 **§2423. Licensing**

36 1. Annual renewal. Every registered licensed optometrist
37 practicing in the State shall annually, before the first day of
38 April, pay to the board a license renewal fee not in excess of
39 \$100 \$200 as established by the board under section 2417, for
40 each office location.

41 2. Nonactive license. Every registered licensed optometrist
42 not practicing within the State shall, must upon payment of an
43 annual license renewal fee not in excess of \$100 \$200 as
44 established by the board, be issued a nonactive license renewal
45 certificate. Said The fee shall be is payable to the board before

2 the first day of April each year. Should a holder of such a
3 nonactive license renewal certificate desire to practice within
4 the State, he shall se the licensee shall notify the board in
5 writing, including a statement of his proposed office location,
6 and except as hereinafter provided, he shall forthwith otherwise
7 provided in this chapter, must then be issued an active license
8 certificate by the board.

9 3. Examination. Every registered optometrist holding a
10 nonactive license renewal certificate for a period of 3 years or
11 more, who desires an active license certificate, shall be
12 required to submit to a practical examination with regard to for
13 professional and technical proficiency conducted by the board. If
14 he shall reasonably have demonstrated the applicant demonstrates
15 professional and technical proficiency as the result of such in
16 the examinations, he shall then the applicant may be issued an
17 active license certificate authorizing him to practice in this
18 State. Said The active license certificate shall be is renewed
19 annually as provided in subsection 1.

20 4. Default. In case of default in payment of any license
21 renewal fees by any registered a licensed optometrist, his
22 certificate shall expire the license expires. A license may be
23 renewed up to 60 days after the date of expiration upon payment
24 of a late fee, established by the board in an amount not to
25 exceed the annual renewal fee, in addition to the renewal fee.

26 5. Military service; license to practice optometry. A
27 resident of the State who is serving in the military service of
28 the United States and is engaged in the practice of optometry as
29 defined in section 2411, shall be is entitled to the issuance of
30 an active license, upon payment of the required annual renewal
31 fee.

32 Sec. A-150. 32 MRSA §2424, as amended by PL 1977, c. 694,
33 §597, is repealed.

34 Sec. A-151. 32 MRSA §2425, as amended by PL 1987, c. 542, Pt.
35 K, §§12 and 20, is further amended to read:

36 **§2425. Display of license**

37 Every person individual to whom a certificate of
38 registration and current certificate of annual license renewal
39 are is granted shall display the same license in a conspicuous
40 part of his the office wherein the practice of optometry is
41 conducted where the licensee practices. Optometrists An
42 optometrist awarded credentials by the board in the use of
43 diagnostic and therapeutic pharmaceuticals are required to shall
44 affix current documentation of these privileges to their

2 registration that optometrist's license as provided by the board
upon annual license renewal.

4 Sec. A-152. 32 MRSA 2426, as amended by PL 1987, c. 542, Pt.
K, §§13 and 20, is further amended to read:

6 **§2426. Educational programs**

8 All optometrists new-or-hereafter licensed in the State of
10 Maine shall-be are required to take annual courses in subjects
related to the practice of the profession of optometry, to the
12 end that the utilization and application of new techniques,
scientific and technical advances, the use of pharmaceutical
14 agents and treatment of ocular diseases and the achievements of
research will assure comprehensive vision care to the public. The
16 length of study shall-be is determined by the board, but in no
event shall-it may the length be less than 15 hours nor exceed 30
18 30 hours in any calendar year. Optometrists authorized to use
therapeutic pharmaceutical agents shall complete, as part of
20 their annual course work, 5 or more hours of approved transcript
quality course work in ocular pharmacology, diagnosis and
22 treatment of ocular disease. Attendance must be at a course or
courses approved by the board and is to be certified to the board
24 upon a form provided by the board and shall-be submitted by each
optometrist at the time he-makes of application to the board for
26 the--renewal--of--his license renewal and--shall--accompany
accompanied by the annual renewal fee. The board shall notify all
28 optometrists licensed in this State of all courses approved by it
at least 15 days prior to the offering of such each course. The
30 board-is-authorized-to-use-up-to-1/2-of-its-annual-renewal-fees
for--the--purpose--of--contracting-with--institutions--of--higher
32 learning--professional-organizations-or-qualified-individuals-for
the-providing-of-educational-programs-approved-by-the-board.

34 In-no-instance-may-the-board-require-a-greater-number-of
36 hours-of-study-than-are-available-at-approved-courses-held-within
the-State-of-Maine-and-the The board shall-be is permitted to
38 waive this continuing education requirement in cases of illness
or undue hardship. If an applicant for a--renewal--of license
40 renewal fails to comply with this continuing education provision
and no action has not been taken by the board to waive the
42 requirements because of the causes specified, then the board
shall may not renew the license, except that in its discretion,
44 it may renew the license conditionally, with the provision that
within 6 months the applicant shall fulfill the requirements.

46 Sec. A-153. 32 MRSA §2429, as enacted by PL 1991, c. 675, §3,
48 is repealed and the following enacted in its place:

50 **§2429. Consumer information**

2 The board shall develop a consumer information brochure
pursuant to section 59-A.

4 Sec. A-154. 32 MRSA c. 34-A, sub-c. IV, first 3 lines, are repealed
6 and the following enacted in their place:

8 **SUBCHAPTER IV**

10 **REVOCATION, REFUSAL OR SUSPENSION OF LICENSE**

12 Sec. A-155. 32 MRSA §2431-A, as amended by PL 1987, c. 542,
14 Pt. K, §§16 and 20, is further amended to read:

16 **§2431-A. Disciplinary actions**

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

The board shall notify the licensee of the content of a complaint
24 filed against the licensee as soon as possible, but in-no-event
not later than within 60 days of from receipt of this
26 information. The licensee shall respond within 30 days. If the
licensee's response to the complaint satisfies the board that the
28 complaint does not merit further investigation or action, the
matter may be dismissed, with notice of the dismissal to the
30 complainant, if any.

32 If, in the opinion of the board, the factual basis of the
complaint is or may be true, and it the complaint is of
34 sufficient gravity to warrant further action, the board may
request an informal conference with the licensee. The board shall
36 provide the licensee with adequate notice of the conference and
of the issues to be discussed. The conference shall must be
38 conducted in executive session of the board, pursuant to Title 1,
section 405, unless otherwise requested by the licensee.
40 Statements made at the conference may not be introduced at a
subsequent formal hearing unless all parties consent.

42 If the board finds that the factual basis of the complaint is
44 true and is of sufficient gravity to warrant further action, it
may take any of the following actions it deems determines
46 appropriate:

48 A. With the consent of the licensee, enter into a consent
50 agreement which that fixes the period and terms of probation
best adapted to protect the public health and safety and to

2 rehabilitate or educate the licensee. A consent agreement
3 may be used to terminate a complaint investigation, if
4 entered into by the board, the licensee and the Attorney
General's office;

6 B. In consideration for acceptance of a voluntary surrender
7 of the license, negotiate stipulations, including terms and
8 conditions for reinstatement, which that ensure protection
9 of the public health and safety and which that serve to
10 rehabilitate or educate the licensee. These stipulations
11 shall may be set forth only in a consent agreement signed by
12 the board, the licensee and the Attorney General's office;

14 C. If the board concludes that modification or nonrenewal
15 of the license ~~might be~~ is in order, the board shall hold an
16 adjudicatory hearing in accordance with the provisions of
17 the Maine Administrative Procedure Act, Title 5, chapter
18 375, subchapter IV; or

20 D. If the board concludes that suspension or revocation of
21 the license is in order, the board shall file a complaint in
22 the Administrative Court in accordance with Title 4, chapter
23 25.

24 2. Grounds for discipline. The board may suspend or revoke
25 a license pursuant to Title 5, section 10004. The following
26 shall be are grounds for an action to refuse to issue, modify,
27 suspend, revoke or refuse to renew the license of a ~~person~~ an
28 optometrist licensed under this chapter:

30 A. The practice of fraud or deceit in obtaining a license
31 under this chapter or in connection with service rendered
32 within the scope of the license issued;

34 B. Habitual intemperance ~~in the use of alcohol or the~~
35 ~~habitual use of narcotic or hypnotic or other substances the~~
36 ~~use of~~ which substance abuse that has resulted or may is
37 foreseeably likely to result in the licensee performing his
38 duties services in a manner which that endangers the health
39 or safety of his patients;

42 C. A professional diagnosis of a mental or physical
43 condition which that has resulted or may is foreseeably
44 likely to result in the licensee performing his duties
45 services in a manner which that endangers the health or
46 safety of his the patients;

48 D. Aiding or abetting the practice of optometry by a ~~person~~
49 an individual not duly licensed under this chapter and who
50 represents himself claims to be legally licensed;

2 E. Incompetence in the practice for which he the
3 optometrist is licensed. A licensee shall ~~be deemed~~ is
4 considered incompetent in the practice if the licensee has:

6 (1) Engaged in conduct which that evidences a lack of
7 ability or fitness to discharge the duty owed by the
8 licensee to a client or patient or the general public;
9 or

12 (2) Engaged in conduct which that evidences a lack of
13 knowledge, or inability to apply principles or skills
14 to carry out the practice for which he the optometrist
15 is licensed;

16 F. Unprofessional conduct. A licensee shall ~~be deemed~~ is
17 considered to have engaged in unprofessional conduct if he
18 the licensee violates any a commonly understood standard of
19 professional behavior which ~~has been established in the~~
20 ~~practice for which the licensee is licensed~~ or board rule
21 governing professional conduct;

24 G. Subject to the limitations of Title 5, chapter 341,
25 conviction of a crime which that involves dishonesty or
26 false statement or which that relates directly to the
27 practice for which the licensee is licensed, or conviction
28 of any a crime for which incarceration for one year or more
may be imposed;

30 H. Any A violation of this chapter or any a rule adopted by
31 the board;

32 I. Engaging in false, misleading or deceptive advertising;

34 J. Practicing in or on premises where any materials other
35 than those necessary to render optometric services are
36 dispensed to the public;

38 K. Practicing under a name other than that given in the
39 certificate license. Licensees practicing in association
40 with other licensed optometrists or physicians, as
41 authorized by section 2434, may, with ~~the approval of the~~
42 board, practice under a name adopted to denote this
43 association if the names of all optometrists and physicians
44 so associated are stated as they appear on each individual's
45 license whenever the association name is used;

48 L. Representing one's self to the public as something other
49 than an optometrist, by which shall be meant for example, as
50 an optician, eye physician or by any other use of another

2 designation which ~~that~~ would ~~tend to~~ confuse the nature of
3 one's licensed practice. The following titles shall ~~be~~ are
4 considered lawful:

- 5 (1) John Doe, O.D., Optometrist;
6 (2) John Doe, O.D.;
7 (3) John Doe, Optometrist;
8 (4) Dr. John Doe, Optometrist; and
9 (5) Doctor John Doe, Optometrist;

10 ~~M. Engaging in house-to-house solicitation for the purpose~~
11 ~~of fitting, selling or peddling spectacles, eyeglasses or~~
12 ~~lenses, or in anyway otherwise peddling optometric services;~~

13 N. Maintaining more than ~~one~~ office in which to three
14 offices for the practice of optometry without the prior
15 written approval of the board;

16 O. Failure to display a diagnostic or therapeutic drug
17 license issued under section 2419-A or 2425; or

18 P. Splitting or dividing any a fee with any ~~person~~ an
19 individual not an associate in conformance with section
20 2434, or giving or accepting any a rebate from an optician
21 or ophthalmic ophthalmic dispenser.

22 Sec. A-156. 32 MRSA §2434, as amended by PL 1983, c. 378,
23 §33, is further amended to read:

24 **§2434. Unauthorized associations**

25 An optometrist shall may practice only in an individual
26 capacity under ~~his~~ the optometrist's own name or in association
27 with a licensed practitioner of optometry or of another of the
28 healing arts and sciences. The following shall ~~be deemed~~ are
29 unauthorized associations subject to the sanctions of section
30 2431-A:

31 1. Associations. Association for the joint practice of
32 optometry with any ~~person~~ an individual, corporation or
33 partnership not licensed to practice optometry or another of the
34 healing arts;

35 2. Aiding unauthorized practice. ~~The aiding and abetting~~
36 Assisting an unlicensed individual, corporation or partnership in

2 the practice of optometry ~~of any person not licensed to practice~~
3 ~~in this State;~~

4 3. Loan of license. The lending, leasing or in any other
5 manner placing of one's ~~certificate of registration~~ license at
6 the disposal of or in the service of any ~~person~~ an individual not
7 licensed to practice optometry in this State;

8 4. Mercantile employment. The practice of optometry as a
9 full or part-time employee of any a mercantile establishment or
10 directly or indirectly encouraging one's optometric services to
11 be promoted as part of any a mercantile or commercial
12 establishment. In this prohibition shall ~~be~~ is included the
13 practice of optometry as a lessee of a commercial or mercantile
14 establishment involved in the selling of spectacles, frames,
15 mounting, lenses or other optical devices; and

16 5. Continuing unauthorized associations. The continuance of
17 an optometrist directly or indirectly in the employ of or in
18 association with any an optometrist after knowledge that such the
19 optometrist is engaged in the violation of the provisions of this
20 chapter.

21 Sec. A-157. 32 MRSA §2435, as amended by PL 1983, c. 378,
22 §34, is further amended to read:

23 **§2435. Corporate practice of optometry**

24 ~~No~~ A licensed optometrist, under this chapter,
25 may not associate himself ~~in any way~~ with any ~~person~~ an
26 individual who is not a registered licensed optometrist nor any a
27 copartnership, firm or corporation for the promotion of any a
28 commercial practice for profit or division of profit ~~which~~ that
29 enables any ~~such person~~ the individual, copartnership, firm or
30 corporation to engage, either directly or indirectly, in the
31 practice of optometry in this State.

32 Sec. A-158. 32 MRSA §2436, as enacted by PL 1973, c. 788,
33 §156, is amended to read:

34 **§2436. Succession in practice**

35 An optometrist taking over an established practice shall
36 clearly indicate that he the new optometrist is responsible
37 individually for the practice, but he ~~shall be permitted to~~ the
38 optometrist may use the term: "succeeded by," "successor to," or
39 "succeeding" for a period not exceeding 2 years.

40 Sec. A-159. 32 MRSA §2441, as amended by PL 1987, c. 542, Pt.
41 K, §§17 and 20, is repealed.

2 Sec. A-160. 32 MRSA §§2442 and 2443, as enacted by PL 1973,
c. 788, §156, are repealed.

4 Sec. A-161. 32 MRSA §2444, as enacted by PL 1973, c. 788,
6 §156, is amended to read:

8 **§2444. Public aid ocular services**

10 All agencies, commissions, clinics and bureaus administering
12 relief, public assistance, public welfare assistance, social
14 security, health insurance or health services under the laws of
16 this State may accept the service of licensed optometrists for
18 any a service covered by their licenses relating to any persons
20 individuals receiving benefits from said those agencies or
22 commissions and shall must pay for such the services in the same
24 way as practitioners of other professions may be are paid for
26 similar services. None of said governmental Government agencies,
28 or their agents, officials or employees thereof, including the
30 public schools, in the performance of their duties shall in any
32 way show discrimination may not discriminate among licensed
34 ocular practitioners.

36 Whoever violates or fails to comply with this section shall
38 be punished by a fine of not more than \$100 or by imprisonment
40 for not more than 90 days, or by both.

42 Sec. A-162. 32 MRSA §2446, as amended by PL 1987, c. 542, Pt.
44 K, §§18 and 20, is further amended to read:

46 **§2446. Drugs**

48 Any An optometrist who uses pharmaceutical agents, without
50 first having obtained a license under section 2419-A shall be
 deemed guilty of commits a misdemeanor and shall be punished by a
 fine of not less than \$50 nor more than \$200 Class E crime.

 The board further reserves right to review performances and
 remove a therapeutic drug license, as outlined in section 2431-A
 or if the licensee fails to comply with the requirements in
 section 2426.

 Sec. A-163. 32 MRSA c. 36, first 5 lines are repealed and the
 following enacted in their place:

CHAPTER 36

OSTEOPATHIC PHYSICIANS

SUBCHAPTER I

BOARD OF OSTEOPATHIC LICENSURE

2 Sec. A-164. 32 MRSA §2561, as amended by PL 1991, c. 150, §1,
4 is further amended to read:

6 **§2561. Membership; qualifications; tenure; vacancies**

8 The Board of Osteopathic Examination and Registration
10 Licensure, as established by Title 5, section 12004-A, subsection
12 29, and in this chapter called the "board," consists of 9 persons
14 members appointed by the Governor. These persons members must be
16 residents of this State. Six of these persons members must be
18 graduates of a legally chartered college of osteopathic medicine
20 or university having the power to confer degrees in osteopathic
22 medicine and must be, at the time of their appointment, actively
24 engaged in the practice of their the profession of osteopathic
26 medicine in Maine the State for a period of at least 5 years, and
28 3 of these persons members must be representatives of interest of
30 consumers public members. None of the members representing the
32 interests of consumers may be members of or associated with, or
34 have a financial interest in a health care provider of
36 profession. Consumer groups may submit nominations to the
38 Governor for the members to be appointed to represent the
40 interest of consumers. Each appointment is for a period of 5
42 years as the terms of the present members expire. Any vacancy in
44 the board caused by death, resignation or for any other cause,
46 except completion of a full term of service, must be filled by
48 the appointment of a person, qualified as was the member whose
50 place is filled, to hold office during the unexpired term of that
 member. Any A full term of appointment is for 5 years.
 Appointment of members must comply with section 60. A member of
 the board may be removed from office for cause by the Governor.

 Sec. A-165. 32 MRSA §2562, as amended by PL 1991, c. 425, §1,
 is further amended to read:

§2562. Meetings; organizations; duties; powers

 The board shall meet annually in June of each year at such a
 time and place as the chairman chair may designate. It The board
 shall elect one of its members as chairman chair annually and one
 of its members as secretary and treasurer secretary-treasurer, to
 hold such office at the pleasure of the board. The board shall be
 required annually to set a reregistration fee for the ensuing
 year, based on a balance of operating expenses and income
 factors. The treasurer secretary-treasurer shall receive all
 fees, charges and assessments payable to the board and account
 for and pay over the same to the State ensure proper management
 of the board's finances. Special meetings may be called at the

2 pleasure of the chairman chair and in case of the death or
3 inability of the chairman chair, the secretary
4 secretary-treasurer may call special meetings. Said The board
5 shall cause a seal of suitable inscription to be procured and to
6 be affixed to such papers as that may require such the seal,
7 shall keep a correct record of all of its proceedings and shall
8 have has power to make such rules and regulations, not
9 inconsistent with this chapter, as it may deem considers
10 necessary for the successful enforcement of its authority and the
11 performance of its duties. The As part of the biennial
12 relicensure process, the board shall at its annual meeting in
13 every even year prepare and distribute to each licensed
14 osteopathic physician practicing in Maine the State a copy of its
15 code of ethics and current rules and regulations relative to
16 continuing medical education. The chairman chair and the
17 secretary shall be empowered the secretary-treasurer may
18 administer oaths in matters connected with the duties of said the
19 board. The records of said the board shall must include, among
20 other things, a report of all moneys money received and disbursed
21 by said the board, also and a list of all applicants for
22 certificates licenses, giving including the name and location of
23 the institution granting a D.O. degree, Doctor of Osteopathic
24 Medicine Osteopathy, to the each applicant, and the fact shall be
25 recorded whether the applicant was granted or denied a
26 certificate license. Such These records, or duplicates thereof,
27 shall must always be open to inspection in the office of the
28 Secretary of State during regular office hours. Four members of
29 the board shall constitute a quorum for the transaction of
30 business. No certificate A license to practice osteopathic
31 medicine shall may not be granted, except on an affirmative vote
32 of at least 4 members a majority of the board.

33 Each member of the board shall be compensated is entitled to
34 compensation according to the provisions of Title 5, chapter
35 379. All requisitions for payment of money shall must be signed
36 by the chairman chair and the secretary secretary-treasurer of
37 said the board. If the fees to be collected under any of the
38 provisions of this chapter are insufficient to pay the salaries
39 and expenses provided by this section, the members of said the
40 board shall be are entitled to only a pro rata payment for salary
41 in any years in which such the fees are insufficient.

42 The board shall have has the duty and the power to annually
43 determine the salary of the secretary-treasurer, not to exceed
44 \$6,000. The board has the power to employ, fix the salary of and
45 prescribe the duties of other personnel as the board shall deem
46 considers necessary.

2 The board may set reasonable fees for services, such as
3 providing license certifications and verifications, providing
4 copies of law laws and rules and providing copies of documents.

5 Sec. A-166. 32 MRSA §2562-A, as enacted by PL 1985, c. 804,
6 §§17 and 22, is amended to read:

7 §2562-A. Adequacy of budget

8 The budget submitted by the board to the Commissioner of
9 Professional and Financial Regulation shall must be sufficient to
10 enable the board to comply with this subchapter. The fiscal
11 resources available to the board should must enable it to
12 strengthen its staffing capabilities and those of the Department
13 of the Attorney General's legal and investigative staff so that
14 complaints, including the professional liability related
15 complaints detailed in Title 24, section 2607, can be are
16 resolved in a timely fashion. The board shall engage in a
17 collaborative effort with the Board of Registration in Medicine
18 so that the Department of Attorney General's legal and
19 investigative staff resources can be shared. Staff resources
20 shall include an additional staff member to handle complaint
21 processing and licensure problems. One investigator and one
22 attorney may be shared with the Board of Registration in Medicine.

23 Sec. A-167. 32 MRSA c. 36, sub-c. II, first 2 lines are repealed and
24 the following enacted in their place:

25 SUBCHAPTER II

26 LICENSURE

27 Sec. A-168. 32 MRSA §2571, as amended by PL 1991, c. 425, §2,
28 is further amended to read:

29 §2571. Licensure; qualifications; fees

30 Any person An individual, before engaging in the practice of
31 osteopathic medicine in this State, shall make application for a
32 certificate license to the board, on a form prescribed by it the
33 board. The application must be filed with the secretary of the
34 board at least 60 days before the date of examination together
35 with a fee of not more than \$350. The applicant shall present a
36 diploma granted by an osteopathic college or university
37 accredited by the American Osteopathic Association having the
38 power to grant a D.O. degree. Applicants graduating from an
39 osteopathic college or university having the power to grant a

D.O. degree shall present evidence of having completed an internship of at least 12 months in a hospital conforming to the minimal standards for accreditation by the American Osteopathic Association, or the equivalency, as determined by the board. All applicants shall provide such reasonable and proper facts as the board in its application may require. The board at its discretion may permit an applicant, who is otherwise qualified to be examined during internship, a ~~certificate-of-licensure~~ license to be withheld until successful completion of internship.

All fees set in this chapter are nonrefundable application fees or administrative processing fees payable to the board at the time of application or at the time board action is requested. Unless otherwise specified, the board shall set the fees.

An applicant may not be licensed unless the board finds that the applicant is qualified and that no cause exists, as set forth in section 2591-A, that would be considered grounds for disciplinary action against a licensed physician.

Sec. A-169. 32 MRSA §2572, as amended by PL 1991, c. 425, §3, is further amended to read:

§2572. Examination, reexamination; endorsement; temporary licensure

Applicants must be examined in whole or in part in writing and must be thorough in such subjects as the board determines necessary, including osteopathic theories and methods, to determine the competency of the candidate to practice osteopathic medicine and surgery in the State. If the examination is passed in a manner satisfactory to the board, the board shall issue to the applicant a certificate license granting the applicant the right to practice osteopathic medicine in this State. If the applicant fails to pass the examination, the applicant is entitled to one reexamination within one year thereafter after failure upon payment of a fee ~~of not more than \$300 plus the costs of the examination set by the board~~. Osteopathic physicians who have been certified by the National Board of Osteopathic Examiners or have been strictly examined and thereafter licensed to practice osteopathic medicine in another state, which has equivalent licensing requirements ~~as Maine to this State~~, may be licensed to practice osteopathic medicine in this State upon the payment of not more than \$300 and the substantiation to the board of an earned D.O. degree and the license obtained in such the other state. The board may at its discretion require an examination of any such applicant.

Sec. A-170. 32 MRSA §2573, as amended by PL 1991, c. 425, §4, is further amended to read:

§2573. Temporary licensure

An osteopathic physician in good repute who is a graduate of an accredited osteopathic college or university having the power to grant a D.O. degree, serving as a fellow, intern or resident physician ~~or surgeon~~ in a hospital in this State, shall register with the board and must be issued a certificate temporary license by the board evidencing the right ~~of such person to hold a temporary registration~~ to practice only under hospital control. Such a certificate license may not be issued for a period in excess of one year but may be renewed from time to time, not to exceed an aggregate of 5 years. The certificate license must be in a form prescribed by the board and may be revoked or suspended by the board with such the suspension or revocation effective immediately when written notification from the board is received by the hospital. ~~Ne~~ An examination may not be required for applicants for this temporary certificate license. The fee for such a certificate license may not be more than \$300.

Sec. A-171. 32 MRSA §2574, as amended by PL 1991, c. 425, §5, is further amended to read:

§2574. Locum tenens

An osteopathic physician having a D.O. degree from an American Osteopathic Association, accredited osteopathic college or university and of good repute may, at the discretion of the board, be given a temporary certificate license to be effective for not more than 6 months after issuance, for the purpose of permitting such the physician to serve as "locum tenens" for another osteopathic physician who is unable, because of illness or some other substantiated reason, to maintain the practice, thus fulfilling a need in that area for providing health services. The fee for such a certificate license may be not more than \$500.

Sec. A-172. 32 MRSA §2575, as amended by PL 1991, c. 425, §6, is further amended to read:

§2575. Camp physicians

Any An osteopathic physician being a graduate of an accredited osteopathic college or university having the power to grant a D.O. degree, and ~~who is~~ of good repute may, at the discretion of the board, make application for a temporary certificate license to practice as a camp physician at a specified camp. Such an osteopathic physician is entitled to practice only on the patients at said the camp. The certificate

2 license must be obtained each year. Applications for such a
3 temporary ~~certificate~~ license must be made in the same manner as
4 for regular ~~certificates~~ licenses. No ~~An~~ examination may ~~not~~ be
5 exacted from applicants for such temporary ~~certificates~~
6 licenses. The fee may not be more than \$500.

7 Sec. A-173. 32 MRSA §2576, as amended by PL 1991, c. 425, §7,
8 is further amended to read:

9 **§2576. Visiting instructors**

10 A temporary visiting instructor's ~~certificate~~ license may be
11 granted an osteopathic physician who holds a current and valid
12 license to practice osteopathic medicine ~~or surgery~~ in another
13 state. This ~~certificate~~ license entitles the osteopathic
14 physician to practice in this State where ~~when~~ that physician is
15 performing osteopathic medical procedures as a part of a course
16 or courses of instruction in continuing medical education in a
17 hospital in this State. The annual fee for such a temporary
18 ~~certificate~~ license may not be more than \$100. The license
19 issued pursuant to this section is ~~of~~ for a duration set by the
20 board. Such a temporary ~~certificate~~ license may be revoked for
21 any one of the reasons in section 2591-A.

22 Sec. A-174. 32 MRSA c. 36, sub-c. IV, first 2 lines are repealed and
23 the following enacted in their place:

24 **SUBCHAPTER IV**

25 **LICENSES**

26 Sec. A-175. 32 MRSA §2581, as amended by PL 1991, c. 425, §8,
27 is further amended to read:

28 **§2581. Licenses; biennial relicensure; fees; reinstatement**

29 Upon satisfactorily qualifying for licensure, the applicant
30 shall ~~may~~ be issued a ~~certificate~~ license by the board, which has
31 been ~~is~~ dated and signed by its members and upon which the
32 official seal of the board shall ~~be~~ is affixed. Such ~~certificate~~
33 shall ~~The license must~~ designate the holder as a physician
34 licensed to practice osteopathic medicine in the State of Maine.
35 Such ~~certificates~~ shall ~~The license must~~ be publicly displayed at
36 the person's ~~individual's~~ principal place of practice.

37 Every osteopathic physician legally licensed to practice in
38 this State, shall, on or before the first day of January of each
39 even-numbered year, pay to the ~~secretary of~~ the board a fee as
40 stipulated ~~set~~ by the board not to exceed \$500 for the renewal of

42 the osteopathic physician's ~~certificate~~ license to practice. In
43 addition to the payment of such ~~the~~ renewal fee, each licensee ~~is~~
44 applying for the renewal of the osteopathic physician's
45 ~~certificate~~ license shall, ~~commencing for the year 1975 and~~
46 thereafter, furnish to the board satisfactory evidence that the
osteopathic physician has attended in the year preceding at least
50 hours of educational programs devoted to continuing medical
education approved by the board. The required education must be
obtained from formalized programs of continuing medical education
sponsored by recognized associations, colleges or universities,
hospitals, institutes or groups approved by the board. A copy of
the current approved list must be available in the office of the
~~secretary~~ secretary-treasurer of the board. At least 40% of
these credit hours must be osteopathic medical education approved
in the rules and ~~regulations~~ established by the board. The board
may adjudicate continuing medical education performance in
situations of illness, hardship or military service upon written
petition by the applicant. The ~~secretary~~ secretary-treasurer of
the board shall send a written notice of the foregoing
requirements to each such osteopathic physician, at least 60 days
prior to each January 1st, directed to the last known address of
the licensee ~~and~~ enclosing therewith ~~with the notice~~ proper blank
forms for application for renewal. If ~~any~~ a licensee fails to
furnish the board evidence of attendance at continuing medical
educational programs, as approved by the board, fails to pay the
renewal fee or fails to submit a completed application for
renewal, the osteopathic physician automatically forfeits the
right to practice osteopathic medicine in this State. After
January 1st of each even-numbered year, the board shall send
notice by first class mail to each licensee who has failed to
meet ~~any of~~ the requirements for renewal. If the failure is not
corrected within 30 days, then the osteopathic physician's
license may be deemed considered lapsed by the board. The
~~secretary~~ secretary-treasurer of the board may reinstate the
osteopathic physician upon the presentation of satisfactory
evidence of continuing medical education as outlined and approved
by the board and upon payment of the renewal fee.

47 Reregistration Relicensure fees provided for under this
48 section shall ~~are~~ not be required of an osteopathic physician who
49 is 70 ~~or more~~ years of age or older on the first day of January
50 of the year in which the reregistration relicensure is made,
although the requirements for continuing medical education
provided ~~for~~ shall apply without regard to age.

Such ~~certificate~~ shall ~~entitle a person~~ The license entitles
an individual to whom it is granted the privilege to practice
osteopathic medicine in any county in this State, in all its
branches as taught in American Osteopathic Association approved
colleges and universities of osteopathic medicine with the right

2 to use such drugs as that are necessary in the practice of
osteopathic medicine.

4 Any person An individual to whom a certificate has been
5 license is granted under this section shall designate himself or
6 herself that individual's status as an osteopathic physician
8 either by the letters D.O. following his the licensee's name or
by the words "osteopathic physician" following or accompanying
his the licensee's name when the prefix Doctor or Dr. is used.

10 Any An applicant not complying with re-registration
12 relicensure requirements is entitled to be reinstated upon paying
the re-registration relicensure fee for the given year and
14 satisfying the board that he or she the applicant has paid all
re-registration relicensure fees due at the time of his the
16 applicant's withdrawal, and no that a cause exists does not exist
for revoking or suspending his or her the applicant's license.
18 The board shall have ~~the right and the duty~~ to determine the
skill and competence of any an osteopathic physician applying for
20 a reinstatement who has not been engaged in the active practice
of osteopathic medicine in this or some other state for a period
22 in excess of one year from the date of his the physician's most
recent re-registration relicensure in Maine.

24 Sec. A-176. 32 MRSA §2591-A, as amended by PL 1989, c. 462,
26 §7, is further amended to read:

28 **§2591-A. Disciplinary actions**

30 1. Disciplinary proceedings and sanctions. The board shall
investigate a complaint, on its own motion or upon receipt of a
32 written complaint filed with the board, regarding noncompliance
with or violation of this chapter or of any rules adopted by the
34 board.

36 The board shall notify the licensee of the content of a complaint
filed against the licensee as soon as possible, but ~~in no event~~
38 not later than within 60 days of from receipt of this information
unless a criminal investigation is pending or in process. The
40 licensee shall respond within 30 days. If the licensee's
response to the complaint satisfies the board that the complaint
42 does not merit further investigation or action, the matter may be
dismissed, with notice of the dismissal to the complainant, if
44 any.

46 If, in the opinion of the board, the factual basis of the
complaint is or may be true, and it the complaint is of
48 sufficient gravity to warrant further action, the board may
request an informal conference with the licensee. The board shall
50 provide the licensee with adequate notice of the conference and

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

6 If the board finds that the factual basis of the complaint is
8 true and is of sufficient gravity to warrant further action, it
may take any of the following actions it deems considers
10 appropriate:

12 A. With the consent of the licensee, enter into a consent
agreement which that fixes the period and terms of probation
14 best adapted to protect the public health and safety and to
rehabilitate or educate the licensee. A consent agreement
16 may be used to terminate a complaint investigation, if
entered into by the board, the licensee and the Attorney
18 General's office;

20 B. In consideration for acceptance of a voluntary surrender
of the license, negotiate stipulations, including terms and
22 conditions for reinstatement, which that ensure protection
of the public health and safety and which that serve to
24 rehabilitate or educate the licensee. These stipulations
shall may be set forth only in a consent agreement signed by
the board, the licensee and the Attorney General's office;

28 C. If the board concludes that modification or nonrenewal
of the license might be is in order, the board shall hold an
30 adjudicatory hearing in accordance with the provisions of
the Maine Administrative Procedure Act, Title 5, chapter
32 375, subchapter IV; or

34 D. If the board concludes that suspension or revocation of
the license is in order, the board shall file a complaint in
36 the Administrative Court in accordance with Title 4, chapter
25.

38 2. Grounds for discipline. The board may suspend or revoke
a license pursuant to Title 5, section 10004. The following
40 shall be are grounds for an action to refuse to issue, modify,
suspend, revoke or refuse to renew the license of a person an
42 individual licensed under this chapter:

44 A. The practice of fraud or deceit in obtaining a license
under this chapter or in connection with service rendered
46 within the scope of the license issued;

48 B. Habitual ~~intemperance in the use of alcohol or the~~
50 ~~habitual use of narcotic or hypnotic or other substances the~~

2 use--of--which substance abuse that has resulted or may is
3 forseeably likely to result in the licensee performing his
4 duties services in a manner which that endangers the health
or safety of his the licensee's patients;

6 C. A professional diagnosis of a mental or physical
8 condition which that has resulted or may result in the
licensee performing his the licensee's duties in a manner
10 which that endangers the health or safety of his the
licensee's patients;

12 D. Aiding or abetting the practice of osteopathy
14 osteopathic medicine by a--person an individual not duly
licensed under this chapter and who represents--himself
claims to be so legally licensed;

16 E. Incompetence in the practice for which he the licensee
18 is licensed. A licensee shall--be--deemed is considered
incompetent in the practice if the licensee has:

20 (1) Engaged in conduct which that evidences a lack of
22 ability or fitness to discharge the duty owed by the
licensee to a client or patient or the general public;
24 or

26 (2) Engaged in conduct which that evidences a lack of
28 knowledge, or inability to apply principles or skills
to carry out the practice for which he the licensee is
licensed;

30 F. Unprofessional conduct. A licensee shall--be--deemed is
32 considered to have engaged in unprofessional conduct if he
the licensee violates any a standard of professional
34 behavior which that has been established in the practice for
which the licensee is licensed;

36 G. Subject to the limitations of Title 5, chapter 341,
38 conviction of a crime which that involves dishonesty or
false statement or which that relates directly to the
40 practice for which the licensee is licensed, or conviction
of any a crime for which incarceration for one year or more
42 may be imposed;

44 H. Any a violation of this chapter or any a rule adopted by
the board;

46 I. Engaging in false, misleading or deceptive advertising;

48 J. Advertising, practicing or attempting to practice under
50 a name other than one's own;

2 K. The revocation, suspension or denial of the individual's
4 license in any--~~other~~ another state or territory of the
United States or any a foreign country;

6 L. Division of professional fees not based on actual
8 services rendered; or

10 M. Failure to comply with the requirements of Title 24,
section 2905-A.

12 3. Report. By March 1st of each year, the board shall
14 submit to the Legislature a report consisting of statistics on
the following for the preceding year:

16 A. The number of complaints against licensees received from
the public or filed on the board's own motion;

18 B. The number of complaints dismissed for lack of merit or
20 insufficient evidence of grounds for discipline;

22 C. The number of cases in process of investigation or
24 hearing carried over at year end; and

26 D. The number of disciplinary actions finalized during the
report year as tabulated and categorized by the annual
28 statistical summary of the Physician Data Base of the
Federation of State Medical Boards of the United States; Inc.

30 Sec. A-177. 32 MRSA §2592-A, as enacted by PL 1991, c. 534,
32 §6, is amended to read:

34 §2592-A. Reporting and investigation of complaints

36 When an action is taken against a licensee and the licensee
moves or has moved to another state, the board may report to the
38 appropriate licensing board in that state the complaint that has
been filed, any other complaints in the physician's record on
40 which action was taken and any disciplinary actions of the board
with respect to that physician.

42 When a--person an individual applies for a license under this
chapter, the board may investigate the professional record of
44 that person individual, including any professional records that
the person individual may have as a licensee in other states.
46 The board may deny a license or authorize a restricted license
based on the record of the applicant in other states.

48 Sec. A-178. 32 MRSA §§2593 and 2594, as enacted by PL 1973,
50 c. 374, §1, are amended to read:

2 **§2593. Mental or physical examination of licensee licensed to**
3 **practice in Maine**

4 For the purpose of this chapter, every an osteopathic
5 physician shall is, by so practicing, be deemed to have given his
6 consent to a mental or physical examination when directed in
7 writing by the board, and further to have waived all objections
8 to the admissibility of the examining physicians' physician's
9 testimony or examination on the grounds that the same constitute
10 it constitutes privileged communication. Such These examinations
11 to must be conducted by a qualified person individual from a list
12 of 5 provided by the board.

14 **§2594. Immunity of licensee rendering emergency care**

16 No An osteopathic physician licensed under this chapter,
17 who, in the exercise of due care, renders emergency care at the
18 scene of an accident shall be, is not liable for any civil
19 damages as the result of acts or omissions by such a person an
20 individual in rendering emergency care.

22 **Sec. A-179. 32 MRSA §2594-A**, as enacted by PL 1973, c. 788,
23 **§159**, is amended to read:

25 **§2594-A. Assistants**

28 Nothing contained in this chapter shall may be construed to
29 prohibit an individual from rendering medical services, if such
30 these services are rendered under the supervision and control of
31 a physician ex-surgeon, provided that such if the individual
32 shall have has satisfactorily completed a training program
33 approved by the Board of Osteopathic Examination and Registration
34 Licensure. Supervision and control shall may not be construed as
35 requiring the personal presence of the supervising and
36 controlling physician at the place where such these services are
37 rendered, unless such a physical presence is necessary to provide
38 patient care of the same quality as provided by the physician.
39 Further, nothing Nothing in this chapter shall may be construed
40 as prohibiting a physician ex-surgeon from delegating to his the
41 physician's employees certain activities relating to medical care
42 and treatment now-being carried out by custom and usage when such
43 these activities are under the direct control of and in the
44 personal presence of the physician ex-surgeon. The physician
45 delegating such these activities, either to his employees, to
46 program graduates or to participants in an approved training
47 program, shall be deemed is legally liable for such the
48 activities of such persons those individuals, and such person
49 shall any individual in this relationship be construed as is
50 considered the physician's agent. Nothing contained in this

2 section shall may be construed to apply to registered nurses
3 acting pursuant to chapter 31.

4 When the delegated activities are part of the practice of
5 optometry as defined in chapter 34-A, then the person individual
6 to whom such these activities are delegated shall must possess a
7 valid license to practice optometry in Maine, or otherwise shall
8 may perform only as a technician technician within the established
9 office of a physician, and otherwise-acting may act solely on the
10 order of and under the responsibility of a physician skilled in
11 the treatment of eyes as designated by the proper professional
12 board, and without assuming evaluation or interpretation of
13 examination findings by prescribing corrective procedures to
14 preserve, restore or improve vision.

16 **Sec. A-180. 32 MRSA §2594-B**, as enacted by PL 1977, c. 391,
17 is amended to read:

20 **§2594-B. Licenses of qualification; physician's statement**

22 1. Licenses required. No A physician assistant shall be
23 permitted to may not practice under the supervision of an
24 osteopathic physician until he the physician assistant has
25 applied for and obtained a license issued by the Board of
26 Osteopathic Licensure, which must be renewed annually.

28 ~~A--A certificate of qualification issued by the Board of
Osteopathic Examination and Registration; and~~

30 ~~B--A certificate of registration, which must be renewed
annually.~~

32 2. Statement by supervisory physician. All applications for
33 ~~certificates of qualification shall~~ licensure must be accompanied
34 by an application by the proposed supervisory physician, which
35 application shall must contain a statement that that physician
36 shall be is responsible for all medical activities of the
37 physician assistant.

40 3. Employment. A physician assistant may not employ a
41 supervisory physician for the purposes of meeting the
42 requirements of this section.

44 **Sec. A-181. 32 MRSA §2594-C**, as amended by PL 1991, c. 425,
45 **§§9 and 10**, is further amended to read:

48 **§2594-C. Rules**

2 1. Rules authorized. The board may adopt such rules and
regulations dealing with osteopathic physician assistants as are
4 necessary to carry out sections 2594-A through to 2594-D.

6 2. Content. The rules and regulations authorized under this
section may include, but need are not be limited to rules and
8 regulations in the following areas:

10 A. Training programs for and certification licensure of
physician assistants;

12 B. Information to be included in applications submitted by
physician assistants for certification licensure;

14 C. Information to be included in applications submitted by
16 proposed supervisory physicians;

18 D. Knowledge and skills to be required of the physician
assistants;

20 E. The agency relationship to be required between
22 supervising physicians and physician assistants;

24 F. Requirements with respect to the supervisory physician's
supervision of medical services provided by physician
26 assistants;

28 G. The methods of performance to be required of physician
assistants;

30 H. Requirements for initial registration licensure,
32 including fees, which in no event may not exceed \$100;

34 I. Requirements for biennial registration annual licensure,
including fees, which in no event may not exceed \$75;

36 J. Provisions relating to physician assistant trainees;

38 K. Continuing education requirements, as a precondition to
40 annual registration licensure;

42 L. Requirements for physician supervision of physician
44 extenders, including fees, which in no event may not exceed
\$100; and

46 M. Requirements for transfer of registration licensure by a
48 physician extender to another physician, including fees,
which in no event may not exceed \$25.

2 Sec. A-182. 32 MRSA §2594-D, as amended by PL 1983, c. 378,
§40, is further amended to read:

4 §2594-D. Termination of license

6 1. Grounds for discipline. A physician's physician
assistant shall be is subject to the sanction of section 2591-A,
8 if he the assistant:

10 A. Has held himself out or permitted himself to be
represented Claims to be, or permits another to represent
12 that physician assistant as a licensed physician;

14 B. Has performed otherwise than at the direction of and
under the supervision of a physician licensed by the board;

16 C. Has been delegated and has performed a task beyond his
18 that physician assistant's competence;

20 2. Consent to physical or mental examination; objections to
admissibility of physician's testimony waived. For the purposes
22 of this section, every physician assistant registered licensed
under these rules and regulations who shall accept accepts the
24 responsibility of rendering medical services in this State by the
filing of an application and of annual registration licensure:

26 A. Shall be Is deemed to have given his consent to a mental
28 or physical examination when directed in writing by the
board; and

30 B. Shall be Is deemed to have waived all objections to the
32 admissibility of the examining physicians' physician's
testimony or reports on the ground that the same constitute
34 these constitute a privileged communication.

36 Pursuant to Title 4, section 1153, the Administrative
Administrative Court shall immediately suspend the certificate
38 license of any physician's a physician assistant who can be
shown, through the results of the medical or physical examination
40 conducted under this section or through other competent evidence,
to be unable to render medical services with reasonable skill and
42 safety to patients by reason of mental illness, alcohol
intemperance, excessive use of drugs or narcotics, or as a result
44 of any a mental or physical condition interfering with the
competent rendering of medical services.

46 Sec. A-183. 32 MRSA §2595, as amended by PL 1979, c. 96, §2,
48 is further amended to read:

50 §2595. Treatment of minors

2 Any ~~person~~ An individual licensed under this chapter who
renders medical care to a minor for treatment of venereal disease
4 or abuse of drugs or alcohol is under no obligation to obtain the
consent of said ~~the~~ minor's parent or guardian or to inform ~~sueh~~
6 ~~the~~ parent or guardian of ~~sueh~~ the treatment. Nothing in this
section shall may be construed so as to prohibit the licensed
8 ~~person~~ individual rendering ~~sueh~~ the treatment from informing
~~sueh~~ the parent or guardian. For purposes of this section, "abuse
10 of drugs" means the use of drugs solely ~~for their~~ to induce a
stimulant, depressant or hallucinogenic effect upon the higher
12 functions of the central nervous system and not as a therapeutic
agent recommended by a practitioner in the course of medical
14 treatment.

16 Sec. A-184. 32 MRSA §2596, as repealed and replaced by PL
1987, c. 646, §9, is amended to read:

18 **§2596. Review committee member immunity**

20 Any A physician licensed under this chapter who is a member
22 of a utilization review committee or a peer review committee that
is a requirement of accreditation by the American Osteopathic
24 Association or is established and operated under the auspices of
the physician's respective state or county professional society
26 or the Board of Osteopathic Examinations ~~and Registration~~
Licensure is immune from civil liability for undertaking or
28 failing to undertake any ~~an~~ act within the scope of the function
of the committee.

30 Sec. A-185. 32 MRSA §2598, as amended by PL 1991, c. 797,
32 §16, is further amended to read:

34 **§2598. Penalty**

36 Any ~~person~~ An individual who attempts to practice
osteopathic medicine without proper license ~~or certificate~~ or who
38 induces the belief that said ~~person~~ that individual is legally
engaged in the practice of osteopathic medicine without having
40 fully complied with all requirements of law commits a Class E
crime; ~~provided~~ except that nothing in this chapter may be
42 construed to prohibit any a lawfully qualified osteopathic
physician in any ~~other~~ another state meeting a registered
44 licensed osteopathic physician in this State for consultation.

46 Sec. A-186. 32 MRSA §2599, as enacted by PL 1975, c. 137, §1,
is amended to read:

48 **§2599. Records of proceedings of hospital medical staff review**
50 **committees confidential**

2 All proceedings and records of proceedings concerning
medical staff reviews and hospital reviews conducted by
4 committees of physicians and other health care personnel on
behalf of hospitals located within the State, when ~~sueh~~ these
6 reviews are required by state or federal law or regulations or as
a condition of accreditation by the Joint Commission on
8 Accreditation of Hospitals or the American Osteopathic
Association Committee on Hospital Accreditation are confidential
and shall ~~be~~ are exempt from discovery without a showing of good
cause.

12 Sec. A-187. 32 MRSA §2599-A, as enacted by PL 1989, c. 462,
14 §8, is repealed.

16 Sec. A-188. 32 MRSA §2599-B is enacted to read:

18 **§2599-B. Consumer information**

20 The board shall develop a consumer information brochure
pursuant to section 59-A.

22 Sec. A-189. 32 MRSA §2600, as enacted by PL 1991, c. 675, §4,
24 is amended to read:

26 **§2600. Release of contact lens prescription**

28 After contact lenses have been adequately fitted and the
patient released from immediate follow-up care by the physician,
30 the patient may request a copy of the contact lens specifications
from the physician. The physician shall provide a copy of the
32 prescription, at no cost, which must contain the information
necessary to properly duplicate the current prescription. The
34 prescription must contain an expiration date. The prescription
may contain fitting guidelines and may also contain specific
36 instructions for use by the patient.

38 The prescribing physician is not liable for any an injury or
condition to a patient that results from negligence in packaging,
40 manufacturing or dispensing lenses by anyone other than the
prescribing physician.

42 The dispensing party may dispense contact lenses only upon
receipt of a written prescription, except that a physician may
44 fill a prescription of an optometrist or another physician
without a copy of the prescription. Except in the case of a
46 physician who has previously seen the wearer, a contact lens
prescription may not be filled by mail, but must be filled by
48 being personally dispensed to the contact lens wearer. A ~~person~~
50 An individual who fills a contact lens prescription shall

maintain a file of that prescription for a period of 6 years. Any person An individual, corporation or other entity that improperly fills a contact lens prescription or fills an expired prescription commits a civil violation for which a forfeiture of not less than \$250 nor more than \$1,000 may be adjudged.

Any person An individual may file a complaint with the board seeking disciplinary action concerning violations of this section. The board shall investigate or cause to be investigated and shall resolve a complaint on its own motion or upon receipt of a written complaint. The board shall conduct its actions in accordance with the Maine Administrative Procedure Act.

Sec. A-190. 32 MRSA §3112, sub-§1, as repealed and replaced by PL 1983, c. 413, §126, is amended to read:

1. Appointment. Members of the board shall ~~be~~ are appointed by the Governor for a term of 4 years, ~~except that at least one member's term shall expire in each calendar year and appointments for terms of less than 4 years may be made in order to comply with this limitation. Members currently serving on the existing board will continue until the expiration of their present appointment. Upon expiration of a member's term, he shall serve until his successor is qualified and appointed. The successor's term shall be 4 years from the date of the expiration, regardless of the date of his appointment. Vacancies shall be filled within 60 days of expiration. Appointments of members must comply with section 60.~~

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

Sec. A-191. 32 MRSA c. 48, first 4 lines are repealed and the following enacted in their place:

CHAPTER 48

BOARD OF LICENSURE IN MEDICINE

SUBCHAPTER I

BOARD OF LICENSURE

Sec. A-192. 32 MRSA §3263, as amended by PL 1989, c. 878, Pt. A, §95, is further amended to read:

§3263. Appointment; vacancies; compensation

The Board of Registration Licensure in Medicine, as established by Title 5, section 12004-A, subsection 24, and in this chapter called the "board," shall ~~consist~~ consists of 10 persons individuals who are residents of this State, appointed by the Governor. ~~Three persons~~ shall ~~individuals~~ must be representatives of the public. ~~Seven persons~~ shall ~~individuals~~ must be graduates of a legally chartered medical college or university having authority to confer degrees in medicine and shall must have been actively engaged in the practice of their profession in this State for a continuous period of 5 years preceding their appointments to the board. ~~Three persons, qualified as aforesaid, shall be appointed members of the board on or before July 1st of every uneven-numbered year, each to hold office for 6 years from the July 1st following appointment, except that at every 3rd uneven-numbered year beginning in 1991, a 4th person shall be appointed. Any vacancy in the board shall be filled by the appointment of a person, qualified as was the member whose place is filled, to hold office during the unexpired term of that member. A full-term appointment is for 6 years. Appointment of members must comply with section 60. Any A member of the board may be removed from office for cause by the Governor.~~

Sec. A-193. 32 MRSA §3264, as enacted by PL 1971, c. 591, §1, is amended to read:

§3264. Oath

Each member of said the board shall, before entering upon the duties of his the member's office, take the constitutional oath of office, and shall, in addition, make oath that he the member is qualified under the terms of this chapter to hold such the office.

Sec. A-194. 32 MRSA §3265, as enacted by PL 1971, c. 591, §1, is repealed.

Sec. A-195. 32 MRSA §§3266 to 3268, as enacted by PL 1971, c. 591, §1, are amended to read:

§3266. Elections; meetings; seal; expenses

The members of said the board shall meet on the 2nd Tuesday of July of the uneven-numbered years at such the time and place as they the board may determine and shall elect a chairman chair and a secretary who shall hold their respective offices for the term of 2 years. The secretary of said the board shall be is the treasurer ~~thereof~~ and shall receive all fees, charges and assessments payable to the board and account for and pay over the same according to law. The said board shall hold regular

meetings, one in March, one in July and one in November of each year, and such any additional meetings at such other times and places as it may determine. Said The board shall cause a seal to be engraved and shall keep a record of all their proceedings.

§3267. Quorum

A majority of the members of the board shall--~~constitute~~ constitutes a quorum for the transaction of business under this chapter, but a less number may adjourn from time to time until a quorum is present.

§3268. Members may administer oaths

Any A member of said the board shall--~~have~~ has the authority to administer oaths, compel the testimony of witnesses and compel the production of books, records and documents relevant to inquiry pursuant to a subpoena issued in accordance with section 3269.

Sec. A-196. 32 MRSA §3269, as amended by PL 1991, c. 425, §11, is further amended to read:

§3269. Powers and duties of the board

The board shall--~~have~~ has the following powers and duties in addition to all other powers and duties imposed by this chapter:

1. Set standards. The power to set standards of eligibility for examination for candidates desiring admission to medical practice in Maine;

2. Adopt criteria. The power to design or adopt an examination and other suitable criteria for establishing a candidate's knowledge in medicine and its related skills;

3. Licensing and standards. The power to license and register and to set standards of practice for physicians and surgeons practicing medicine in Maine;

4. Hearings and procedure. The power to hold hearings and take evidence in all matters relating to the exercise and performance of the powers and duties vested in the board, and the board, acting through the secretary, shall--~~have~~ has the authority to subpoena witnesses, books, records and documents in hearings before it;

5. Legal representation. The power to engage legal counsel, to be approved by the Attorney General, and investigative assistants of its own choosing to advise the board

generally and specifically, to represent the board in any hearings before it and in any appeals taken from a decision of the board;

6. Salary and duties. Except as provided in subsections 15 and 16, the power to employ and prescribe the duties of other personnel as the board shall--~~deem~~ determines necessary. Except as prescribed in subsection 15, the appointment and compensation of that staff shall--~~be~~ is subject to the Civil Service Law;

7. Rules. The power to ~~promulgate--such~~ adopt rules and regulations as the board may--~~deem~~ determines necessary and proper to carry out this chapter;

8. Complaints. The duty to investigate complaints in a timely fashion on its own motion and those lodged with the board or its representatives regarding the violation of any a section of this chapter and the violation of any rules ~~or--regulations~~ adopted by the board pursuant to its authority;

8-A. Report. By March 1st of each year, the board shall submit to the Legislature a report consisting of statistics on the following for the preceding year:

A. The number of complaints against licensees received from the public or filed on the board's own motion;

B. The number of complaints dismissed for lack of merit or insufficient evidence of grounds for discipline;

C. The number of cases in process of investigation or hearing carried over at year end; and

D. The number of disciplinary actions finalized during the report year as tabulated and categorized by the annual statistical summary of the Physician Data Base of the Federation of State Medical Boards of the United States, Inc.;

9. Open financial records. The duty to keep a record of the names and residences of all persons--~~registered~~ individuals licensed under this chapter and a record of all moneys money received and disbursed by said the board, and said records or duplicates thereof shall must always be open to inspection in the office of the secretary during regular office hours. Said The board shall annually make a report to the Commissioner of Professional and Financial Regulation and to the Legislature containing a full and complete account of all its official acts during the preceding year, and a statement of its receipts and

2 disbursements and such comments or suggestions as it may deem the
3 board determines essential.

4 10. Powers. The power to mandate, conduct and operate or
5 contract with other agencies, persons individuals, firms or
6 associations for the conduct and operation of programs of medical
7 education, including statewide programs of health education for
8 the general public and to disburse funds accumulated through the
9 receipt of licensure fees for this purpose, provided that no such
10 funds may not be disbursed for this purpose for out-of-state
11 travel, meals or lodging for any a physician being educated under
12 this program. The power to conduct and operate or contract with
13 other agencies or nonprofit organizations for the conduct and
14 operation of a program of financial assistance to medical
15 students indicating an intent to engage in family practice in
16 rural Maine, under which program said the students may be
17 provided with interest-free grants or interest-bearing loans in
18 an amount not to exceed \$5,000 per student per year on such terms
19 and conditions as the board may determine.

20 Notwithstanding any other provision of this subsection, if the
21 board contracts with the Commissioner of Education to provide
22 funds for the costs of any positions for which the State has
23 contracted at the University of Vermont College of Medicine, or
24 the Tufts University School of Medicine, the terms of the
25 contract between the board and the commissioner shall must be in
26 accordance with the requirements of Title 20 20-A, chapter 304
27 421;

28 11. Conduct examinations. The power to conduct examinations
29 in medicine; and

30 12. Other services and functions. The power to provide
31 services and carry out functions necessary to fulfill the board's
32 statutory responsibilities. The board may set reasonable fees
33 for services such as providing license certification and
34 verifications, providing copies of board law and rules, and
35 providing copies of documents. The board may also set reasonable
36 fees to defray its cost in administering examinations for special
37 purposes that it may from time to time require and for admitting
38 courtesy candidates from other states to its examinations;

39 13. Liaison; limitation. The commissioner shall act as
40 a liaison between the board and the Governor.

41 The commissioner shall does not have the authority to exercise or
42 interfere with the exercise of discretionary, regulatory or
43 licensing authority granted by statute to the board.

2 14. Budget. The board shall submit to the Commissioner of
3 Professional and Financial Regulation its budgetary requirements
4 in the same manner as is provided in Title 5, section 1665, and
5 the commissioner shall in turn transmit these requirements to the
6 Bureau of the Budget without any revision, alteration or change.

7 15. Adequacy of budget, fees and staffing. The budget
8 submitted by the board to the Commissioner of Professional and
9 Financial Regulation shall must be sufficient, if approved, to
10 provide for adequate legal and investigative personnel on the
11 board's staff and that of the Attorney General to assure that
12 professional liability complaints described in Title 24, section
13 2607, and complaints regarding any a section of this chapter can
14 be resolved in a timely fashion. Within the limit set by section
15 3279, the board shall charge sufficient registration licensure
16 fees to finance this budget provision. The board shall submit
17 legislation to request an increase in these fees should they
18 prove inadequate to the provisions of this subsection.

19 Within the limit of funds provided to it by the board, the
20 Department of the Attorney General shall make available to the
21 board sufficient legal and investigative staff to enable all
22 consumer complaints mentioned in this subsection to be resolved
23 in a timely fashion and

24 16. Executive director. The board may appoint an executive
25 director who shall serve serves at the pleasure of the board and
26 who shall assist the board in carrying out its administrative
27 duties and responsibilities under this chapter. The salary range
28 for the executive director shall must be set by the board within
29 the range established by Title 2, section 6-C.

30 Sec. A-197. 32 MRSA c. 48, sub-c. II, first 2 lines are repealed and
31 the following enacted in their place:

32 SUBCHAPTER II

33 LICENSURE

34 Sec. A-198. 32 MRSA §3270, as amended by PL 1991, c. 797,
35 §17, is further amended to read:

36 §3270. Licensure required

37 Unless duly-registered and licensed by said the board, no
38 person shall an individual may not practice medicine or surgery
39 or any a branch thereof, of medicine or surgery or hold-himself
40 out claim to be legally licensed to practice medicine or surgery
41 or any a branch thereof of medicine or surgery within the State
42 by diagnosing, relieving in any degree or curing, or professing
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2 or attempting to diagnose, relieve or cure any a human disease,
3 ailment, defect or complaint, whether physical or mental, or of
4 physical and mental origin, by attendance or by advice, or by
5 prescribing or furnishing any a drug, medicine, appliance,
6 manipulation, method or any a therapeutic agent whatsoever or in
7 any other manner unless otherwise provided by statutes of this
8 State. Any ~~person~~ An individual licensed under chapter 36 may
9 prefix the title "Doctor" or the letters "Dr." to his that
10 individual's name, as provided in section 2581, or any a
11 chiropractor duly licensed by this State may prefix the title
12 "Doctor" or the letters "Dr." to his that individual's name when
13 accompanied by the word "Chiropractor," or any a dentist duly
14 licensed by this State may prefix the title "Doctor" or the
15 letters "Dr." to his that individual's name or any an optometrist
16 duly licensed under the laws of this State may prefix the title
17 "Doctor" or the letters "Dr." to his that individual's name when
18 accompanied by the word "Optometrist" or any a podiatrist duly
19 licensed under the laws of this State may prefix the title
20 "Doctor" or the letters "Dr." to his that individual's name when
21 accompanied by the word "Podiatrist" or "Chiropodist."

22 Whoever, not being duly registered licensed by said the
23 board, practices medicine or surgery or any a branch thereof of
24 medicine or surgery, or purports to practice medicine or surgery
25 or any a branch thereof of medicine or surgery in any-of-the-ways
26 aforesaid a way cited in this section, or who uses the title
27 "Doctor" or the letters "Dr." or the letters "M.D." in connection
28 with that person's individual's name, contrary to this section,
29 commits a Class E crime. The prefixing of the title "Doctor" or
30 the letters "Dr." or the appending of the letters "M.D." by any
31 person an individual to that person's individual's name or the
32 use of the title of doctor or physician in any way by any person
33 an individual not duly-registered licensed as described is prima
34 facie evidence that said person that individual is purporting to
35 practice medicine or surgery contrary to this section, provided
36 except that nothing contained in this section prevents any person
37 an individual who has received the doctor's degree from any a
38 reputable college or university, other than the degree of "Doctor
39 of Medicine" from prefixing the letters "Dr." to that person's
40 individual's name, if that person individual is not engaged, and
41 does not engage, in the practice of medicine or surgery or the
42 treatment of any a disease or human ailment. Nothing in this
43 chapter may be so construed as to affect or prevent the practice
44 of the religious tenets of any a church in the ministrations to
45 the sick or suffering by mental or spiritual means.

46 All fees set in this chapter are nonrefundable application
47 fees or administrative processing fees payable to the board at
48 the time of application or at the time board action is

2 requested. Unless otherwise specified, the board shall set the
3 fees.

4 Sec. A-199. 32 MRSA §3270-A, as amended by PL 1977, c. 78,
5 §181, is further amended to read:

6 §3270-A. Assistants

7 Nothing contained in this chapter shall may be construed to
8 prohibit an individual from rendering medical services, if such
9 these services are rendered under the supervision and control of
10 a physician or surgeon, provided and if that such individual
11 shall ~~have~~ has satisfactorily completed a training program
12 approved by the Board of Registration Licensure in Medicine and
13 any a competency examination determined by this board.
14 Supervision and control shall may not be construed as requiring
15 the personal presence of the supervising and controlling
16 physician at the place where such these services are rendered,
17 unless such a physical presence is necessary to provide patient
18 care of the same quality as provided by the physician. Further,
19 nothing Nothing in this chapter shall may be construed as
20 prohibiting a physician or surgeon from delegating to his the
21 physician's or surgeon's employees certain activities relating to
22 medical care and treatment now-being carried out by custom and
23 usage when such the activities are under the direct control of
24 and in the personal presence of the physician or surgeon. The
25 physician delegating such these activities, ~~either~~ to his
26 employees, ~~to~~ program graduates or to participants in an approved
27 training program, ~~shall be deemed~~ is legally liable for such the
28 activities of such ~~persons~~ those individuals, and such ~~person~~
29 shall any individual in this relationship be ~~construed as~~ is
30 considered the physician's agent. Nothing contained in this
31 section shall may be construed to apply to registered nurses
32 acting pursuant to chapter 31 ~~of this Title~~.

33 When the delegated activities are part of the practice of
34 optometry as defined in chapter 34-A, then the person individual
35 to whom such these activities are delegated shall must possess a
36 valid license to practice optometry in Maine, or otherwise shall
37 may perform only as a technician within the established office of
38 a physician, and otherwise acting solely on the order of and
39 under the responsibility of a physician skilled in the treatment
40 of eyes as designated by the proper professional board, and
41 without assuming evaluation or interpretation of examination
42 findings by prescribing corrective procedures to preserve,
43 restore or improve vision.

44 Sec. A-200. 32 MRSA §3270-B, as amended by PL 1991, c. 425,
45 §13, is further amended to read:

§3270-B. Certificate of qualification and regulation

No A physician assistant shall be is not permitted to practice until he the physician assistant has applied for and obtained a certificate of qualification issued by the Board of Registration Licensure in Medicine and a certificate of registration, which must be renewed biannually. All applications for certificate of qualification shall must be accompanied by an application by the proposed supervisory physician, which application shall must contain a statement that that physician shall be is responsible for all medical activities of the physician's physician assistant. The Board of Registration Licensure in Medicine is authorized to promulgate adopt rules and regulations regarding the training and certification of physician assistants, and the agency relationship between the physician assistant and the supervising physician. Those regulations rules may pertain, but are not by-way-of-limitation limited, to the following matters:

1. Application information. The information to be contained in the application for a certificate of qualification;

2. Application information required of proposed supervisory physician. The information that shall be is required on the application filed by the proposed supervisory physician;

3. Supervising physician's requirements. The training and educational requirements, scope of permissible clinical medical procedures, the manner and methods by which the supervising physician shall supervise the physician assistant's medical services;

4. Methods and conditions. The methods and conditions under which the physician assistant may perform medical services;

5. Temporary eligibility. The issuance of temporary physician assistant certification and equivalency training eligibility for registration of physician assistant trainees;

6. Advisory committee appointment. Appointment of an advisory committee for continuing review of physician assistant program and rules and regulations;

7. Continuing educational requirements. Continuing educational requirements as a precondition to continued licensure or licensure renewal;

8. Fees for original application. Fees for the original physician assistant application, which in-no-event may not exceed the-sum-of \$100;

9. Initial application of supervising physician. Fee for the initial application of the supervising physician, which in-no-event may not exceed the-sum-of \$100;

10. Fee for transfer of license. Fee for transfer of registration by a physician assistant from one supervising physician to another, which in-no-event may not exceed the-sum-of \$50; and

11. Fees for biennial license renewal. Fees for the biennial registration renewal of physician assistants in an amount not to exceed \$100.

Sec. A-201. 32 MRSA §3270-C, as amended by PL 1983, c. 378, §46, is further amended to read:

§3270-C. Termination of license

1. Grounds. The sanctions of section 3283-A shall apply to a physician's physician assistant who has:

~~A. Held himself out or permitted himself to be represented as a licensed physician;~~

~~A-1. Claimed to be legally licensed or allowed another to represent that physician assistant as holding a valid license;~~

B. Performed otherwise than at the direction and under the supervision of a physician licensed by this board;

C. Been delegated and performed a task or tasks beyond his the physician assistant's competence; and

D. Administered, dispensed or prescribed any a controlled substance otherwise than as authorized by law.

2. Consent to physical or mental examination; objections to admissibility of physician's testimony waived. For the purposes of this section, every physician's physician assistant registered under these rules and regulations who shall accept accepts the privilege of rendering medical services in this State by the filing of an application and of biannual registration renewal:

A. Shall be is deemed to have given his consent consented to a mental or physical examination when directed in writing by the Board board; and

2 B. Shall be ~~is~~ deemed to have waived all objections to the
admissibility of the examining ~~physicians'~~ physician's
4 testimony or reports on the ground that ~~the--same~~ these
constitute a privileged communication.

6 Pursuant to Title 4, section 1153, the Administrative Court shall
immediately suspend the certificate of ~~any--physician's~~ a
8 physician assistant who can be shown, through the results of the
medical or physical examination conducted under this section or
10 through other competent evidence, to be unable to render medical
services with reasonable skill and safety to patients by reason
12 of mental illness, alcohol intemperance, excessive use of drugs
or narcotics, or as a result of ~~any~~ a mental or physical
14 condition interfering with the competent rendering of medical
services.

16 Sec. A-202. 32 MRSA §3271, as amended by PL 1991, c. 425,
18 §14, is further amended to read:

20 **§3271. Qualifications for medical licensure**

22 Except where otherwise specified by this chapter, all
applicants for ~~registration~~ licensure as a physician or surgeon
24 in the State shall must satisfy each--~~of~~ the following
requirements.

26 1. Medical education. Each applicant shall--~~either~~ must:

28 A. Graduate from a medical school designated as accredited
30 by the Liaison Committee on Medical Education;

32 B. Graduate from an unaccredited medical school, be
evaluated by the Educational Commission for Foreign Medical
34 Graduates and receive a permanent certificate from the
Educational Commission for Foreign Graduates; or

36 C. Graduate from an unaccredited medical school and achieve
38 a passing score on the Visa Qualifying Examination or
another comprehensive examination deemed determined by the
40 board to be substantially equivalent ~~thereto~~ to the Visa
Qualifying Examination.

42 2. Postgraduate training. Each applicant who has graduated
44 from an accredited medical school on or after January 1, 1970 ~~is~~
required--to must have satisfactorily completed at least 24 months
46 in a graduate educational program approved by the Accreditation
Council on Graduate Medical Education, the Canadian Medical
48 Association or the Royal College of Physicians and Surgeons of
Canada. Each applicant who has graduated from an accredited
50 medical school prior to January 1, 1970, ~~is--required--to~~ must have

satisfactorily completed at least 12 months in a graduate
educational program approved by the Accreditation Council on
Graduate Medical Education, the Canadian Medical Association or
the Royal College of Physicians and Surgeons of Canada. Each
applicant who has graduated from an unaccredited medical school
6 ~~is--required--to~~ must have satisfactorily completed at least 36
months in a graduate educational program approved by the
8 Accreditation Council on Graduate Medical Education, the Canadian
Medical Association, the Royal College of Physicians and Surgeons
of Canada or approved by an accrediting body ~~which~~ that the board
considers an equivalent of the accrediting bodies.
12 Notwithstanding this subsection, any an applicant who is board
certified in family practice and who graduated prior to July 1,
14 1974, is board certifiable, board certified or board eligible in
emergency medicine and who graduated prior to July 1, 1982, shall
16 be is deemed to meet the postgraduate training requirements of
this subsection.

18 3. Examination. Each applicant shall must achieve a
20 passing score on each component of the uniform examination of the
Federation of State Medical Boards or ~~such other~~ examinations
designated by the board as the qualifying examination or
22 examinations for licensure. Each applicant shall must
24 additionally be--~~required--to~~ achieve a passing score on a State of
Maine examination administered by the board.

26 4. Fees. Each applicant shall pay a fee up to \$500 plus
28 the cost of the qualifying examination or examinations.

30 5. Board action. ~~No~~ An applicant may not be registered
licensed unless the board finds that the applicant is qualified
32 and ~~that--there--exists~~ no cause exists, as set forth in section
3282-A, ~~which--would~~ that may be considered grounds for
34 disciplinary action against a licensed physician or surgeon.

36 Sec. A-203. 32 MRSA §3272, as repealed and replaced by PL
1983, c. 741, §2, is amended to read:

38 **§3272. Examinations**

40 Each applicant for licensure as a physician or surgeon
42 shall, at least 60 days before the date of his the applicant's
qualifying examination, present to the secretary of the board an
application under oath or affirmation containing satisfactory
44 proof that the applicant has met the requirements for medical
education and postgraduate medical training set forth in section
3271, subsections 1 and 2. Applicants shall must be examined in
46 writing and may be examined orally on such subjects as the board
48 may--~~deem~~ considers necessary.

2 Sec. A-204. 32 MRSA §3274, as enacted by PL 1971, c. 591, §1,
is amended to read:

4 §3274. Licenses

6 Each physician registered licensed under this chapter shall,
following registration, is entitled to receive a certificate
8 thereof license under the seal of the board and signed by the
chairman ~~chair~~ and the secretary, which must be publicly
10 displayed at the person's individual's principal place of
practice, as long as said ~~person~~ this individual continues the
12 practice of medicine.

14 Sec. A-205. 32 MRSA §3275, as amended by PL 1991, c. 425,
§16, is further amended to read:

16 §3275. Licensure by reciprocity

18 1. Licensure without examination. The board may, at its
20 discretion, grant licensure without written examination to a
physician in good standing who otherwise meets the requirements
22 of section 3271 and who has been:

24 A. Examined and certified by the National Board of Medical
Examiners;

26 B. Examined and licensed by a board of another state,
28 provided that if the examination passed by the applicant is
deemed determined by the board to have been be equivalent to
30 its own examination; or

32 C. Graduated from a nationally accredited medical school
located in the United States, Canada or the British Isles,
34 and:

36 (1) Has been examined and certified by the Medical
Council of Canada, or

38 (2) Has been examined and certified by the board of a
40 Canadian province or any a country in the British
Isles, ~~provided that~~ if the examination passed by the
42 applicant is deemed determined by the board to have
been be equivalent in all essentials to its own
44 examination.

46 No An applicant may not be registered licensed pursuant to this
section, unless the board finds that ~~there--exists~~ no cause
48 exists, as set forth in section 3282-A, which that would be
considered grounds for disciplinary action against a licensed
50 physician or surgeon.

2 2. Fees. Any A physician who applies for a license
pursuant to subsection 1 shall pay a fee of not more than \$500.

4 3. Rules. The board may make such rules and ~~regulations~~ as
may be necessary in connection with this section.

6 Sec. A-206. 32 MRSA §3276, as amended by PL 1991, c. 425,
8 §17, is further amended to read:

10 §3276. Temporary licensure

12 Any A physician who is qualified under section 3275 may,
without examination, be granted a temporary license for a period
not to exceed one year, when the board ~~deems it~~ determines that
14 this action is necessary in order to provide relief for local or
national emergencies or for situations in which ~~there--are~~ the
16 number of physicians is insufficient physicians to supply
adequate medical services. The fee for this temporary license ~~is~~
18 may not be more than \$200.

20 Sec. A-207. 32 MRSA §3277, as amended by PL 1991, c. 425,
22 §18, is further amended to read:

24 §3277. Camp physicians

26 Any A physician who is qualified under section 3275 may, at
the discretion of the board, be temporarily licensed as a camp
physician so that the physician may care for the campers in that
particular camp for which the physician was hired and ~~obtained~~
28 retained as a camp physician. That physician is entitled to
practice only on patients in the camp. The ~~certificate--of~~
30 license temporary license must be obtained each year.
Application for this temporary ~~certificate~~ license must be made
32 in the same form and manner as for regular licensure. No An
examination may not be exacted from applicants for these
34 temporary licenses. The fee for temporary licensure may not be
more than \$100 annually, ~~which--includes--registration--and~~
36 certificate.

38 Sec. A-208. 32 MRSA §3278, as amended by PL 1991, c. 425,
40 §19, is further amended to read:

42 §3278. Locum tenens

44 Any A physician who is qualified under section 3275 may, at
the discretion of the board, be given a temporary license to be
effective for not more than 6 months after issuance for the
46 purpose of permitting the physician to serve as "locum tenens"
for some other physician who is then licensed to practice
48 medicine in this State and whose own license is not temporary or
50

2 limited under any of the provisions of this chapter, provided
3 that such if the Maine physician is either unable because of
4 illness to maintain the practice because of illness or because of
5 absence from the general locus of such this physician's practice
6 or for other reasons deemed determined sufficient by the board.
7 The fee for this temporary license may not be more than \$150.

8 Sec. A-209. 32 MRSA §3279, as amended by PL 1991, c. 425,
9 §§20 and 21, is further amended to read:

10 **§3279. Interns; residents; visiting instructors**

11 1. Interns. Any An applicant who is qualified under
12 section 3271, subsection 1, may receive a temporary educational
13 certificate from the board to act as an intern for a period of--
14 not longer than 24 months.

15 2. Residents. Any An applicant who is qualified under
16 section 3271, subsection 1, may receive a temporary educational
17 certificate from the board to act as a hospital resident. A
18 certificate to a hospital resident may be renewed annually at the
19 discretion of the board for not more than 5 years.

20 3. Conditions of certification. No An applicant for a
21 temporary educational certificate may not be registered certified
22 unless the board finds that the applicant is qualified and that
23 there exists no cause, as set forth in section 3282-A, which that
24 would be considered grounds for disciplinary action against a
25 licensed physician or surgeon. The board, in its discretion, may
26 provide--that require an examination will--be--required for
27 applicants for temporary educational certificates. Recipients of
28 these certificates shall--have are entitled to all the rights
29 granted to physicians who have--been are licensed to practice
30 medicine and surgery, except that their practice shall--be is
31 limited to the training programs in which they are enrolled. A
32 temporary educational certificate may be suspended or revoked, or
33 the board may refuse to renew any--such the certificate, for any
34 of the reasons stated in section 3282-A, or if the intern or
35 hospital resident has violated the limitations placed upon his
36 the intern's temporary educational certificate.

37 4. Visiting instructors. A physician who has an
38 unrestricted license to practice medicine or surgery in another
39 state may practice medicine or surgery in this State when he the
40 physician is performing medical procedures as part of a course of
41 instruction in graduate medical education in a hospital located
42 in this State. The right of a visiting medical instructor to
43 practice medicine in this State may be suspended or revoked for
44 any--of the reasons stated in section 3282-A, or if the visiting

2 medical instructor has performed medical procedures which that
3 are not a part of a course of instruction.

4 5. Contract students. Any An applicant who is qualified
5 under section 3271, subsection 1, who received his a medical
6 education as a contract student as provided in Title 20-A,
7 chapter 421, and who agrees to practice in a primary care or
8 other specialized area as defined in Title 20-A, section 11803,
9 subsection 2, or an underserved area as defined in Title 20-A,
10 section 11802, shall--be--deemed is considered to have completed
11 the postgraduate training requirements of section 3271,
12 subsection 2, upon satisfactory completion of at least 12 months
13 in a graduate educational program approved as specified in
14 section 3271. The board may make the reregistration relicensure
15 of an individual for 4 years after his the individual's licensure
16 under this subsection contingent on his the individual's
17 continuing to practice in an underserved area.

18 This subsection shall--apply applies only to persons individuals
19 entering into a contract under Title 20-A, chapter 421, on or
20 before December 31, 1984.

21 6. Fees. The board shall set fees for physicians and
22 students licensed or--registered pursuant to this section. The
23 amounts set for the--registrations--and licenses issued under this
24 section may not be more than \$100.

25 Sec. A-210. 32 MRSA §3280, as amended by PL 1991, c. 425,
26 §§22 to 24, is further amended to read:

27 **§3280. Biennial relicensure; fees**

28 On or before the first day of July, 1966, and on or before
29 the first day of July of every even-numbered year thereafter
30 after July, 1966, every physician licensed under this chapter
31 shall apply to the Board of Registration Licensure in Medicine
32 for a--certificate-of--biennial--registration relicensure on forms
33 provided by the board. On or before the first day of July, 1982,
34 and on or before the first day of July of every even-numbered
35 year thereafter after July, 1982, any an applicant actively
36 practicing medicine in the State shall include satisfactory
37 evidence to the board that, in the preceding 2 years, the
38 applicant has completed a course of continuing medical education
39 as prescribed in the rules and regulations of the board. The
40 registration relicensure fee for residents of this State and for
41 nonresidents in--no--event may not exceed the sum of \$265. This
42 section does not apply to interns or residents registered
43 licensed under section 3279 nor does it apply to those holding
44 temporary certificates licenses for practice in hospitals or

2 camps as provided in section 3277. The registration licensee
3 fees provided for under this section may not be required of any a
4 physician who is 70 years of age on the first day of July of the
5 year for which reregistration relicensure is made, although the
6 requirement of reregistration relicensure as provided for applies
7 without regard to age.

8 At least 60 days before July 1st of every even-numbered year
9 thereafter the board shall mail to each licensee at his the
10 licensee's last known office address a notice of requirement of
11 reregistration relicensure with appropriate forms therefor for
12 relicensure. Whenever When a licensee fails to reregister
13 relicensure within the time required, ~~it shall be the duty of~~ the
14 board to shall notify such the licensee at his the licensee's
15 last known office address that his reregistration the licensee's
16 relicensure application is past due. Thirty days after such
17 notice has been sent, if reregistration relicensure has still not
18 been made, the board shall notify the licensee by certified mail,
19 return receipt requested, with instructions to deliver to
20 addressee only, that his the licensee's license has been
21 suspended for 30 days, at the end of which period, if
22 reregistration relicensure has still not been made, the license
23 will lapse lapses automatically and the board shall may not
24 restore same the license except upon the following conditions:

26 1. Cause. There exists no cause, as set forth in section
27 3282-A, which that may be considered grounds for suspension or
28 revocation of a license; and

30 2. Reinstatement fee. The licensee shall show cause why the
31 licensee failed to reregister relicensure and pay the board for
32 registration licensee fee arrearage and an additional
33 reinstatement fee of \$100; and

34 3. Late fee. If the board writes to a licensee after July
35 1st of an even-numbered year regarding the licensee's failure to
36 submit a completed renewal application form to the board, then
37 the board may assess a fee of not more than \$100 to complete the
38 processing of the application.

40 Sec. A-211. 32 MRSA §3281, as amended by PL 1977, c. 388, §8,
41 is further amended to read:

43 **§3281. Withdrawal of license**

45 The holder of a license or temporary license who notifies
46 the board in writing of the withdrawal of his ~~registration~~ the
47 holder's license is not required to pay registration licensee
48 fees or penalties beyond those due at the time of his the
49 holder's withdrawal, but after a holder gives such this notice,
50

2 his the holder's license to practice is not valid until
3 reinstated by the board.

4 An applicant for reinstatement is entitled to be reinstated
5 upon paying a reinstatement fee of \$50 and satisfying the board
6 that he the applicant has paid all fees and penalties due at the
7 time of his the applicant's withdrawal, and no cause exists for
8 revoking or suspending his the applicant's license, and he the
9 applicant has applied within 5 years after his the applicant's
10 withdrawal, and was in active practice outside this State within
11 one year prior to the filing of application for reinstatement.

13 Sec. A-212. 32 MRSA §3282-A, as amended by PL 1991, c. 824,
14 Pt. A, §68, is further amended to read:

16 **§3282-A. Disciplinary sanctions**

18 1. Disciplinary proceedings and sanctions. The board shall
19 investigate a complaint, on its own motion or upon receipt of a
20 written complaint filed with the board, regarding noncompliance
21 with or violation of this chapter or ~~of~~ any rules adopted by the
22 board.

24 The board shall notify the licensee of the content of a complaint
25 filed against the licensee as soon as possible, but ~~in no event~~
26 not later than 60 days after receipt of this information. The
27 licensee shall respond within 30 days. If the licensee's
28 response to the complaint satisfies the board that the complaint
29 does not merit further investigation or action, the matter may be
30 dismissed, with notice of the dismissal to the complainant, if
31 any.

33 If, in the opinion of the board, the factual basis of the
34 complaint is or may be true and the complaint is of sufficient
35 gravity to warrant further action, the board may request an
36 informal conference with the licensee. The board shall provide
37 the licensee with adequate notice of the conference and the
38 issues to be discussed. The complainant may attend and may be
39 accompanied by legal counsel and one other ~~person~~ individual.
40 The conference must be conducted in executive session of the
41 board, pursuant to Title 1, section 405, unless otherwise
42 requested by the licensee. Before the board decides what action
43 to take at the conference or as a result of the conference, the
44 board shall give the complainant a reasonable opportunity to
45 speak. Statements made at the conference may not be introduced
46 at a subsequent formal hearing unless all parties consent. The
47 complainant, the licensee or either of their representatives
48 shall maintain the confidentiality of the conference.

2 When a complaint has been filed against a licensee and the
licensee moves or has moved to another state, the board may
4 report to the appropriate licensing board in that state the
complaint that has been filed, any other complaints in the
6 physician's record on which action was taken and any disciplinary
actions of the board with respect to that physician.

8 When a ~~person~~ an individual applies for a license under this
chapter, the board may investigate the professional record of
10 that ~~person~~ individual, including any professional records that
the ~~person~~ individual may have as a licensee in other states.
12 The board may deny a license or authorize a restricted license
based on the record of the applicant in other states.

14 If the board finds that the factual basis of the complaint is
16 true and is of sufficient gravity to warrant further action, it
may take any of the following actions it determines appropriate.

18 A. With the consent of the licensee, the board may enter
20 into a consent agreement that fixes the period and terms of
probation best adapted to protect the public health and
22 safety and rehabilitate or educate the licensee. A consent
agreement may be used to terminate a complaint
24 investigation, if entered into by the board, the licensee
and the Attorney General's office.

26 B. In consideration for acceptance of a voluntary surrender
28 of the license, the board may negotiate stipulations,
including terms and conditions for reinstatement, that
30 ensure protection of the public health and safety and serve
to rehabilitate or educate the licensee. These stipulations
32 may be set forth only in a consent agreement signed by the
board, the licensee and the Attorney General's office.

34 C. If the board concludes that modification or nonrenewal
36 of the license ~~might be~~ is in order, the board shall hold an
adjudicatory hearing in accordance with Title 5, chapter
38 375, subchapter IV.

40 D. If the board concludes that suspension or revocation of
the license is in order, the board shall file a complaint in
42 the Administrative Court in accordance with Title 4, chapter
25.

44 The board shall require a licensee to notify all patients of the
46 licensee of any a probation or stipulation under which the
licensee is practicing as a result of board disciplinary action.
48 This requirement does not apply to any a physician participating
in an alcohol or drug treatment program pursuant to Title 24,
50 section 2505, any a physician who retires following charges made

2 or complaints investigated by the board or any a physician under
the care of a professional and whose medical practices and
4 services are not reduced, restricted or prohibited by the
disciplinary action.

6 2. Grounds for discipline. The board may suspend or revoke
a license pursuant to Title 5, section 10004. The following
8 shall be are grounds for an action to refuse to issue, modify,
suspend, revoke or refuse to renew the license of a ~~person~~ an
10 individual licensed under this chapter:

12 A. The practice of fraud or deceit in obtaining a license
under this chapter or in connection with service rendered
14 within the scope of the license issued;

16 B. Habitual ~~intemperance in the use of alcohol or the~~
~~habitual use of narcotic or hypnotic or other substances the~~
18 ~~use of which~~ substance abuse that has resulted or may is
foreseeably likely to result in the licensee performing his
20 duties services in a manner which that endangers the health
or safety of his patients;

22 C. A professional diagnosis of a mental or physical
24 condition which that has resulted or may result in the
licensee performing his duties services in a manner which
26 that endangers the health or safety of his patients;

28 D. Aiding or abetting the practice of medicine by a ~~person~~
an individual who is not duly licensed under this chapter
30 and who ~~represents himself claims~~ to be legally licensed;

32 E. Incompetence in the practice for which he the licensee
is licensed. A licensee shall ~~be deemed~~ is considered
34 incompetent in the practice if the licensee has:

36 (1) Engaged in conduct which that evidences a lack of
ability or fitness to discharge the duty owed by the
38 licensee to a client or patient or the general public;
or

40 (2) Engaged in conduct which that evidences a lack of
42 knowledge, or inability to apply principles or skills
to carry out the practice for which he the licensee is
44 licensed;

46 F. Unprofessional conduct. A licensee shall ~~be deemed~~ is
considered to have engaged in unprofessional conduct if he
48 the licensee violates any a standard of professional
behavior which that has been established in the practice for
50 which the licensee is licensed;

2 G. Subject to the limitations of Title 5, chapter 341,
conviction of a crime which that involves dishonesty or
4 false statement or which relates directly to the practice
for which the licensee is licensed, or conviction of any a
6 crime for which incarceration for one year or more may be
imposed;

8 H. Any A violation of this chapter or any a rule adopted by
10 the board;

12 I. Engaging in false, misleading or deceptive advertising;

14 J. Prescribing narcotic or hypnotic or other drugs listed
as controlled substances by the Drug Enforcement
16 Administration for other than accepted therapeutic purposes;

18 K. Failure to report to the secretary of the board a
physician licensed under this chapter for addiction to
20 alcohol or drugs or for mental illness in accordance with
Title 24, section 2505, except when the impaired physician
22 is or has been a patient of the licensee; or

24 L. Failure to comply with the requirements of Title 24,
section 2905-A.

26 Sec. A-213. 32 MRSA §3286, as amended by PL 1981, c. 594, §2,
28 is further amended to read:

30 **§3286. Emergency action**

32 Upon its own motion or upon complaint, the board shall, in
the interests of public health, safety and welfare, shall treat
34 as an emergency any a complaint or allegation that a person an
individual licensed under this chapter is or may be unable to
36 practice medicine with reasonable skill and safety to patients by
reason of mental illness, alcohol intemperance, excessive use of
38 drugs, narcotics or as a result of any a mental or physical
condition interfering with the competent practice of medicine. In
40 enforcing this paragraph, the board shall ~~have authority to~~ may
compel a physician to submit to a mental or physical examination
42 by physicians designated by it. Failure of a physician to submit
to such this examination when directed shall ~~constitute~~
44 constitutes an admission of the allegations against him the
physician, unless the failure was due to circumstances beyond his
46 the physician's control, esasequent upon which a final order of
disciplinary action may be entered without the taking of
48 testimony or presentation of evidence. A physician affected under
this paragraph shall must, at reasonable intervals, be afforded
50 an opportunity to demonstrate that he the physician can resume

2 the competent practice of medicine with reasonable skill and
safety to patients.

4 For the purpose of this section, by practicing or by making
and filing a biennial license to practice medicine in this State,
6 every physician licensed under this chapter who shall ~~accept~~
accepts the privilege to practice medicine in this State shall,
8 ~~by so practicing or by the making and filing of biennial~~
~~registration to practice medicine in this State, be~~ is deemed to
10 have given his consent to a mental or physical examination when
directed in writing by the board and further to have waived all
12 objections to the admissibility of the examining physicians'
testimony or examination reports on the ground grounds that the
14 same testimony or reports constitute a privileged communication.

16 Injunctions shall must issue forthwith immediately to enjoin
the practice of medicine by any person an individual licensed to
18 practice under this chapter when such person's that individual's
continued practice will or might may cause irreparable damage to
20 the public health or safety prior to the time proceedings under
this chapter could be instituted and completed. In a petition for
22 injunction pursuant to this section, there shall must be set
forth with particularity the facts which that make it appear that
24 irreparable damage to the public health or safety will or well
might may occur prior to the time proceedings under this chapter
26 could be instituted and completed. Such The petition shall must
be filed in the name of the board on behalf of the State ~~of Maine~~.

28 Sec. A-214. 32 MRSA §3289, as enacted by PL 1971, c. 591, §1,
30 is amended to read:

32 **§3289. Record of reinstatement**

34 Upon the reinstatement of any such a license by the board,
either upon its own motion or upon application, the secretary of
36 the board shall forthwith immediately enter the order of
reinstatement in the minutes and records of the board.

38 Sec. A-215. 32 MRSA §3292, as amended by PL 1979, c. 96, §3,
40 is further amended to read:

42 **§3292. Treatment of minors**

44 Any person An individual licensed under this chapter who
renders medical care to a minor for treatment of venereal disease
46 or abuse of drugs or alcohol is under no obligation to obtain the
consent of said the minor's parent or guardian or to inform such
48 the parent or guardian of such the treatment. ~~Nothing in this~~
This section shall may not be construed ~~so as~~ to prohibit the
50 licensed person individual rendering such the treatment from

informing such the parent or guardian. For purposes of this section, "abuse of drugs" means the use of drugs solely for their stimulant, depressant or hallucinogenic effect upon the higher functions of the central nervous system and not as a therapeutic agent recommended by a practitioner in the course of medical treatment.

Sec. A-216. 32 MRSA §3293, as repealed and replaced by PL 1987, c. 646, §10, is amended to read:

§3293. Review committee member immunity

Any A physician licensed under this chapter who is a member of a utilization review committee, medical review committee, surgical review committee, peer review committee or disciplinary committee that is a requirement of accreditation by the Joint Commission on Accreditation of Hospitals or is established and operated under the auspices of the physician's respective state or county professional society or the Board of Registration Licensure in Medicine is immune from civil liability for undertaking or failing to undertake any an act within the scope of the function of the committee.

Sec. A-217. 32 MRSA §3296, as amended by PL 1987, c. 646, §11, is further amended to read:

§3296. Records of proceedings of medical staff review committees confidential

All proceedings and records of proceedings concerning medical staff reviews, hospital reviews and other reviews of medical care conducted by committees of physicians and other health care personnel on behalf of hospitals located within the State or on behalf of individual physicians, when the reviews are required by state or federal law, rule ~~or~~ regulations or as a condition of accreditation by the Joint Commission on Accreditation of Hospitals or the American Osteopathic Association Committee on Hospital Accreditation or are conducted under the auspices of the state or county professional society to which the physician belongs, are confidential and shall ~~be~~ are exempt from discovery.

Sec. A-218. 32 MRSA §3297, as amended by PL 1987, c. 719, is further amended to read:

§3297. Posting of policy regarding acceptance of Medicare assignment

Each An allopathic physician licensed pursuant to chapter 48, each an osteopathic physician licensed pursuant to chapter

36, each a chiropractor licensed pursuant to chapter 9 and each a podiatrist licensed pursuant to chapter 51 who treats Medicare-eligible individuals shall, ~~after January 1, 1984,~~ post in a conspicuous place his ~~policy~~ the that professional's policy regarding the acceptance of Medicare assignment.

This posting shall must state the policy on accepting assignment and shall name the person individual with whom the patient should communicate regarding the policy.

The Board of Registration Licensure in Medicine, the Board of Osteopathic Examination and Registration Licensure, the Board of Examiners Licensure of Podiatrists Podiatric Medicine and the Board of Chiropractic Examination and Registration Licensure shall enforce the provisions of this section and shall inform each licensee of their the licensee's obligation under this law. Each board shall ~~have the authority to~~ may discipline a licensee under its jurisdiction for failing to comply with this section and shall ~~have the authority to~~ impose a monetary penalty of not less than \$100 and not more than \$1,000 for each violation.

Sec. A-219. 32 MRSA §3299, as enacted by PL 1989, c. 462, §13, is repealed.

Sec. A-220. 32 MRSA §3299-A is enacted to read:

§3299-A. Consumer information

The board shall develop a consumer information brochure pursuant to section 59-A.

Sec. A-221. 32 MRSA §3300, as enacted by PL 1991, c. 675, §5, is amended to read:

§3300. Release of contact lens prescription

After contact lenses have been adequately fitted and the patient released from immediate follow-up care by the physician, the patient may request a copy of the contact lens specifications from the physician. The physician shall provide a copy of the prescription, at no cost, which must contain the information necessary to properly duplicate the current prescription. The prescription must contain an expiration date. The prescription may contain fitting guidelines and may also contain specific instructions for use by the patient.

The prescribing physician is not liable for any an injury to or a condition to of a patient that results from negligence in packaging, manufacturing or dispensing lenses by anyone other than the prescribing physician.

2 The dispensing party may dispense contact lenses only upon
3 receipt of a written prescription, except that a physician may
4 fill a prescription of an optometrist or another physician
5 without a copy of the prescription. Except in the case of a
6 physician who has previously seen the wearer, a contact lens
7 prescription may not be filled by mail, but must be filled by
8 being personally dispensed to the contact lens wearer. A person
9 An individual who fills a contact lens prescription shall
10 maintain a file of that prescription for a period of 6 years.
11 Any person An individual, a corporation or any other entity that
12 improperly fills a contact lens prescription or fills an expired
13 prescription commits a civil violation for which a forfeiture of
14 not less than \$250 nor more than \$1,000 may be adjudged.

16 Any person An individual may file a complaint with the board
17 seeking disciplinary action concerning violations of this
18 section. The board shall investigate or cause to be investigated
19 and shall resolve a complaint. The board shall conduct its
20 actions in accordance with the Maine Administrative Procedure Act.

22 Sec. A-222. 32 MRSA §3401, 2nd ¶, as enacted by PL 1987, c.
23 597, §9, is amended to read:

26 ~~The appointive members shall be appointed for terms of 4
27 years, except that at least one appointive member's term shall
28 expire in each calendar year and appointments for terms of less
29 than 4 years may be made in order to comply with this
30 limitation. Upon expiration of a member's term, that member
31 shall serve until a successor is qualified and appointed. The
32 successor's term shall be 4 years from the date of the
33 expiration, regardless of the date of his appointment. No
34 appointive member may be eligible to serve more than 2 full
35 consecutive terms, provided that, for this purpose only, a period
36 actually which exceeds 1/2 of the 4 year term shall be deemed a
37 full term. Appointments of members must comply with section 60.~~

38 Sec. A-223. 32 MRSA §3551, as repealed and replaced by PL
39 1977, c. 297, is repealed and the following enacted in its place:

40 §3551. Definitions

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

46 1. Board. "Board" means the Board of Licensure of
47 Podiatric Medicine.

48 2. License. "License" means authorization to practice
49 podiatric medicine.

2 3. Podiatrist. "Podiatrist" means an individual currently
3 licensed to practice podiatric medicine.

4 4. Practice of podiatric medicine. "Practice of podiatric
5 medicine" means the diagnosis and treatment of maladies of the
6 human foot and ankle by medical, surgical or mechanical means.
7 Practice of podiatric medicine includes the administration of
8 local anesthesia in conjunction with the practice of podiatry.
9 The use of general anesthesia is permitted in conjunction with
10 the practice of podiatry when administered by a medical or
11 osteopathic physician who assumes responsibility for the
12 administration of that anesthesia to a patient being treated by a
13 podiatrist.

16 Sec. A-224. 32 MRSA §3552 is repealed and the following
17 enacted in its place:

18 §3552. Licensure; exceptions; penalty

20 1. Licensure required. Except as otherwise provided, it is
21 unlawful for an individual to practice or attempt to practice
22 podiatry or to claim to be licensed as a podiatrist without first
23 obtaining a license to practice podiatry as provided in this
24 chapter.

26 2. Exceptions. This chapter does not apply to an
27 individual licensed to practice a healing art or science who is
28 practicing podiatric medicine in the course of practice and
29 within the scope of that license, to a commissioned medical or
30 surgical officer of a United States Army, United States Navy or
31 United States Marine hospital or public health service or to the
32 sale of nonprescription foot appliances in commercial
33 establishments.

36 3. Penalty. A person who practices podiatric medicine in
37 violation of subsection 1 commits a Class E crime. The State may
38 bring action in Superior Court to enjoin a person from violating
39 subsection 1, regardless of whether proceedings are instituted in
40 Administrative Court and regardless of the status of criminal
41 proceedings.

42 Sec. A-225. 32 MRSA §3553, as amended by PL 1979, c. 61, §1,
43 is repealed and the following enacted in its place:

46 §3553. Narcotics

48 A licensed podiatrist may prescribe narcotic drugs for the
49 treatment of ailments within the scope of the podiatrist's
50 license with the approval of the Drug Enforcement Administration.

2 Sec. A-226. 32 MRSA §3554 is repealed.

4 Sec. A-227. 32 MRSA c. 51, sub-c. II, first 2 lines are repealed and
6 the following enacted in their place:

8 SUBCHAPTER II

10 BOARD OF LICENSURE OF PODIATRIC MEDICINE

12 Sec. A-228. 32 MRSA §3601, as amended by PL 1989, c. 503, Pt.
14 B, §141, is further amended to read:

16 **§3601. Appointment; term; removal**

18 The Board of Examiners Licensure of Podiatrists,--as
20 Podiatric Medicine established in Title 5, section 12004-A,
22 subsection 33, and in this chapter called the "board," shall be 2
24 members of the Board of Registration in Medicine together with 2
26 consists of 4 podiatrists and a representative of the public
28 appointed by the Governor. One of the members shall must be
30 chosen by a majority of the members to act as chair of the board
32 for a term of 2 years and the secretary-treasurer of the Board of
34 Registration in Medicine shall act as secretary-treasurer of the
36 board. The podiatrists are appointed by the Governor shall be
38 appointed for a term of 4 years from nominations submitted by the
40 Podiatry Association of Maine and by other organizations and
42 individuals, except that the first appointment of the new member
44 shall be for a term of 3 years. The podiatrists selected shall
46 must at the time of their appointment have been actively engaged
48 in the practice of podiatry for a period of at least 2 years. The
50 representative of the public shall be appointed for a term of 4
years Appointment of members must comply with section 60.

34 Sec. A-229. 32 MRSA §3602, as amended by PL 1983, c. 812,
36 §231, is further amended to read:

38 **§3602. Meetings; officers; records**

40 The board shall hold regular semiannual meetings,--one in
42 March,--one in July--and one in November--and such additional
44 meetings at such times and places as the board may determine and
46 may hold other meetings during the year as it determines
48 necessary to transact its business. One of the members shall must
be chosen by a majority of the board to act as chairman chair of
the board for a term of 2 years. The secretary and treasurer of
the Board of Registration in Medicine shall act as One member
must be chosen by a majority of the board to act as secretary and
treasurer of the board and for a term of 2 years, who shall keep
a record of the proceedings of the board, which record shall must

2 include, among other things, a record of all money received and
4 disbursed, a list of all applicants for licenses to practice
6 podiatry and the--fact--of whether the--applicant--was those
8 applicants were granted or denied a license. The records shall
10 must be filed in the office of the secretary--of--the board and
shall always be open to inspection during regular office hours.
Four Three members of the board shall constitute a quorum for the
transaction of business, but no a license to practice podiatry
shall may not be granted except upon the affirmative vote of 4-
a majority of the members of the board.

12 Sec. A-230. 32 MRSA §3603, as amended by PL 1983, c. 812,
14 §232, is further amended to read:

16 **§3603. Compensation; disposition of fees**

18 The treasurer--of--the board shall receive all fees, charges
20 and assessments payable to the board and account for and pay over
22 these those fees, charges and assessments according to law.
24 Members of the Board of Registration in Medicine,--the secretary
of the board,--the podiatrists and the public member appointed by
the--Governor,--as--provided--in--section--3601,--shall--each--be
26 compensated board are entitled to compensation according to the
provisions of Title 5, chapter 379,--and all expenses shall be
certified by the chairman and secretary.

28 Sec. A-231. 32 MRSA §3604, as amended by PL 1985, c. 748,
30 §42, is further amended to read:

32 **§3604. Reports; liaison; limitations**

34 On or before August 1st of each year, the board shall submit
36 to the Commissioner--of--Professional--and--Financial--Regulation
commissioner, for the preceding fiscal year ending June 30th, its
38 an annual report of its operations and financial position,
together with such comments and recommendations as the commission
deems considers essential.

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

42 The commissioner shall may not have--the--authority--to
44 exercise or interfere with the exercise of discretionary,
regulatory or licensing authority granted by statute law to the
board.

46 Sec. A-232. 32 MRSA §3605-A, as enacted by PL 1989, c. 632,
48 §2, is repealed.

50 Sec. A-233. 32 MRSA §3605-B is enacted to read:

2 §3605-B. Powers and duties of the board

4 In addition to powers and duties otherwise provided by law,
the board has the following powers and duties:

6 1. Licenses. Examine and issue and renew the licenses of
8 qualified applicants;

10 2. Continuing education. Adopt standards for continuing
12 education necessary to maintain licensure;

14 3. Rules. Adopt rules in accordance with the Maine
16 Administrative Procedure Act, as it determines necessary to carry
out the purposes of this chapter;

18 4. Conduct investigations and hold hearings. Hold hearings
20 to assist with investigations, to determine whether grounds exist
for suspension, revocation or denial of licensure or to perform
the board's duties in accordance with due process.

22 The board may not refuse to renew a license for a reason other
24 than failure to pay a required fee, unless it has afforded the
licensee the opportunity for an adjudicatory hearing. The board
shall hold an adjudicatory hearing at the written request of an
individual who is denied a license for a reason other than
26 failure to pay a required fee, if the request for hearing is
28 received by the board within 30 days of the board's transmission
of written notice to the applicant of denial of the application,
the reasons for denial and a statement of the applicant's right
to request a hearing. Hearings must be conducted in conformity
30 with Title 5, chapter 375, subchapter IV to the extent
32 applicable. The board may subpoena witnesses, records and
34 documents for a hearing it conducts;

36 5. Contracts. Enter into contracts to carry out its
38 responsibilities under this chapter; and

40 6. Records. The board shall keep a record of its procedures.

42 Sec. A-234. 32 MRSA c. 51, sub-c. III, first 2 lines are repealed and
the following enacted in their place:

44 SUBCHAPTER III

46 LICENSE REQUIREMENTS

48 Sec. A-235. 32 MRSA §3651, as amended by PL 1983, c. 378,
50 §56, is repealed.

2 Sec. A-236. 32 MRSA §3651-A, as enacted by PL 1993, c. 278,
§1 and affected by §4, is amended to read:

4 §3651-A. Requirements and licensure

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

14 2. Residency licensure. A doctor of podiatric medicine who
16 has graduated after January 1, 1991 from podiatric medical school
as set forth in section ~~3651~~ 3651-B may not practice podiatric
18 medicine in a podiatric residency program without first having
applied for and obtained a residency license from the board.

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

28 B. A residency license is valid only for the practice of
30 podiatric medicine as part of the postgraduate residency
program. A residency license is subject to discipline for
32 any a reason for which a podiatric medical license may be
disciplined under section 3655-A. If the holder of a
34 residency license is terminated from or otherwise ceases to
be a resident in the postgraduate residency program, the
36 residency license becomes void as of the date the resident
is terminated or ceases to be a resident.

38 C. A residency license is valid for up to one year, and may
40 be renewed annually before the first day of July of every
year thereafter, not to exceed an aggregate of 4 years.
42 Renewal of a residency license is subject to the same
44 requirements and conditions as the initial residency license.

46 Sec. A-237. Effective date. That section of this Act that amends
48 the Maine Revised Statutes, Title 32, section 3651-A takes effect
50 July 1, 1995.

2 Sec. A-238. 32 MRSA §3651-B is enacted to read:

4 §3651-B. Examination; requirements

6 1. Examination. Except as otherwise provided in this
8 chapter, an individual must be examined by the board as to the
10 individual's qualifications before engaging in the practice of
12 podiatry. An applicant shall present to the board an application
14 for a license to practice podiatry on a form prescribed by the
16 examiners and containing satisfactory proof that the applicant:

18 A. Is at least 18 years of age; and

16 B. Has received a certificate of graduation from an
18 accredited college of podiatric medicine, recognized by the
20 Council of Education of the American Podiatry Association or
22 its equivalent.

20 2. Rules. To be eligible for licensure, the applicant must
22 pass a comprehensive examination as prescribed by the board in
24 its rules.

24 Sec. A-239. 32 MRSA §3652, as amended by PL 1993, c. 347, §1,
26 is further amended to read:

28 §3652. Fees; reexamination; license renewal

28 Every An applicant for an examination for a license to
30 practice podiatry shall pay, at the time of filing an
32 application, pay to the secretary of the Board of Examiners of
34 Podiatrists board a license application fee of \$100 not more than
36 \$200, plus actual cost of examination administration as set by
38 the board. If the application is denied and examination refused,
40 1/2 of the fee must be returned to the applicant. An applicant
42 who fails to pass an examination is entitled to a reexamination
44 within 6 months upon the payment of an additional \$50, but only 2
46 such reexaminations are permitted. Podiatrists licensed in
48 another state and applying for a license to practice in this
State without examination shall pay a fee of \$100 not more than
\$200.

44 Every A doctor of podiatric medicine licensed to practice
46 podiatric medicine and surgery within this State shall apply, on
48 or before August 1, 1993 and on or before July 1st of every year
thereafter apply after August 1, 1993, to the examiners board for
a license renewal on a form furnished by the examiners board and
shall pay a renewal fee of \$125 not more than \$200.

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

10 If application for license renewal according to the
12 conditions set forth in this section is not submitted within 2
14 months after the date of notification by the secretary that the
16 renewal is due, the license of the person failing to renew
18 lapses. The license may be reissued only by a majority vote of
the examiners and upon payment of a reinstatement fee of \$25, and
only if there exists no cause, as set forth in this chapter, that
may be considered grounds for suspension or revocation of the
license.

20 An application for license renewal made not more than 90
22 days after the date of expiration must include a late fee, to be
24 set by the board, in addition to the renewal fee. An application
26 received more than 90 days but less than 2 years after the
28 expiration date is subject to the requirements for new applicants
as well as continuing education requirements, if applicable, and
a late fee of not more than \$200, except that the board, giving
due consideration to the health, welfare and safety of the
citizens of the State, may waive the examination requirement at
its discretion. A license that has been expired for over 2 years
may not be renewed and must be processed as a new application.

30 Sec. A-240. 32 MRSA §3653 is amended to read:

32 §3653. Display of licenses; use of title

34 Every An applicant who shall satisfactorily meet meets the
36 requirements for license to practice podiatry, as provided in
38 this chapter, shall may be granted a certificate under the seal
of license by the Board of Registration in Medicine board signed
by the chairman and secretary chair, which certificate shall
entitle entitles the person individual to whom it is granted to
practice podiatry anywhere in this State. Every such certificate
shall The license must be conspicuously displayed at the place of
practice of such person, and every renewal certificate for the
current year shall be displayed in connection with the original
certificate the podiatrist. A podiatrist licensed in accordance
with this chapter may use the word "Doctor" or the letters "Dr."
when followed by the word "Podiatrist" or "Chiropodist," only if
he is a graduate of a school approved by the examiners, or if
graduated prior to the establishment of a board of examiners,
then from a school approved for examination and registration in

2 ~~the state in which the school was located or the designation of~~
3 ~~the degree "D.P.M."~~

4 Sec. A-241. 32 MRSA §3654, as amended by PL 1983, c. 378, §57
5 and PL 1993, c. 278, §2 and affected by §4, is repealed and the
6 following enacted in its place:

8 **§3654. Reciprocity; endorsement; residency requirement**

10 Until July 1, 1995, the board may issue a license to
11 practice podiatry by endorsement to an applicant who has
12 successfully passed the written examination of another state or
13 of a national certifying agency in podiatry recognized by the
14 board if the written examination of the other state or national
15 certifying agency was, in the opinion of the board, equivalent to
16 its own examination and if the applicant satisfies in all other
17 respects the requirements for licensure in section 3651-A. The
18 application to the board must be accompanied by an application
19 fee of not more than \$200.

20 Beginning July 1, 1995, the board may issue a license to
21 practice podiatry by endorsement to an applicant who has
22 successfully passed the written examination of another state or
23 of a national certifying agency in podiatry recognized by the
24 board if the written examination of the other state or national
25 certifying agency was, in the opinion of the board, equivalent to
26 its own examination and if the applicant satisfies in all other
27 respects the requirements for licensure in section 3651-A. An
28 applicant for licensure by endorsement who graduated after
29 January 1, 1991 from podiatric medical school under section
30 3651-A shall provide the board evidence of satisfactory
31 completion of at least one year of postgraduate clinical training
32 in a podiatric residency training program under section 3651-A.
33 The application to the board must be accompanied by an
34 application fee of not more than \$200.

35 Sec. A-242. 32 MRSA §3655-A, as enacted by PL 1983, c. 378,
36 §59, is amended to read:

37 **§3655-A. Disciplinary actions**

38 1. Disciplinary proceedings and sanctions. The board shall
39 investigate a complaint, on its own motion or upon receipt of a
40 signed written complaint filed with the board, regarding
41 noncompliance with or violation of this chapter or of any rules
42 adopted by the board.

43 The board shall notify the licensee of the content of a complaint
44 filed against the licensee as soon as possible, but ~~in no event~~
45 ~~but, absent unusual circumstances justifying delay, not later~~

2 than within 60 days of ~~from~~ receipt of this ~~the~~ information. The
3 licensee shall respond within 30 days. If the licensee's
4 response to the complaint satisfies the board that the complaint
5 does not merit further investigation or action, the matter may be
6 dismissed, with notice of the dismissal to the complainant, if
7 any.

8 If, in the opinion of the board, the factual basis of the
9 complaint is or may be true, and ~~it~~ the complaint is of
10 sufficient gravity to warrant further action, the board may
11 request an informal conference with the licensee. The board shall
12 provide the licensee with adequate notice of the conference and
13 of the issues to be discussed. The conference shall must be
14 conducted in executive session of the board, pursuant to Title 1,
15 section 405, unless otherwise requested by the licensee.
16 Statements made at the conference may not be introduced at a
17 subsequent formal hearing unless all parties consent.

18 If the board finds that the factual basis of the complaint is
19 true and is of sufficient gravity to warrant further action, it
20 may take any of the following actions it deems considers
21 appropriate:

22 A. With the consent of the licensee, enter into a consent
23 agreement which ~~that~~ fixes the period and terms of probation
24 best adapted to protect the public health and safety and to
25 rehabilitate or educate the licensee. A consent agreement
26 may be used to terminate a complaint investigation, if
27 entered into by the board, the licensee and the Attorney
28 General's office;

29 B. In consideration for acceptance of a voluntary surrender
30 of the license, negotiate stipulations, including terms and
31 conditions for reinstatement, which ~~that~~ ensure protection
32 of the public health and safety and which ~~that~~ serve to
33 rehabilitate or educate the licensee. These stipulations
34 shall may be set forth only in a consent agreement signed by
35 the board, the licensee and the Attorney General's office;

36 C. If the board concludes that modification or nonrenewal
37 of the license ~~might be or other disciplinary action under~~
38 ~~this chapter or Title 10, section 8003 is~~ in order, the
39 board shall hold an adjudicatory hearing in accordance with
40 the provisions of the ~~Maine Administrative Procedure Act,~~
41 Title 5, chapter 375, subchapter IV; or

42 D. If the board concludes that suspension or revocation of
43 the license is in order, the board shall may file a
44 complaint in the Administrative Court in accordance with
45 Title 4, chapter 25.

2 2. Grounds for discipline. The board may suspend or revoke
a license pursuant to Title 5, section 10004. The following
4 shall be are grounds for an action to discipline or to refuse to
issue, modify, suspend, revoke or refuse to renew the license of
6 a person an individual licensed under this chapter:

8 A. The practice of fraud or deceit in obtaining a license
under this chapter or in connection with service rendered
10 within the scope of the license issued;

12 B. Habitual intemperance ~~in the use of alcohol or the~~
~~habitual use of narcotic or hypnotic or other substances the~~
14 ~~use of which substance abuse that~~ has resulted or may is
foreseeably likely to result in the licensee performing his
16 duties services in a manner which that endangers the health
or safety of his the licensee's patients;

18 C. A professional diagnosis of a mental or physical
20 condition which that has resulted or may result in the
licensee performing his ~~duties~~ services in a manner which
22 that endangers the health or safety of his the podiatrist's
patients;

24 D. Aiding or abetting the practice of podiatry by a ~~person~~
26 an individual who is not duly licensed under this chapter
and who ~~represents himself claims~~ to be legally licensed;

28 E. Incompetence in the practice for which he the podiatrist
is licensed. A licensee shall ~~be deemed is~~ considered
30 incompetent in the practice if the licensee has:

32 (1) Engaged in conduct which that evidences a lack of
34 ability or fitness to discharge the duty owed by the
licensee to a client or patient or the general public;
36 or

38 (2) Engaged in conduct which that evidences a lack of
knowledge, or inability to apply principles or skills
40 to carry out the practice for which he the podiatrist
is licensed;

42 F. Unprofessional conduct. A licensee shall ~~be deemed is~~
44 considered to have engaged in unprofessional conduct if he
the licensee violates any a standard of professional
46 behavior which that has been established in the practice for
which the licensee is licensed;

48 G. Subject to the limitations of Title 5, chapter 341,
50 conviction of a crime which that involves dishonesty or

2 false statement or which that relates directly to the
practice for which the licensee is licensed, or conviction
4 of any a crime for which incarceration for one year or more
may be imposed;

6 H. Any A violation of this chapter or any a rule adopted by
the board;

8 I. Engaging in false, misleading or deceptive advertising;
10 or

12 ~~J. Practicing podiatry in conjunction with any business~~
~~such as a shoe store or beauty parlor.~~

14 K. Prescribing narcotic or hypnotic or other drugs listed
16 as controlled substances by the Drug Enforcement
Administration for other than accepted therapeutic purposes.

18 Sec. A-243. 32 MRSA §3821, as amended by PL 1989, c. 503, Pt.
20 B, §142, is further amended to read:

22 §3821. Membership; terms; vacancies

24 The State Board of Examiners of Psychologists, as
established by Title 5, section 12004-A, subsection 34, and
called the "board," shall ~~consist consists~~ of 9 members who shall
26 be are appointed by the Governor to serve a term of 3 years. Two
members of the board shall must be representatives of the public.
28 Seven members of the board shall must be licensed psychologists
or psychological examiners with at least one member licensed as a
psychological examiner. These 7 members shall must be
32 representative of the field of psychology insofar as possible.
~~Any vacancy occurring on the board shall be filled by the~~
~~Governor for the unexpired term by a person qualified and~~
34 ~~selected as was the member being replaced. No person may be~~
~~eligible to serve more than 2 full consecutive terms at any one~~
36 ~~time. Upon expiration of a member's term, that member shall~~
~~serve until a successor is qualified and appointed. The~~
38 ~~successor's term shall be 3 years from the date of that~~
40 ~~expiration, regardless of the date of appointment~~ Appointments
of members must comply with section 60. Prior to Before the
42 filling of any vacancies of professional or public members, the
Governor shall solicit recommendations. A board member may be
44 removed by the Governor for cause.

46 Sec. A-244. 32 MRSA §4854, as repealed and replaced by PL
1989, c. 878, Pt. A, §96, is amended to read:

48 §4854. State Board of Veterinary Medicine
50

The State Board of Veterinary Medicine, as established by Title 5, section 12004-A, subsection 42, within the Department of Professional and Financial Regulation, shall consist consists of 6 members, appointed by the Governor, 5 of whom shall must be licensed Maine veterinarians who are residents of this State, and graduates of a veterinary school and who have been licensed to practice veterinary medicine in Maine the State for the 5 years preceding their appointment and one member who shall must be a representative of the public. At least 30 days before the appointment of any a licensed Maine veterinarian to the board, the State Veterinary Medical Association shall forward to the Governor for consideration the names of 3 or more qualified veterinarians. The term of office of each present member of the board shall expire expires as now provided. One new member to be appointed to the board shall serve a 3-year term. One new member to be appointed to the board shall serve a 4-year term. The public member to be appointed to the board shall serve a 5-year term. Thereafter After the initial appointments, all members shall be are appointed for 5-year terms. No person may serve 2 consecutive 5-year terms, but a person appointed for a term of less than 5 years may serve a successive term. Appointments of members must comply with section 60. No A person may not serve on the board who is, or has been during the 2 years preceding appointment, a trustee or a member of the faculty or advisory board of a veterinary school.

Sec. A-245. 32 MRSA §4907, sub-§2, as repealed and replaced by PL 1983, c. 413, §174, is amended to read:

2. Term. Appointments shall be are for 5-year terms, except that no more than one appointed member's term may expire in any one calendar year and appointments for terms of less than 5 years may be made in order to comply with this limitation. No appointed member may be eligible to serve more than 2 full consecutive terms, provided that for this purpose only a period actually served which exceeds 1/2 of the 5-year term shall be deemed a full term. Upon expiration of a member's term, he shall serve until his successor is qualified and appointed. The successor's term shall be 5 years from the date of the expiration, regardless of the date of his appointment. Vacancies occurring prior to the expiration of the specified term shall be filled by appointment for the unexpired term. Appointments of members must comply with section 60. A board member may be removed for cause by the Governor.

Sec. A-246. 32 MRSA §5004, as amended by PL 1991, c. 283, §1, is further amended to read:

§5004. State Board of Licensure for Professional Foresters

-A- The State Board of Licensure for Professional Foresters within the Department of Professional and Financial Regulation, as established by Title 5, section 12004-A, subsection 17, shall administer administers the provisions of this chapter. The board consists of 5 licensed professional foresters and one public member who are selected and appointed by the Governor. Appointments are for 3-year terms, except that no more than one forester member's term may expire in any one calendar year and appointments for terms of less than 3 years may be made to comply with this limitation. Upon expiration of a member's term, that member shall serve until a successor is qualified and appointed. The successor's term is 3 years from the date of the expiration, regardless of the date of appointment. No person may serve more than 3 full consecutive terms. A period actually served that exceeds 1/2 of the 3-year term is considered a full term. Appointments of members must comply with section 60.

Sec. A-247. 32 MRSA §5007, as amended by PL 1983, c. 413, §187, is further amended to read:

§5007. Removal of board members; vacancies

The Governor may remove any a board member for cause. Vacancies in membership of the board shall be filled for the unexpired term in the same manner as for a full term appointment.

Sec. A-248. 32 MRSA §6010, last ¶, as repealed and replaced by PL 1983, c. 413, §197, is amended to read:

Appointments shall be are for 3-year terms, except that the terms of at least 2 members shall expire each calendar year and appointments of less than 3 years may be made in order to comply with this limitation. No person may be eligible to serve more than 2 full consecutive terms, provided that for this purpose only a period actually served which exceeds 1/2 of the 3-year term shall be deemed a full term. Upon expiration of the member's term, he shall serve until his successor is qualified and appointed, and the successor's term shall be 3 years from the date of that expiration regardless of the date of his appointment. Any vacancy on the board shall be filled by appointment by the Governor. Any person appointed to fill a vacancy shall have the same qualifications as the board member being replaced and shall hold office during the unexpired term of the member whose place is filled. Appointments of members must comply with section 60. A board member may be removed by the Governor for cause.

Sec. A-249. 32 MRSA §6208-A, sub-§2, as enacted by PL 1983, c. 413, §211, is amended to read:

2. Term of office. Appointments shall be are for 3-year terms, ~~except that no more than 3 members' terms may expire in any one calendar year and appointments for terms of less than 3 years may be made in order to comply with this limitation. Upon expiration of a member's term, he shall serve until his successor is qualified and appointed. The successor's term shall be 3 years from the date of the expiration, regardless of the date of his appointment. Appointments of members must comply with section 60.~~

Sec. A-250. 32 MRSA §6208-A, sub-§§3 and 4, as enacted by PL 1983, c. 413, §211, are repealed.

Sec. A-251. 32 MRSA §7026, last ¶, as amended by PL 1985, c. 736, §6, is further amended to read:

Appointments shall be are for 3-year terms, ~~except that no more than 3 members' terms may expire in any one calendar year and appointments for terms of less than 3 years may be made in order to comply with this limitation. No person may be eligible to serve more than 2 full consecutive terms, provided that for this purpose only a period actually served which exceeds 1/2 of the 3-year term shall be deemed a full term. Upon expiration of a member's term, he shall serve until his successor is qualified and appointed. The successor's term shall be 3 years from the date of the expiration, regardless of the date of his appointment. Any vacancy occurring prior to the expiration of the specified term shall be filled by appointment for the unexpired term. Appointments of members must comply with section 60.~~

Sec. A-252. 32 MRSA §9552, as amended by PL 1991, c. 827, Pt. A, §77, is further amended to read:

§9552. Membership

The Board of Commercial Driver Education, as established by Title 5, section 12004-A, subsection 12, administers this chapter and is composed of 5 members. The Governor shall appoint 4 members, as follows: Two members must be representatives of Class A schools, as defined in section 9601; one must be a representative of Class B schools, as defined in section 9601; and one member must be a public representative. The 5th member is the Director of the Bureau of Motor Vehicles or that director's designee. The term of office of each member is 4 years, except that, of the 3 school members on the first board appointed under this subchapter, one is appointed for 2 years and one is appointed for 3 years. Thereafter After the initial appointments, appointments are for 4-year terms, ~~except that no more than one school member's term may expire in any one calendar~~

~~year and appointments for terms of less than 4 years may be made in order to comply with this limitation. Appointments of members must comply with section 60. A board member may be removed by the Governor for cause.~~

~~Upon expiration of a member's term, he shall serve until his successor is qualified and appointed. The successor's term shall be 4 years from the date of that expiration, regardless of the date of his appointment. Any vacancy in the board shall be filled by appointment of a person, qualified as was the board member being replaced, to hold office during the unexpired term. No appointed member may be eligible to serve more than 2 full consecutive terms, provided that for this purpose only a period actually served which exceeds 1/2 of the 4-year term shall be deemed a full term. A board member may be removed by the Governor for cause.~~

Sec. A-253. 32 MRSA §9703, sub-§2, as enacted by PL 1985, c. 288, §3, is amended to read:

2. Terms of appointment. To the first board established under this chapter, the Governor shall appoint 2 board members for a term of one year, 2 for a term of 2 years and one for a term of 3 years. Appointments made thereafter shall be after the initial appointments are for 3-year terms, ~~but no person may be appointed to serve more than 3 consecutive terms, provided that, for this purpose only, a period actually served which exceeds 1/2 of a 3-year term shall be deemed a full term. Appointments of members must comply with section 60.~~ Any A member of the board may be removed from office for cause by the Governor.

Sec. A-254. 32 MRSA §9853, sub-§2, as enacted by PL 1983, c. 524, is amended to read:

2. Term of office. The term of office shall be is 3 years, except that of the first appointed members. Of the members first appointed to the board: Four members, including one radiologist, one radiographer, one licensed ~~practitioner~~ practitioner and one public member shall be are appointed to terms of 3 years; 4 members, including one nuclear medicine technologist, one radiation therapy technologist, one licensed practitioner and one radiation physicist shall be are appointed to terms of 2 years; and one radiologist and 2 radiographers shall be are appointed to a term of one year. Appointments of members must comply with section 60.

~~Upon expiration of a member's term, he shall serve until his successor is qualified and appointed. The successor's term shall be 3 years from the date of that expiration, regardless of the date of his appointment. Any vacancy shall be filled by~~

2 appointment-for-the-unexpired-term. A member may be removed by
the Governor for cause.

4 Sec. A-255. 32 MRSA §9903, sub-§2, as enacted by PL 1985, c.
389, §28, is amended to read:

6 2. Terms of appointment. To the first board established
8 under this chapter, the Governor shall appoint 2 board members
for terms of one year, 2 for terms of 2 years and one for a term
10 of 3 years. Appointments made thereafter shall be after the
initial appointments are for 3-year terms, but no person may be
12 appointed to serve more than 3 consecutive terms, provided that
for this purpose only, a period actually served which exceeds 1/2
14 of a 3-year term shall be deemed a full term. Appointments of
members must comply with section 60. Any A member of the board
16 may be removed from office for cause by the Governor.

18 Sec. A-256. 32 MRSA §12213, as repealed and replaced by PL
1989, c. 878, Pt. A, §99, is amended to read:

20 §12213. Appointment

22 The Board of Accountancy, as established by Title 5, section
24 12004-A, subsection 1, shall be within the Department of
Professional and Financial Regulation. The board shall consist
26 consists of 5 members appointed by the Governor. Each member of
the board shall must be a citizen of the United States and a
28 resident of this State. Three members shall must be holders of
certificates issued under section 12227 and of currently valid
30 permits issued under section 12251 and shall must have had, as
their principal occupation, active practice as certified public
32 accountants for at least the 5 preceding years. One member shall
must hold a certificate issued under section 12239, and a
34 currently valid permit issued under section 12251 and shall must
have had, as a principal occupation, active practice as a
36 noncertified public accountant for at least the 5 preceding
years. One member of the board shall must be a representative of
38 the public. Appointments shall be are for 3-year terms and the
term of one member, other than the member registered under
40 section 12239 and the public member, shall expire each calendar
year and appointments of less than 3 years may be made in order
42 to comply with this limitation. Any vacancy occurring during a
term shall be filled by appointment for the unexpired term. Upon
44 the expiration of a member's term of office, that member shall
continue to serve until a successor has been appointed and has
46 qualified and the successor's term shall be 3 years from the date
of the expiration, regardless of the date of appointment. No
48 person may be eligible to serve more than 3 full consecutive
terms provided that, for this purpose only, a period actually
50 served which exceeds 1/2 of the 3-year term shall be deemed a

2 full term. Appointments of members must comply with section 60.
The Governor shall may remove any a member of the board for cause.

4 Sec. A-257. 32 MRSA §12406, sub-§2, as enacted by PL 1987, c.
488, §3, is amended to read:

6 2. Terms of office. Appointments shall be are for 3-year
8 terms, except that no more than 3 members' terms may expire in
any calendar year and appointments for terms of less than 3 years
10 may be made in order to comply with this limitation. No person
may be eligible to serve more than 3 full consecutive terms,
12 provided that for this purpose only, a period actually served
which exceeds 1/2 of the 3-year term shall be deemed a full term.
Upon expiration of a member's term, he shall serve until his
14 successor is qualified and appointed. The successor's term shall
be 2 years from the date of the expiration, regardless of the
16 date of his appointment. Any vacancy occurring prior to the
expiration of the specified term shall be filled by appointment
for the unexpired term. Appointments of members must comply with
20 section 60.

22 Sec. A-258. 32 MRSA §13062, sub-§§4, 6 and 7, as enacted by PL
1987, c. 395, Pt. A, §212, are amended to read:

24 4. Terms; removal. Terms of the members of the commission
shall be are for 3 years. No person may be appointed for more
26 than 2 consecutive 3-year terms. Members may be removed by the
Governor for cause.

28 6. Appointments. The members of the commission shall be are
appointed by the Governor, subject to review by the joint
30 standing committee of the Legislature having jurisdiction over
business legislation and to confirmation by the Senate.
Appointments shall be made for a 3-year term, except that at
32 least one appointive member's term shall expire each calendar
year and appointments for terms of less than 3 years may be made
34 in order to comply with this limitation. No person may be
eligible to serve more than 2 full consecutive terms, provided
36 that for this purpose only a period actually served which exceeds
1/2 of the 3-year term shall be deemed a full term. Upon
38 expiration of a member's term, he shall serve until his successor
is qualified and appointed. The successor's term shall be 3 years
40 from the date of that expiration, regardless of the date of his
appointment. Appointments of members must comply with section 60.

42 7. Chair. The commission shall annually elect a chairman
44 chair from its members.

46 Sec. A-259. 32 MRSA §13501, last ¶, as enacted by PL 1987, c.
48 395, Pt. A, §212, is amended to read:

2 Appointments shall be ~~are~~ for 3-year terms, ~~except that no~~
3 ~~more than 3 members' terms may expire in any one calendar year.~~
4 ~~Appointments for terms of less than 3 years may be made in order~~
5 ~~to comply with this limitation. No person may be eligible to~~
6 ~~serve more than 3 full consecutive terms, provided that for this~~
7 ~~purpose only a period actually served which exceeds 1/2 of the~~
8 ~~3-year term shall be deemed a full term. Upon expiration of a~~
9 ~~member's term, he shall serve until his successor is qualified~~
10 ~~and appointed. The successor's term shall be 3 years from the~~
11 ~~date of that expiration, regardless of the date of his~~
12 ~~appointment. Any vacancy shall be filled by appointment for the~~
13 ~~unexpired term. Appointments of members must comply with section~~
14 ~~60. A member may be removed by the Governor for cause.~~

16 Sec. A-260. 32 MRSA §13715, as enacted by PL 1987, c. 710,
17 §5, is repealed.

18 Sec. A-261. 32 MRSA §13715-A is enacted to read:

20 §13715-A. Terms of office

22 1. Length. Members of the board are appointed for terms of
24 3 years. Appointments of members must comply with section 60.

26 2. Grounds for removal. The Governor may remove a member of
28 the board for cause.

30 Sec. A-262. 32 MRSA §13734, sub-§3, as enacted by PL 1987, c.
31 710, §5, is amended to read:

32 3. Fees. The board shall specify by rule the procedures to
33 be followed, in addition to those specified by section ~~13715~~
34 ~~13715-A~~, and the fees to be paid for renewal of licenses.

36 Sec. A-263. 32 MRSA §13741, 3rd ¶, as enacted by PL 1987, c.
37 710, §5, is amended to read:

38 If, in the opinion of the board, the factual basis of the
39 complaint is or may be true and ~~it~~ the complaint is of sufficient
40 gravity to warrant further action, the board may request an
41 informal conference with the licensee. The board shall provide
42 the licensee with adequate notice of the conference and of the
43 issues to be discussed. The conference shall must be conducted in
44 executive session of the board, pursuant to Title 1, section 405,
45 unless otherwise requested by the licensee. Statements made at
46 the conference may not be introduced at a subsequent formal
47 hearing unless all parties consent.

2 Sec. A-264. 32 MRSA §13852, sub-§4, as enacted by PL 1989, c.
3 465, §3, is amended to read:

4 4. Terms of office. Of the first board members, the
5 Governor shall appoint 3 for a term of one year; 3 for 2 years;
6 and 2 for 3 years. Their successors shall be ~~are~~ appointed for
7 terms of 3 years each, ~~except that any person chosen to fill a~~
8 ~~vacancy shall be appointed only for the unexpired term of the~~
9 ~~board member to be succeeded. Upon the expiration of the term of~~
10 ~~office, a board member shall continue to serve until a successor~~
11 ~~has been appointed and qualified. No person may be appointed for~~
12 ~~more than 2 consecutive terms. Appointments of members must~~
13 ~~comply with section 60.~~

14 Sec. A-265. 32 MRSA §13902, sub-§2, as enacted by PL 1989, c.
15 346, §3, is amended to read:

16 2. Terms of appointment; removal. Appointments shall be
17 ~~are~~ for 5-year terms, ~~except that no more than one land surveyor~~
18 ~~member's term may expire in any one calendar year and~~
19 ~~appointments for terms of less than 5 years may be made in order~~
20 ~~to comply with this limitation. No person may be eligible to~~
21 ~~serve more than 3 full consecutive terms, provided that for this~~
22 ~~purpose only a period actually served which exceeds 1/2 of the~~
23 ~~5-year term shall be deemed a full term. Upon expiration of a~~
24 ~~member's term, the member shall serve until that member's~~
25 ~~successor is qualified and appointed. The successor's term shall~~
26 ~~be 5 years from the date of that expiration, regardless of the~~
27 ~~date of the appointment. Appointments of members must comply~~
28 ~~with section 60.~~

29 The Governor may remove any a member of the board for cause.
30 Vacancies in the membership of the board shall be filled for the
31 unexpired term by appointment by the Governor.

32 Sec. A-266. 32 MRSA §13967, sub-§5, as enacted by PL 1989, c.
33 806, §3, is amended to read:

34 5. Terms of office. Of the first board members, the
35 Governor shall appoint one for a term of one year; one for 2
36 years; and 3 for 3 years. Their successors must be ~~are~~ appointed
37 for terms of 3 years each, ~~except that any person chosen to fill~~
38 ~~a vacancy must be appointed only for the unexpired term of the~~
39 ~~board member to be succeeded. Upon the expiration of the term of~~
40 ~~office, a board member shall continue to serve until a successor~~
41 ~~has been appointed and qualified. A person may not be appointed~~
42 ~~for more than 2 consecutive terms. Appointments of members must~~
43 ~~comply with section 60.~~

2 Sec. A-267. 32 MRSA §14211, sub-§1, as corrected by RR 1991,
3 c. 1, §47, is amended to read:

4 1. **Membership.** The Board of Barbering and Cosmetology, as
5 established by Title 5, section 12004-A, subsection 6, consists
6 of 11 members who must be citizens of this State and have
7 practiced in their respective fields for at least 3 years
8 immediately prior to their appointment. Of the members, 4 must
9 be licensed as cosmetologists, one must be licensed as a
10 cosmetologist and instructor of cosmetology, 4 must be licensed
11 as barbers and 2 must be representatives of the public.

12 The members of the board are appointed by the Governor for terms
13 of 3 years. ~~None of the members are eligible to serve more than~~
14 ~~3 consecutive 3-year terms or to serve more than 9 years~~
15 ~~consecutively, for this purpose only, a period actually served~~
16 ~~that exceeds 1/2 of the 3-year term is deemed a full term. Upon~~
17 ~~expiration of a member's term, that member shall serve until a~~
18 ~~successor is qualified and appointed. The successor's term is 3~~
19 ~~years from the date of the expiration, regardless of the date of~~
20 ~~appointment. Appointments of members must comply with section~~
21 ~~6Q. During their membership on the board, the cosmetologist and~~
22 ~~barber members must hold valid licenses and be actively engaged~~
23 ~~in their practices. A board member may be removed by the~~
24 ~~Governor for cause.~~

25 ~~Any vacancy in the board must be filled by the appointment by the~~
26 ~~Governor of a person with the same qualifications as the board~~
27 ~~member being replaced to hold office for the remainder of the~~
28 ~~unexpired term.~~

29 A person operating or employed by a school of cosmetology or
30 school of barbering may not be appointed as a member of the
31 board. If a member of the board, after appointment, becomes
32 affiliated in any way with such a school, that person's
33 membership on the board immediately terminates and the unexpired
34 term of that member must be filled by the Governor.

35 Sec. A-268. 34-B MRSA §1211, as amended by PL 1989, c. 503,
36 Pt. B, §162, is further amended to read:

37 **§1211. Maine Developmental Disabilities Council**

38 1. **Establishment.** The Governor shall establish a ~~State~~
39 ~~Planning and Advisory Council on the~~ Maine Developmental
40 ~~Disabilities Council~~, as authorized by Title 5, section 12004-I,
41 subsection 66.

42 2. **Appointments.** Appointments to the council are governed
43 as follows.

44 A. The Governor shall appoint appropriate representatives
45 to the council as are required as a condition of eligibility
46 for benefits under the "Amendments to the Developmental
47 Disabilities Services and Facilities Construction Act of
48 1978," Public Law 93-288, United States Code, Title 42,
49 Section 6000 et seq.

50 B. The Governor shall ensure that there is at least one
representative from each of the regions established by the
department, except that regional representatives may not be
in addition to those required by the United States Code,
Public Law 93-288.

 3. **Duties.** The council shall consult with and coordinate
with the commissioner in carrying out the purposes of the program
established under the federal act specified in subsection 2.

 4. **Departmental role.** The department's role under this
section is as follows.

 A. Except where a single state agency is otherwise
designated or established in accordance with any ~~other~~
another state law, the department is designated to be the
sole agency of the State:

(1) To develop jointly with the council the statewide
plan required by the federal act specified in
subsection 2; and

(2) To be the sole administering agency for that plan,
which plan is now or may later be required as a
condition to the eligibility for benefits under the
federal act specified in subsection 2.

 B. The department may receive, administer and expend any
funds that may be available under the federal act specified
in subsection 2 or from any other sources, public or
private, for these the purposes of this section.

 Sec. A-269. 36 MRSA §5285, as amended by PL 1993, c. 253, §2,
is further amended to read:

§5285. Maine Children's Trust Fund; checkoff

 1. **Maine Children's Trust Fund.** Taxpayers who, when filing
their returns, are entitled to a refund under this Part may
designate that a portion of that refund be paid into the Maine
Children's Trust Fund established in Title 22, chapter 1053
1058. Each individual income tax return form must contain a

2 designation in substantially the following form: "Contributions
to Maine Children's Trust Fund: () \$5, () \$10, () \$25 or
4 () Other \$."

6 2. Contributions credited to the Maine Children's Trust
Fund. The State Tax Assessor shall determine annually the total
8 amount contributed pursuant to subsection 1. Prior to the
beginning of the next year, he ~~the State Tax Assessor~~ shall
10 deduct the cost of administering the Maine Children's Trust Fund
checkoff, but not exceeding \$2,000 annually, and report the
12 remainder to the Treasurer of State, who shall credit forward
that amount to the Maine Children's Trust Fund, which is
14 established in Title 22, chapter 105B 105B. Interest earned by
contributions ~~in to the fund prior to transfer to the fund~~ shall
16 ~~must~~ be credited to the fund.

18 ~~3.---Limitation on contributions.---When the total amount of
the fund reaches \$4,000,000, the State Tax Assessor shall stop
crediting contributions to the fund and shall treat amounts
20 designated by taxpayers as if there had been no designation.~~

22 Sec. A-270. 38 MRSA §89, as amended by PL 1989, c. 503, Pt.
B, §174, is further amended to read:

24 **§89. Maine State Pilotage Commission**

26 The Maine State Pilotage Commission, as established by Title
28 5, section 12004-A, subsection 40, shall ~~consist~~ consists of 5
members appointed by the Governor as follows: Three shall must be
30 licensed pilots representing the Penobscot Bay and the Penobscot
River, Bar Harbor ~~---Eastport Harbor to Eastport~~ and Bath; one
32 shall must represent the marine industry interests; and one, with
a marine background, shall must represent the public. Each member
34 shall ~~serve for a term of 3 years or until a successor is
appointed and qualified. Any vacancy which may occur in the
36 commission shall be filled by the Governor for the remainder of
the unexpired term. Any member shall be eligible to serve a
38 successive term. Appointments are for 3-year terms. Appointments
of members must comply with Title 32, section 60.~~ The members of
40 the commission shall ~~be compensated~~ are entitled to compensation
according to Title 5, chapter 379.

42 Sec. A-271. Distribution of materials. The distribution of the
44 background material required pursuant to the Maine Revised
Statutes, Title 10, section 8005 to prospective members of
46 professional regulatory boards must begin no later than 6 months
following the effective date of this Act.

2 PART B

4 Sec. B-1. 5 MRSA §12004-G, sub-§18, as enacted by PL 1987, c.
786, §5, is repealed.

6 Sec. B-2. 22 MRSA §2013-A, sub-§1, ¶¶C and D, as enacted by PL
8 1989, c. 72, §2, are amended to read:

10 C. Physicians and medical staff pursuant to this paragraph:

12 (1) Physicians, physician assistants, family nurse
practitioners, Medicare-certified rural health clinics,
14 professional associations or group practices performing
only tests acceptable to the department and ~~the~~
16 ~~commission~~, as defined by rule, exclusively for the
examination of their own patients; and

18 (2) Physicians, physician assistants, family nurse
practitioners, Medicare-certified rural health clinics,
20 professional associations or group practices performing
tests, other than those listed in subparagraph (1),
22 exclusively for the examination of their own patients
24 are subject only to sections 2024, 2025 and 2039.

26 Notwithstanding subparagraphs (1) and (2), laboratories
incorporated for the mutual use of physician or group
28 practice owners shall be subject to all provisions of this
Act;

30 D. Medical laboratories in a school, college, university or
industrial plant which are under the direct supervision of,
32 and which services are used exclusively by, a duly licensed
physician and which perform only tests acceptable to the
34 department and ~~the commission~~; otherwise, only sections
2024, 2025 and 2039 apply;

36 Sec. B-3. 22 MRSA §2013-A, sub-§1, ¶E, as amended by PL 1989,
c. 456, §1, is further amended to read:

38 E. Laboratories operated and maintained for research and
teaching purposes which are recognized by the department
42 after ~~consultation with the commission~~ or involve no patient
or public health service;

44 Sec. B-4. 22 MRSA §2013-A, sub-§1, ¶G, as amended by PL 1989,
c. 665, §1, is further amended to read:

46 G. Laboratory services performing health screening tests as
48 defined and regulated by rule adopted by the department and
50

2 the--commission. Services exempted under this paragraph
include, but are not limited to, the performance of
4 screening tests for cholesterol and colon cancer.

6 Sec. B-5. 22 MRSA §2014, sub-§1, as repealed and replaced by
PL 1975, c. 218, is repealed.

8 Sec. B-6. 22 MRSA §2015, first ¶, as repealed and replaced by
PL 1975, c. 218, is amended to read:

10 The department, ~~with the approval of the commission,~~ shall
12 issue a medical laboratory license to any medical laboratory
14 which has applied for said license on forms provided by the
department and which is found to be in compliance with this Act.

16 Sec. B-7. 22 MRSA §2021, as repealed and replaced by PL 1975,
c. 218, is amended to read:

18 **§2021. Use**

20 All fees charged and collected by the department shall be
22 deposited by it in the State Treasury to the credit of the
department. All such ~~moneys are~~ money is appropriated to be used
24 by the department in carrying out this Act. The expenditures of
the department ~~and commission~~ may be paid from ~~such moneys~~ that
26 money.

28 Sec. B-8. 22 MRSA §2023, first ¶, as repealed and replaced by
PL 1975, c. 218, is amended to read:

30 The department ~~with the approval of the commission~~ shall
32 prescribe and publish rules and regulations for medical
laboratories. These rules and regulations shall relate to:

34 Sec. B-9. 22 MRSA §2023, sub-§4, as amended by PL 1989, c. 72,
36 §3, is further amended to read:

38 4. **Equipment.** Equipment essential in the opinion of the
department ~~and the commission~~ to proper conduct and operation of
40 a medical laboratory; and

42 Sec. B-10. 22 MRSA §2025, as repealed and replaced by PL
1987, c. 211, §8, is amended to read:

44 **§2025. Performance evaluation**

46 The department shall require the demonstration of
48 proficiency in the performance of the tests offered by
laboratories subject to licensure or the provisions of this
50 paragraph through successful participation in a proficiency

2 testing program acceptable to the department ~~and the commission~~
covering all categories or subcategories in which testing is
4 offered. Evaluated copies of results shall be forwarded to the
department.

6 Sec. B-11. 22 MRSA §2026, as amended by PL 1989, c. 503, Pt.
B, §88, is repealed.

8 Sec. B-12. 22 MRSA §2027, as amended by PL 1983, c. 812,
10 §123, is repealed.

12 Sec. B-13. 22 MRSA §2028, as repealed and replaced by PL
1975, c. 218, is repealed.

14 Sec. B-14. 22 MRSA §2029, as amended by PL 1987, c. 211, §10,
16 is further amended to read:

18 **§2029. Director**

20 Every medical laboratory shall have a director who is a
legal resident of the State of Maine, except under certain
22 conditions which may be designated by the ~~commission~~ and
department. ~~He~~ The director shall also possess one of the
24 following qualifications:

26 1. **Certification.** ~~He is~~ Is a physician licensed to practice
medicine in the State of Maine, certified by the American Board
of Pathology or the American Osteopathic Board of Pathology, or
28 who possesses qualifications acceptable to the department ~~and the~~
~~commission~~ and equivalent to such certification;

30 2. **Special qualifications.** ~~He is~~ Is a physician licensed to
32 practice medicine with special qualifications acceptable to the
department ~~and the commission~~; or

34 3. **Qualified persons other than physicians.** ~~He has~~ Has an
36 earned doctorate degree in a chemical, physical or biological
science from an accredited institution and either is certified in
38 at least one laboratory specialty by the American Board of
Clinical Chemistry, American Board of Medical Microbiology or
40 other national accrediting board acceptable to the department ~~and~~
~~the commission~~. Medical laboratories directed by persons
42 qualified under this subsection shall only perform those
44 examinations within the scientific area in which members of the
staff are trained and certified.

46 ~~He~~ A medical laboratory may not perform examinations in the
48 field of pathologic anatomy, including exfoliative cytology,
unless the director or an employee of the laboratory is a
50 diplomate of the American Board of Pathology certified in

2 pathologic anatomy or the American Osteopathic Board of Pathology
3 certified in pathologic anatomy, or unless he the director is a
4 physician licensed to practice medicine in the State who
5 possesses special qualifications acceptable to the department and
6 the ~~commission~~, or unless he the director is a dentist licensed
in Maine and is certified by the American Board of Oral Pathology.

8 **Sec. B-15. 22 MRSA §2030, sub-§2**, as enacted by PL 1989, c.
9 665, §2, is amended to read:

10 **2. Exceptions.** Notwithstanding this section, a medical
11 laboratory may examine specimens without a physician referral for
12 a limited number of laboratory services to be determined by rules
13 adopted by the department and ~~the commission~~. Those services
14 include testing for:

- 15 A. Glucose for patients who have been previously diagnosed
16 as having diabetes;
17 B. Pregnancy;
18 C. Colon cancer; and
19 D. Cholesterol.

20 **Sec. B-16. 22 MRSA §2036**, as repealed and replaced by PL
21 1975, c. 218, is amended to read:

22 **§2036. Hearing**

23 Before suspension or revocation of its license, if
24 requested, a hearing shall must be held ~~before a meeting of the~~
25 ~~commission~~ to show cause why a license should not be suspended or
26 revoked.

27 **Sec. B-17. 22 MRSA §2040**, as amended by PL 1981, c. 470, Pt.
28 A, §81, is further amended to read:

29 **§2040. Appeal**

30 Any person aggrieved by a decision of the department ~~of the~~
31 ~~commission~~ may appeal to the Administrative Court Judge under
32 Title 5, chapter 375.

33 **Sec. B-18. 24 MRSA §2339, sub-§2, ¶B**, as enacted by PL 1989,
34 c. 588, Pt. A, §47, is amended to read:

35 B. Laboratory services provided by medical laboratories
36 ~~licensed in accordance with the Maine Medical Laboratory~~
37 ~~Commission~~, licensed by an equivalent out-of-state licensing
38 Commission, authority or by a hospital, excluding those licensed
39 laboratories owned by a community health center, a physician
40 or group of physicians where the laboratory services are
41 offered solely to the patients of the center, the physician
42 or group of physicians;

2 authority or by a hospital, excluding those licensed
3 laboratories owned by a community health center, a physician
4 or group of physicians where the laboratory services are
5 offered solely to the patients of the center, the physician
6 or group of physicians;

7 **Sec. B-19. 24-A MRSA §2677, sub-§2, ¶B**, as enacted by PL 1989,
8 c. 588, Pt. A, §54, is amended to read:

9 B. Laboratory services provided by medical laboratories
10 ~~licensed in accordance with the Maine Medical Laboratory~~
11 ~~Commission~~, licensed by an equivalent out-of-state licensing
12 authority or by a hospital, excluding those licensed
13 laboratories owned by a community health center, a physician
14 or group of physicians where the laboratory services are
15 offered solely to the patients of the center, the physician
16 or group of physicians;

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

19 **STATEMENT OF FACT**

20 **PART A**

21 Sections 1 and 3 update the sunset law.

22 Section 2 updates the sunset law and removes the Maine
23 Medical Laboratory Commission from that law.

24 Sections 4 and 268 change the name of the State Planning and
25 Advisory Council on Developmental Disabilities to the Maine
26 Developmental Disabilities Council.

27 Sections 5, 8 and 10 internalize the State Board of
28 Optometry and the Board of Licensure of Podiatric Medicine within
29 the Department of Professional and Financial Regulation.

30 Sections 6, 7 and 9 update the names of boards.

31 Section 11 requires all boards or commissions, within the
32 limits of available revenues, to join or subscribe to a national
33 disciplinary record system.

34 Sections 12 and 271 require the preparation of certain
35 information for prospective board members, authorize automatic
36 reappointment for acceptable board members, set an outside date
37 for making a reappointment and clarify the purpose of a
38 professional regulatory board.

2 Sections 13, 14, 22, the Maine Revised Statutes, Title 32,
section 60, 32, 33, 38, 96 to 102, 134 to 136, 139, 190, 192,
4 222, 243 to 261, 264 to 267 and 270 standardize the appointment
process for members of all internal and affiliated boards.

6 Sections 15, 16 and 269 reestablish the Maine Children's
Trust Fund as a private nonprofit corporation.

8 Section 17 repeals the provision prohibiting a state
10 employee from serving as chair of the Governor's Committee on
Employment of People with Disabilities.

12 Sections 18, 19, 23, 25 to 27, 29, 30, 34 to 36, 39, 40, 42
14 to 48, 53, 55, 56, 59, 62, 65, 66, 69 to 72, 74, 75, 78, 79, 81
to 83, 86, 87, 90, 93, 104 to 108, 110, 112 to 114, 119, 120, 122
16 to 124, 126 to 129, 131 to 133, 137, 138, 142, 143, 146, 151,
154, 156 to 158, 163, 167, 170 to 175, 177 to 179, 181 to 187,
18 189, 191, 193, 195 to 211, 213 to 218, 221, 225, 227, 230, 231,
20 234 to 238, 240 and 262 update the governing statutes to clarify
meaning, eliminate archaic and gender-specific language, comply
22 with drafting convention and correctly reflect the degree of
regulation imposed by professional regulatory boards.

24 Section 20 authorizes the Governor's Committee on Employment
of People with Disabilities to accept contributions of any type
26 from any source.

28 Section 21 updates language, broadens the Tribal-State
Commission's authority to accept funds and authorizes it to
30 receive a single state allotment for each fiscal year.

32 Section 22 requires all boards to develop a consumer rights
brochure, standardizes the appointment process for all boards and
34 requires complaints about board procedure to be filed with the
Attorney General.

36 Section 24 clarifies legislative intent by reverting the
Nursing Home Administrators to a 7-member board, clarifies a
38 quorum and standardizes the appointment process.

40 Sections 28, 41, 57, 111 and 212 require an informal
42 conference mandated in executive session to comply with the
Freedom of Access Law, updates language for the disciplinary
44 infraction regarding habitual intemperance and updates language
for several boards.

46 Section 31 requires an informal conference mandated in
48 executive session to comply with the Freedom of Access Law.

2 Section 37 updates the name of the Board of Chiropractic
Licensure.

4 Sections 49, 50, 68 and 95 update, clarify and make
consistent the provision regarding penalty for unlicensed and
6 unlawful practice for the dental board.

8 Section 51 standardizes the appointment process for the
dental board, changes the board term of the dental hygienist from
10 4 to 5 years and clarifies that the Governor may accept
nominations from professional associations.

12 Section 52 reflects the dental board's current practice of
using a national or regional licensing exam and repeals the
14 requirement of submitting a list of licensees to the Secretary of
State.

16 Sections 54, 60, 63, 76, 80, 85, 125, 130 and 239 raise caps
18 on various fees and update language.

20 Section 58 adds a nurse anesthetist to the list of
22 professionals who are qualified to administer anesthesia for a
dental operation, clarifies that each dental office need not be
24 registered with the board and that each office must be under the
general supervision of a licensed dentist and updates the dental
26 board governing statute.

28 Section 61 clarifies that a license must be signed by all
members of the board, that a dentist must publicly display the
30 dentist's license and that the board is not required to reissue a
practitioner's license who otherwise qualifies for renewal but
32 who fails to remit the fee by a certain date. This section also
increases a fee cap.

34 Section 64 authorizes the issuance of licensure for an
internship in this State solely on the basis of active licensure
36 outside the State.

38 Section 67 repeals the requirement that the board prescribe
40 forms for written prescriptions and updates language.

42 Section 73 repeals the requirement that the Commissioner of
Professional and Financial Regulation provide certain technical
44 assistance to the dental board and updates language.

46 Section 77 raises the fee cap and authorizes the board to
48 issue temporary licenses to dental hygienists.

2 Section 84 authorizes the board to recognize a nationally or
regionally administered examination, raises fee caps and repeals
an antiquated provision.

4 Sections 88, 89, 91 and 92 clarify that radiographers may
6 practice only under the general supervision of a dentist.

8 Section 94 raises the fee cap and updates for the dental
board the language on habitual intemperance.

10 Section 103 clarifies the legislative intent of the nursing
12 board.

14 Section 109 broadens the options available to the nursing
board in addressing nursing education programs that fail to
16 maintain educational standards.

18 Section 115 specifies that the term of appointment for
members of the nursing board is 4 years and standardizes the
20 appointment process.

22 Section 116 specifies that one of the 5 nurse members of the
board must be practicing long-term-care nursing.

24 Sections 117 and 118 update powers and duties of the board
and authorize the board to contract for needed goods or services.

26 Section 121 broadens the qualifications for licensure in
nursing in order to include various credentials.

28 Section 140 requires the board to meet at least once per
30 year in the capital area and repeals the stipend for board
secretary.

32 Section 141 reorganizes the statute governing optometric
34 regulation to improve clarity.

36 Sections 144, 153, 188, 219 and 220 require several boards
to comply with a universal requirement to develop a consumer
information brochure.

40 Section 145 authorizes the optometry board to require
42 continuing education for certain applicants.

44 Sections 147, 159, 160, 161 and 162 update the penalty for
46 practicing without an optometric license and make the provision
consistent with other boards.

48 Section 148 requires the optometry board to offer the
50 licensing exam at least twice per year and increases a fee cap.

2 Section 149 raises fee caps, affirms that optometrists, not
office locations, are subject to licensure and repeals a
4 requirement to reactivate a nonactive license.

6 Section 150 repeals the provision establishing licensure by
8 reciprocity.

10 Section 152 increases the maximum number of hours of
continuing education that the board may require, repeals the
board authority to expend renewal fees to contract with
12 institutions of higher learning to provide optometric educational
programs and repeals the prohibition against requiring a greater
14 number of hours of continuing education than are available within
Maine.

16 Section 155 requires an informal conference mandated in
18 executive session to comply with the Freedom of Access Law,
updates language for the disciplinary infraction regarding
20 habitual intemperance, clarifies board authority in 2 cases and
repeals the prohibition against house-to-house solicitation.

22 Section 164 clarifies board representation and standardizes
24 the appointment process.

26 Section 165 updates the duties of the board treasurer,
clarifies a current requirement to distribute certain materials,
28 clarifies that a license may be granted only by a vote of a
majority of the board and repeals the requirement that the board
30 set a reregistration fee annually.

32 Section 166 clarifies the nature of the board's relationship
with other entities and repeals the requirement for an additional
34 staff person for complaint processing.

36 Section 168 clarifies licensure requirements.

38 Section 169 authorizes the board to set fees.

40 Section 176 clarifies procedure for complaint notification,
requires an informal conference mandated in executive session to
42 comply with the Freedom of Access Law and updates language for
the disciplinary infraction regarding habitual intemperance.

44 Section 180 clarifies that a physician assistant may not
46 employ a supervisory physician for the purpose of subverting a
requirement for practice.

48 Section 194 eliminates the board position of treasurer for
50 the Board of Medicine.

2 Section 223 clarifies definitions for podiatry and broadens
the scope of practice to include the human foot and ankle.

4 Sections 224 and 226 repeal and replace the penalty section
6 for unlawful practice in the podiatry statute to make it
consistent with other boards and to update the language.

8 Section 228 changes the composition of the podiatric board
10 and standardizes the appointment process.

12 Section 229 clarifies meeting frequency for the podiatry
board, changes the quorum from 4 to 3 and clarifies that a
14 license to practice must be granted by a majority of the board.

16 Sections 232 and 233 update the powers and duties of the
podiatry board to clarify the board's authority and
18 responsibility to maintain records.

20 Section 239 raises caps on fees for the podiatry board,
clarifies requirements for late fees and updates language.

22 Section 241 strikes the requirement that an applicant
24 seeking a reciprocal license must have a license from a state
that grants reciprocity to Maine and increases the license fee
26 cap.

28 Section 242 amends the podiatry board's authority to take
disciplinary action, requires the informal conference mandated in
30 executive session to comply with the Freedom of Access Law and
updates language for the disciplinary infraction regarding
32 habitual intemperance.

34 Section 263 requires an informal conference mandated in
executive session to comply with the Freedom of Access Law.

36 PART B

38 Part B repeals the Maine Medical Laboratory Commission.