

MAINE STATE LEGISLATURE

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L.D. 1942

DATE: 3/23/94

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BUSINESS LEGISLATION

Reported by: Senator Cianchette of Somerset

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**STATE OF MAINE
SENATE
116TH LEGISLATURE
SECOND REGULAR SESSION**

COMMITTEE AMENDMENT "A" to S.P. 720, L.D. 1942, Bill, "An Act to Clarify and Make Technical Changes to Various Professional Licensing Board Laws"

Amend the bill by striking out all of that part designated "PART A" and inserting in its place the following:

'Sec. A-1. 32 MRSA §63-A, sub-§1, as amended by PL 1991, c. 341, §3, is further amended to read:

1. Membership. The Nursing Home Administrators Licensing Board, as established by Title 5, section 12004-A, subsection 23, consists of -8- 7 members appointed by the Governor. The members must be citizens of the United States and residents of this State. ~~One member must be a hospital administrator with not less than 5 years of active practice in the State as a hospital administrator.~~ One member must be a registered nurse with not less than 5 years of active practice in nursing homes in the State. Two members must be representatives of the public. Three members must be administrators of nursing homes with not less than 5 years of active experience in the State. One member must be an administrator of an intermediate care facility for the mentally retarded with not less than 5 years of active practice in that capacity.

Sec. A-2. 32 MRSA §1102, sub-§8 is enacted to read:

8. Gas installers. A person duly licensed under chapter 33 or chapter 49 when installing natural gas utilization equipment, subject to the restrictions of that person's license.

Sec. A-3. 32 MRSA §1203, 2nd ¶, as amended by PL 1983, c. 204, §3, is further amended to read:

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2 Applications for a first examination shall must be received
by the board at least 15 days prior to a scheduled meeting of the
4 board. ~~Any person failing to pass his first such~~ An applicant who
~~has failed the examination shall be reexamined at any subsequent~~
6 ~~meeting of~~ is permitted to take the board, ~~within one year of~~
~~such first examination again as often as necessary,~~ upon timely
8 payment of an additional examination fee ~~of 1/2 of the regular~~
~~application fee as set forth in this section and thereafter shall~~
10 ~~be examined as often as he may desire, upon payment of the full~~
~~application fee for each examination.~~

12 **Sec. A-4. 32 MRSA §1660-A, sub-§2,** as amended by PL 1983, c.
413, §82, is further amended to read:

14 **2. Membership.** Members of the board shall must be
16 residents of the State. The board shall ~~consist~~ consists of ~~5-~~
~~the following 9 members:~~ five licensed hearing aid dealers and
18 fitters, one licensed physician, one licensed audiologist, ~~one~~
~~member of the Maine Committee on Aging,~~ and ~~one representative~~ 2
20 representatives of the public. Each hearing aid dealer and fitter
22 on the board shall must have had not less than 5 years of
experience and shall must hold a valid license as a hearing aid
24 dealer and fitter, as provided under this chapter.

26 **Sec. A-5. 32 MRSA §2351, first ¶,** as amended by PL 1989, c.
503, Pt. B, §135, is further amended to read:

28 An The Oil and Solid Fuel Board, as established by Title 5,
30 section 12004-A, subsection 27, and in this chapter called the
"board," shall ~~consist~~ consists of the Commissioner of
32 ~~Professional and Financial Regulation or a representative~~
~~appointed by the commissioner, the Commissioner of Public Safety~~
34 or a representative and ~~5-~~ 6 other members, called in this
chapter the "appointive members," who shall ~~be~~ are appointed by
36 the Governor.

38 **Sec. A-6. 32 MRSA §2351, 2nd ¶,** as amended by PL 1983, c. 413,
§117, is further amended to read:

40 Three of the appointive members shall must be oil burner
42 technicians who are active in the trade. One of the members shall
must have at least 5 years' experience and the other 2 members
44 shall must have at least 10 years' experience as ~~such~~ oil burner
technicians. Nominees for appointment of the oil burner
46 technician members may be recommended to the Governor by the
Maine Oil Dealers Association. One of the appointive members
48 shall must be a representative of the solid fuel burning industry
and, one shall must be a representative of the public and one
50 must be a manufacturer, importer or wholesaler or a designee of a
manufacturer, importer or wholesaler of the type of equipment
52 requiring product registration pursuant to section 2312.

2 **Sec. A-7. 32 MRSA §5017**, as amended by PL 1987, c. 395, Pt.
A, §189, is repealed and the following enacted in its place:

4 **§5017. Reciprocity**

6 A person who is not a resident and has no established place
7 of business in the State or who has recently become a resident in
8 the State may be granted a license by reciprocity if:

10 1. Licensed as forester. That person is licensed as a
11 forester in that person's home state or country;

12 2. Equivalent requirements for licensure. That person's
13 home state or country has substantially equivalent requirements
14 for licensure; and

15 3. Same rules of reciprocity observed. That person's home
16 state or country observes the same rules of reciprocity in regard
17 to persons licensed under this chapter.

18 The board shall determine whether the requirements for
19 licensure from another state or country are equivalent to the
20 requirements for licensure in this State.

21 **Sec. A-8. 32 MRSA §7060**, as amended by PL 1987, c. 769, Pt.
22 A, §122, is further amended to read:

23 **§7060. Expiration and renewals**

24 Licenses shall expire biennially on December 31st or at such
25 other times as the Commissioner of Professional and Financial
26 Regulation may designate. Biennial fees for renewal of license
27 shall licenses must be set by the board in an amount not to
28 exceed those amounts specified in section 7056 and shall ~~be~~ are
29 due and payable biennially on or before the first day of
30 January. License renewal fees for certified social workers shall
31 be are the same as those for licensed master social workers.
32 ~~Every-2nd~~ Each renewal shall ~~be~~ is contingent upon evidence of
33 participation in a continuing professional education course or
34 program as approved by the board. A license may be renewed up to
35 90 days after the date of expiration upon payment of a late fee
36 of \$10 in addition to the renewal fee. Any person who submits an
37 application for renewal more than 90 days after the renewal date
38 shall ~~be~~ is subject to all requirements governing new applicants
39 under this chapter, except that the board may in its discretion,
40 giving due consideration to the protection of the public, waive
41 examination if the renewal application is made within 2 years
42 from the date of the expiration.

43 The board shall adopt rules that provide ~~by-regulation~~ that
44 a person licensed under this chapter may, upon written request,
45 be placed in an inactive status. Reasons for granting inactive
46 status shall be:

status shall include, but are not be limited to, changes in occupation, residence and health. The payment of fees shall must be suspended during the term of inactive status. The board shall also adopt rules by which a person in an inactive status may be reinstated. A person may be reinstated to active status by ~~notifying the commissioner and by~~ paying the fees for the year of reinstatement ~~if the requirements set by the board are met.~~

The board shall notify every person licensed under this chapter of the date of expiration of ~~his~~ that person's license and the fee required for its renewal for a 2-year period. The notice shall must be mailed to the person's last known address at least 30 days in advance of the expiration date of the license.

Sec. A-9. 32 MRSA §12403, sub-§1-A is enacted to read:

1-A. Acupuncture intern. "Acupuncture intern" means an acupuncture student enrolled in an acupuncture internship program approved by the Acupuncture Licensing Board that involves practical training, including needle insertion on human subjects.

Sec. A-10. 32 MRSA §12404, sub-§1-A, as enacted by PL 1989, c. 307, §2, is amended to read:

1-A. Licensure required. No A person may not practice acupuncture or make representation to the public as an acupuncturist in this State unless that person holds a current and valid license from the board, except that a student of acupuncture who has completed at least one year of full-time study in a board-approved acupuncture school may practice acupuncture in a board-approved internship program. The student must be supervised by an instructor who is a licensed acupuncturist in the State. The student must be identified as an acupuncture intern when in a clinical setting.

Sec. A-11. 32 MRSA §13903, sub-§2, as amended by PL 1993, c. 29, §1, is further amended to read:

2. Rules. ~~The board may, in accordance with procedures established by the Maine Administrative Procedure Act, Title-5, chapter-375, adopt rules necessary for the proper performance of its duties and the administration of this chapter. The board may not adopt rules requiring a specific program of continuing education to qualify for relicensure.~~

Sec. A-12. 32 MRSA §13908, sub-§4 is enacted to read:

4. Continuing education. An applicant for license renewal as a professional land surveyor shall present evidence of having completed 12 hours of professional development in the previous biennium. This section does not apply to a person 65 years of

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age or older who practices less than 160 hours a year. Credit for development hours may be earned as follows.

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A. Six hours must be in surveying practice or in courses in at least one of the following areas:

(1) General business administration or management;

(2) Land use regulation;

(3) Other related land use fields, including, but not limited to, civil or environmental engineering, site evaluation for septic system design, soils, landscape architecture, geology, forestry, title examination and insurance, and other legal issues related to real estate;

(4) Computer application skills or programming;

(5) Communication, including, but not limited to, speech and technical writing; or

(6) Other subject matters the understanding of which appreciably aids a land surveyor in the performance of professional duties.

B. One hour of professional development may be earned for every 900 hours of survey practice during the past biennium and one hour may be earned for each 3 years of full-time surveying practice as a registered or licensed surveyor during the time preceding the past biennium.

C. The applicant may acquire professional development credit through the following professional activities.

(1) Credit may be earned by membership and participation in surveying organizations as follows.

(a) Membership in a surveying organization entitles the licensee to one credit hour.

(b) Holding a leadership position in a surveying organization entitles the licensee to an additional credit hour per biennium.

(c) Active participation in an active committee of a surveying organization entitles the licensee to an additional credit hour.

(d) Chairing an active committee of a surveying organization entitles the licensee to an additional credit hour.

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(e) Attendance at a minimum of 50% of the general membership meetings of a surveying organization entitles the licensee to an additional credit hour.

(2) The licensee is entitled to 1 credit hour for membership in other associations, societies, boards or clubs related to a subject matter described in paragraph A.

(3) A licensee is entitled to one credit hour for each article, column or other significant work relevant to subject matter described in subsection 4, paragraph A that is published in a professional journal, magazine or other similar publication. Credit hours for works written by multiple authors must be divided pro rata.

The board may waive requirements of this section in cases of undue hardship and may accept for credit worthy professional development activities not specified in this section. The board shall adopt any rules necessary to implement this section.

The provisions of this section must be reviewed by the joint standing committee of the Legislature having jurisdiction over business legislation matters by March 1, 1999.

This section is repealed March 1, 1999.

Sec. 13. Effective date. Sections A-11 and A-12 of this Act take effect January 1, 1995.'

Further amend the bill in that part designated "PART B" in section B-2 by striking out all of subsection 1 and inserting in its place the following:

'**Sec. B-2. 10 MRSA §8003, sub-§1,** as amended by PL 1987, c. 609, §1, is further amended to read:

1. Division of Administrative Services. There is created a Division of Administrative Services, which shall-constitute is a division within the department, to provide assistance to the commissioner and to the agencies within or affiliated with the department in civil service matters, budgeting and financial matters, purchasing, and clerical and support services, and to perform such other duties as the commissioner may--designate designates. The commissioner may employ a Director of Administrative Services and such clerical and technical assistants as--are necessary to discharge the duties of the division, and shall outline their duties and fix their compensation, subject to the Civil Service Law.

2 A. Within the Division of Administrative Services, there
shall-be is a computer services section. It shall-be is the
4 responsibility of the computer services section to process
and issue original and renewal licenses for the department
6 and for these bureaus, boards and commissions within the
department as the commissioner may--direct directs. The
8 licenses shall may be processed and issued only upon
authorization of the appropriate bureau, board or
10 commission, or upon the authorization of the commissioner in
the case of these licenses granted directly by the
12 department. The computer services section shall maintain a
central register containing the name and address of each
14 person or firm licensed by profession, occupation or
industry and such other information as the commissioner may
16 direct for administration, information or planning
purposes. The commissioner, with the advice of the
18 respective bureaus, boards and commissions, may determine
the type and form of licenses issued by all agencies within
20 the department. The computer services section shall perform
such other administrative services for the agencies within
the department as the commissioner may-direct directs.'

22
24 Further amend the bill in "PART B" in section B-4 the first
indented paragraph in the first line (page 19, line 38 in L.D.)
26 by striking out the following: "shall not have the authority to"
and inserting in its place the following: '~~shall not have the~~
~~authority to~~ may not' and in the 2nd line (line 39 in L.D.) by
28 inserting after the following: "with" the following: 'the'

30
32 Further amend the bill in "PART B" in section B-6 in the
first indented paragraph in the first line (page 20, line 16 in
L.D.) by striking out the following: "shall not have the
34 authority to" and inserting in its place the following: '~~shall~~
~~not have the authority to~~ may not'

36
38 Further amend the bill in "PART B" in section B-8 in
subsection 10-A in the first blocked paragraph in the first line
(page 20, line 41 in L.D.) by striking out the following: "shall
40 not have the authority to" and inserting in its place the
following: '~~shall not have the authority to~~ may not'

42
44 Further amend the bill in "PART B" in section B-10 in the
first indented paragraph in the first line (page 21, line 17 in
L.D.) by striking out the following: "shall not have the
46 authority to" and inserting in its place the following: '~~shall~~
~~not have the authority to~~ may not'

48
50 Further amend the bill in "PART B" in section B-12 in the
first indented paragraph in the first line (page 21, line 44 in
L.D.) by striking out the following: "shall not have the
52 authority to" and inserting in its place the following: '~~shall~~
~~not have the authority to~~ may not'

2 Further amend the bill in "PART B" in section B-14 in
 subsection 13 in the first blocked paragraph in the first line
 (page 22, line 21 in L.D.) by striking out the following: "shall
 4 not have the authority to" and inserting in its place the
 following: '~~shall not have the authority to~~ may not'

6
 8 Further amend the bill in "PART B" in section B-16 in
 subsection 2 in the 2nd and 3rd lines from the end (page 23,
 lines 17 and 18 in L.D.) by striking out the following: "shall
 10 be " and inserting in its place the following: '~~shall be~~ is'

12 Further amend the bill in "PART B" in section B-17 in that
 section designated "**§3604.**" in the first indented paragraph in
 14 the 5th line (page 23, line 30 in L.D.) by striking out the
 following: "deems" and inserting in its place the following:
 16 'deems determines'

18 Further amend the bill in "PART B" in section B-17 in that
 section designated "**§3604.**" in the 3rd indented paragraph in the
 20 first line (page 23, line 36 in L.D.) by striking out the
 following: "shall not have the authority to" and inserting in
 22 its place the following: '~~shall not have the authority to~~ may
not'

24
 26 Further amend the bill by inserting at the end before the
 statement of fact the following:

28 FISCAL NOTE

30 Certain changes in examination requirements will result in
 insignificant increases of dedicated revenue to the Electricians
 32 Examining Board from examination fees.

34 The authorization for the Department of Professional and
 Financial Regulation to assess affiliated boards for services
 36 provided by the department is likely to increase revenues to the
 department and expenditures by the affiliated boards. The
 38 amounts can not be determined at this time.

40 The Nursing Home Administrators Licensing Board will realize
 some minor savings from having one less appointed board member.

42
 44 The Oil and Solid Fuel Board will experience a minor
 increase in expenditures from having one additional appointed
 board member.

46
 48 The Board of Licensure for Professional Land Surveyors will
 incur some minor additional costs to adopt rules pertaining to
 continuing education requirements. These costs can be absorbed
 50 within the board's existing budgeted resources.

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2 The authorization of certain continuing education
4 requirements may result in reductions of dedicated revenue to the
6 Board of Licensure for Professional Land Surveyors from decreased
8 renewal of licensure fees. The amounts can not be determined at
10 this time.'

8 STATEMENT OF FACT

10 The original bill is in 2 parts. Part A contains a number
12 of largely technical changes affecting the various professional
14 boards. Part B changes the laws that differentiate boards
affiliated with the Department of Professional and Financial
Regulation from those internal to that department.

16 1. Currently, the Commissioner of Professional and
18 Financial Regulation has authority to review internal boards to
20 ensure that they comply with their statutory and public service
responsibility. The bill adds affiliated boards to that
authority.

22 2. Currently, most internal boards are required to submit
24 their budgets to the Commissioner of Professional and Financial
26 Regulation, and this has been held to allow the commissioner to
28 revise those budgets. The laws governing most affiliated boards
prohibit the commissioner from revising their budgets. This bill
allows the commissioner to change the budget of an affiliated
board if the change is agreed to by that board.

30 3. Currently, the Department of Professional and Financial
32 Regulation is allowed to provide administrative services to the
34 internal boards and charge the boards accordingly. The bill
36 extends that provision to affiliated boards. However, the
38 current provisions that give hiring responsibility to the
Commissioner of Professional and Financial Regulation for
internal boards and to each board for affiliating boards are
continued.

40 Part B also contains a provision dealing with those
42 organizations that may approve the graduate education program
44 required of persons who have graduated from an unaccredited
46 medical school. Currently, certain organizations in the United
48 States and Canada are qualified to give this approval as is any
accrediting body that the board considers the equivalent of those
in the United States and Canada. This last provision was
introduced by Public Law 1989, chapter 5. The bill restores the
language used prior to that change by limiting the accrediting
bodies not in North America to those in Great Britain.

50 This amendment makes changes to Part A of the bill as
52 follows.

REVISED

COMMITTEE AMENDMENT "A" to S.P. 720, L.D. 1942

2 It amends the membership of the Nursing Home Administrators
Licensing Board, changing the number of members from 8 to 7 by
removing the designation of a hospital administrator.

4
6 It adds provisions that allow oil burner technicians and
plumbers to make electrical connections to natural gas equipment.

8 It clarifies examination deadlines and fees required to
become a licensed electrician in the State.

10
12 It removes the obsolete designation of one seat on the Board
of Hearing Aid Dealers and Fitters for a member of the Maine
Committee on Aging, which has been discontinued.

14
16 It amends the membership of the Oil and Solid Fuel Board to
remove the Commissioner of Professional and Financial Regulation
or a designee and to provide for a gubernatorial appointee who is
18 a representative of manufacturers or purveyors of equipment that
requires product registration with the board.

20
22 It clarifies reciprocity provisions for licensing as a
professional forester in this State.

24 It amends the laws governing social workers to revise the
continuing education requirements for licensure by calling for
26 submission of documentation every renewal interval rather than
every other interval.

28
30 It defines "acupuncture intern" and makes an exception to
the acupuncture licensing laws to enable students of acupuncture
to acquire clinical experience under supervision.

32
34 It enacts continuing education requirements for relicensure
of professional land surveyors following the recommendations of
the study required by Public Law 1993, chapter 29.

36
38 This amendment also amends language in Part B to conform
existing law to current drafting standards. The amendment also
adds a fiscal note.