

MAINE STATE LEGISLATURE

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118th MAINE LEGISLATURE

FIRST REGULAR SESSION-1997

Legislative Document

No. 1562

S.P. 500

In Senate, March 18, 1997

An Act to Amend Professional Licensing Boards Laws.

Submitted by the Department of Professional and Financial Regulation pursuant to Joint Rule 204.

Reference to the Committee on Business and Economic Development suggested and ordered printed.

A handwritten signature in cursive script, reading "Joy J. O'Brien".

JOY J. O'BRIEN
Secretary of the Senate

Presented by Senator JENKINS of Androscoggin.

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

Sec. 1. 10 MRSA §8003, sub-§2, ¶¶D and E, as enacted by PL 1995, c. 502, Pt. H. §10, are further amended to read:

D. To adopt rules establishing a uniform complaint procedure; and

E. To perform licensing functions for other state agencies on a fee-for-service basis; and

Sec. 2. 10 MRSA §8003, sub-§2, ¶F is enacted to read:

F. To study jurisdictional overlap between the department's boards and commissions and other state agencies for purposes of streamlining and consolidating related legal authorities and administrative processes.

Sec. 3. 10 MRSA §8003, sub-§5, ¶C, as amended by PL 1995, c. 502, Pt. H. §10, is further amended to read:

C. The bureau, office, board or commission may:

(1) Require all applicants for license or registration renewal to have responded under oath to all inquiries set forth on renewal forms; ~~or~~

(2) Require applicants for license or registration renewal to present proof of satisfactory completion of continuing professional or occupational education in accordance with each bureau's, office's, board's or commission's rules. Failure to comply with the continuing education rules may, in the bureau's, office's, board's or commission's discretion, result in a decision to deny license or registration renewal or may result in a decision to enter into a consent agreement and probation setting forth terms and conditions to correct the licensee's or registrant's failure to complete continuing education. Terms and conditions of a consent agreement may include requiring completion of increased hours of continuing education, civil penalties, suspension and other terms as the bureau, office, board, commission, the licensee or registrant and the Department of the Attorney General determine appropriate; or

(3) Refuse to renew a license or registration when the bureau, office, board or commission finds a licensee or registrant to be in noncompliance with a board order or consent agreement.

2 **Sec. 4. 10 MRSA §9006-A**, as amended by PL 1993, c. 642, §14,
is repealed.

4 **Sec. 5. 32 MRSA §1203, sub-§2**, as amended by PL 1995, c. 325,
§16, is further amended to read:

6 2. Examinations.....\$50 \$100; and

8 **Sec. 6. 32 MRSA §1507, first ¶**, as enacted by PL 1993, c. 404,
10 Pt. A, §1, is amended to read:

12 A licensee who is no longer actively practicing funeral
14 service may surrender the licensee's active license to the State
Board of Funeral Service and request inactive license status. ~~An~~
16 ~~applicant-for~~ The holder of an inactive status license may not
practice funeral service ~~either in the State or in any other~~
18 ~~state, province or territory.~~ The board may place the licensee
on inactive status only upon proper application and the
20 submission of appropriate fees by the licensee. The holder of an
inactive status license is required to renew the license annually
22 but is not required to meet the continuing education requirement
required by this chapter and the rules adopted under it.

24 **Sec. 7. 32 MRSA §1951, sub-§6-A** is enacted to read:

26 6-A. Regular employer. "Regular employer" means a person
doing business in or operating within the State.

28 **Sec. 8. 32 MRSA §1951, sub-§9**, as amended by PL 1987, c. 735,
30 §58, is further amended to read:

32 9. **Treats or cares for.** "Treats or cares for" means the
pruning, trimming, and shaping, ~~installing lightning protections,~~
34 ~~cabling, bracing or fertilizing~~ of trees when the care requires
the person to leave the ground. "Treats or cares for" also
36 includes installing lightning protections, cabling or bracing of
trees.

38 **Sec. 9. 32 MRSA §2056, 2nd ¶**, as amended by PL 1995, c. 353,
40 §17, is further amended to read:

42 When the arborist conducts business at more than one
address, additional certificates must be issued. ~~When an employee~~
44 ~~of a licensed arborist does not hold a license, the employee must~~
~~carry, when working, a card or written authorization signed by~~
46 ~~the licensed arborist showing under whose supervision the~~
~~employee is working and the name of the employer.~~ The board may
48 not issue more than one license card to an individual qualified
to receive a license, except as provided in section 2058.

50 **Sec. 10. 32 MRSA §6212, sub-§12**, as enacted by PL 1995, c.
52 394, §12, is amended to read:

2 **12. Clinical supervision.** For purposes of direct clinical
supervision of licensed practitioners in the field of alcohol and
4 drug counseling, the board may certify licensed psychologists,
physicians, registered clinical nurse specialists, clinical
6 professional counselors and clinical social workers, who are
qualified to provide alcohol and drug counseling services by
8 virtue of the requirements for that profession. Other members of
any mental health profession must meet the criteria set forth by
10 the International Certification and Reciprocity Consortium ~~or the~~
~~National Association of Alcohol and Drug Abuse Counselors~~ or
12 equivalent qualifications as determined by the board by
rulemaking.

14 **Sec. 11. 32 MRSA §6214-A, sub-§2-A,** as enacted by PL 1995, c.
16 394, §18 and affected by §28, is repealed and the following
enacted in its place:

18 **2-A. Registered alcohol and drug counselor.** The board may
20 issue a license to practice as a registered alcohol and drug
counselor upon the affirmative vote of 6 members of the board to
22 any applicant who has met the eligibility requirements set forth
in section 6213.

24 **Sec. 12. 32 MRSA §9705, sub-§1,** as enacted by PL 1985, c. 288,
26 §3, is amended to read:

28 **1. License required.** ~~After January 1, 1987, no person may~~
An individual may not practice, or hold himself out represent
30 that individual as authorized to practice, as a respiratory care
practitioner in this State or use the words "respiratory care
32 practitioner" or other words or letters to indicate that the
person is a licensed respiratory care practitioner, unless he
34 that individual is licensed in accordance with this chapter. A
respiratory therapist licensed in accordance with this chapter
36 may use the initials "R.R.T." A respiratory care technician
licensed in accordance with this chapter may use the initials
38 "C.R.T.T." An individual who holds a temporary license in
accordance with this chapter may use the initials "G.R.T.T."
40 until the individual has taken and passed the examination or
until the term of the license has expired.

42 **Sec. 13. 32 MRSA §12521, sub-§2,** as enacted by PL 1995, c.
44 671, §13, is amended to read:

46 **2. Title.** A licensee must use the title "naturopathic
doctor." Naturopathic doctors have the exclusive right to the
48 use of the terms "naturopathic doctor," "naturopathic,"
"naturopath," "doctor of naturopathic medicine," "doctor of
50 naturopathy," "naturopathic medicine," "naturopathic health
care," "naturopathy" and the recognized abbreviation "N.D." Use
52 of the title "physician" by the licensee is prohibited.

2 **Sec. 14. 32 MRSA §14202, sub-§11**, as enacted by PL 1991, c.
397, §6, is amended to read:

4
6 **11. Student.** "Student" means any person duly enrolled in
a school licensed by the ~~Commissioner--of--Education~~ board and
engaged in learning and acquiring a knowledge of the practice of:

8 A. Cosmetology;

10 B. Barbering;

12 C. Aesthetics; or

14 D. Manicuring.

16 **Sec. 15. 32 MRSA §14203, sub-§1, ¶E**, as amended by PL 1993, c.
179, §1, is further amended to read:

20 E. Persons employed by licensed establishments who provide
shampooing services within the licensed establishments; and

22 **Sec. 16. 32 MRSA §14203, sub-§1, ¶F**, as enacted by PL 1993, c.
24 179, §1, is amended to read:

26 F. Persons employed to apply special make-up designed for
theater lighting to a person who requires this make-up for
28 an appearance in the theater or a movie, on television or as
a model; and

30 **Sec. 17. 32 MRSA §14203, sub-§1, ¶G** is enacted to read:

32 G. Persons licensed under Title 32, chapter 21 who practice
34 the funeral service profession on human remains in a
36 licensed funeral establishment.

38 **Sec. 18. 32 MRSA §14203, sub-§2, ¶G**, as amended by PL 1991, c.
728, §1, is further amended to read:

40 G. On persons in their residences; and

42 **Sec. 19. 32 MRSA §14203, sub-§2, ¶H**, as enacted by PL 1991, c.
397, §6, is amended to read:

44 H. On persons in their private businesses; and

46 **Sec. 20. 32 MRSA §14203, sub-§2, ¶I** is enacted to read:

48 I. On human remains in licensed funeral establishments.

50 **Sec. 21. 32 MRSA §14204, 2nd and 3rd ¶¶**, as enacted by PL
52 1991, c. 397, §6, are amended to read:

2 The board and the Department of Education shall adopt rules
4 for the qualification and examination of applicants for licensure
6 as instructors of barbering or cosmetology in accordance with
7 Title 5, chapter 375, subchapter II.

8 ~~Examination applications must be furnished by the board.~~
9 ~~The application must be filed with the board and be accompanied~~
10 ~~by an examination fee as determined by the board.~~ Upon
11 satisfactory completion of the an examination, the applicant must
12 pay a fee to receive the initial instructor license, ~~which is~~
13 ~~valid until the next renewal period.~~

14 **Sec. 22. 32 MRSA §14212, sub-§4,** as enacted by PL 1991, c.
15 397, §6, is amended to read:

16 **4. Diseases.** A person who has a communicable disease may
17 not give service to members of the public, including service
18 within licensed establishments or schools licensed by the
19 ~~Department of Education~~ board. The board has the right to
20 require the physical examination of any person who is suspected
21 of having any communicable disease. Failure to submit to such an
22 examination is grounds for suspension or revocation of the
23 person's registration, certification, permit or license.

24 **Sec. 23. 32 MRSA §14212, sub-§10,** as enacted by PL 1991, c.
25 397, §6, is repealed.

26 **Sec. 24. 32 MRSA §14226, sub-§3,** as amended by PL 1993, c.
27 630, Pt. B, §16, is further amended to read:

28 **3. Training.** ~~Within the immediately preceding 3 years, has~~
29 Has satisfactorily completed a course of instruction in
30 cosmetology of 1,500 hours in not less than 9 months in a school
31 licensed by the ~~Commissioner of Education~~ board or has experience
32 in the practice of cosmetology as a trainee of 2,500 hours
33 distributed over a period of at least 18 months; and

34 **Sec. 25. 32 MRSA §14226, sub-§4, ¶A,** as enacted by PL 1991, c.
35 397, §6, is repealed.

36 **Sec. 26. 32 MRSA §14226, sub-§4, ¶B,** as enacted by PL 1991, c.
37 397, §6, is amended to read:

38 **B.** Within 90 days of notification of passing an
39 examination, the applicant must pay a fee established by the
40 board to receive a first license. The first license is
41 valid until the next renewal period. The board has the
42 authority to waive the 90-day time period for extenuating
43 circumstances. If not successful, ~~upon filing the~~
44 ~~appropriate application and fees,~~ the applicant may take
45 subsequent examinations held ~~by the board~~ within a period of

one year from the date of the applicant's first examination. An applicant who fails to pass an examination within one year from the applicant's first examination may take another examination at a time and under the conditions that the board determines.

Sec. 27. 32 MRSA §14226, last ¶, as amended by PL 1993, c. 630, Pt. B, §17, is further amended to read:

Any person licensed as a barber pursuant to this chapter and who has satisfactorily completed a course of instruction in cosmetology of at least 500 hours in a school licensed by the Commissioner of Education board or has experience in the practice of cosmetology as a trainee of at least 900 hours ~~may take the~~ is eligible for examination ~~upon submitting an appropriate application and payment of the fees prescribed in this chapter.~~

Sec. 28. 32 MRSA §14227, sub-§3, as amended by PL 1993, c. 630, Pt. B, §18, is further amended to read:

3. Training. ~~Within the immediately preceding 3 years, has~~ Has satisfactorily completed a course of instruction in barbering of 1,500 hours in not less than 9 months in a school licensed by the Commissioner of Education board or has experience in the practice of barbering as a trainee of 2,500 hours distributed over a period of at least 18 months; and

Sec. 29. 32 MRSA §14227, sub-§4, ¶A, as enacted by PL 1991, c. 397, §6, is repealed.

Sec. 30. 32 MRSA §14227, sub-§4, ¶B, as enacted by PL 1991, c. 397, §6, is amended to read:

B. Within 90 days of notification of passing an examination, the applicant must pay a fee established by the board to receive a first license. The first license is valid until the next renewal period. The board has the authority to waive the 90-day time period for extenuating circumstances. If not successful, the applicant, ~~upon filing the appropriate application and fees,~~ may take subsequent examinations held ~~by the board~~ within a period of one year from the date of the applicant's first examination. Any applicant who fails to pass an examination within one year from the applicant's first examination may take another examination at a time and under the conditions that the board determines.

Sec. 31. 32 MRSA §14227, last ¶, as amended by PL 1993, c. 630, Pt. B, §19, is further amended to read:

Any person licensed as a cosmetologist pursuant to this chapter and who has satisfactorily completed a course of

instruction in barbering of at least 500 hours in a school
licensed by the Commissioner-of-Education board or has experience
in the practice of barbering as a trainee of at least 900 hours
~~may--take--the~~ is eligible for examination ~~upon--submitting--an~~
~~appropriate--application--and--payment--of--the--fees--prescribed--in~~
~~this--chapter.~~

Sec. 32. 32 MRSA §14228, sub-§3, as amended by PL 1993, c.
630, Pt. B, §20, is further amended to read:

3. Training. ~~Within the immediately preceding 3 years, has~~
Has satisfactorily completed a course of instruction in
aesthetics of 750 hours in not less than 5 months in a school
licensed by the Commissioner-of-Education board or has experience
in the practice of aesthetics as a trainee of 1,250 hours
distributed over a period of at least 7 months; and

Sec. 33. 32 MRSA §14228, sub-§4, ¶A, as enacted by PL 1991, c.
397, §6, is repealed.

Sec. 34. 32 MRSA §14228, sub-§4, ¶B, as enacted by PL 1991, c.
397, §6, is amended to read:

B. Within 90 days of notification of passing an
examination, the applicant must pay a fee established by the
board to receive a first license. The first license is
valid until the next renewal period. The board has the
authority to waive the 90-day time period for extenuating
circumstances. If not successful, the applicant, ~~--upon~~
~~filing--the--appropriate--application--and--fees,~~ may take
subsequent examinations held by the board within a period of
one year from the date of the applicant's first
examination. Any applicant who fails to pass an examination
within one year from the applicant's first examination may
take another examination at a time and under the conditions
that the board determines.

Sec. 35. 32 MRSA §14229, sub-§3, as amended by PL 1993, c.
630, Pt. B, §21, is further amended to read:

3. Training. ~~Within the immediately preceding 3 years, has~~
Has satisfactorily completed a course of instruction in
manicuring of 200 hours in not less than 5 weeks in a school
licensed by the Commissioner-of-Education board or has experience
in the practice of manicuring as a trainee of 400 hours
distributed over a period of at least 10 weeks; and

Sec. 36. 32 MRSA §14229, sub-§4, ¶A, as enacted by PL 1991, c.
397, §6, is repealed.

Sec. 37. 32 MRSA §14229, sub-§4, ¶B, as enacted by PL 1991, c.
397, §6, is further amended to read:

2 B. Within 90 days of notification of passing an
4 examination, the applicant must pay a fee established by the
6 board to receive a first license. The first license is
8 valid until the next renewal period. The board has the
10 authority to waive the 90-day time period for extenuating
12 circumstances. If not successful, the applicant, ~~upon~~
14 ~~filing the appropriate application and fees,~~ may take
subsequent examinations held by the board within a period of
one year from the date of the applicant's first
examination. Any applicant who fails to pass an examination
within one year from the applicant's first examination may
take another examination at a time and under the conditions
that the board determines.

16 Sec. 38. 32 MRSA §14230, as amended by PL 1993, Pt. B, §22,
18 is further amended to read:

20 **§14230. Temporary permit**

22 If an applicant to practice cosmetology, barbering,
24 manicuring or aesthetics qualifies for examination, the board may
26 issue to that applicant a permit to practice under the direct
supervision of a qualified supervisor, as determined by board
rules, within a licensed shop. The applicant must pay a permit
fee in an amount established by the board. ~~Permits expire 5~~
28 ~~weeks A permit expires 6 months~~ from the date of the applicant's
scheduled examination issuance and is not renewable. ~~Only 2 such~~
30 ~~permits may be issued to any person eligible for examination.~~
The applicant is not considered a trainee.

32 Sec. 39. 32 MRSA §14233, 2nd ¶, as enacted by PL 1991, c. 397,
34 §6, is amended to read:

36 To be eligible for a student permit, a student must be at
38 least 16 years of age and have satisfactorily completed the 10th
grade or its equivalent. The application must include evidence
40 of the student's enrollment in a school licensed by the
~~Commissioner of Education~~ board.

42 Sec. 40. Maine Revised Statutes amended; revision clause.
Wherever in the Maine Revised Statutes, Title 32, chapter 21 the
44 words "dead human body" or "human dead" appear or reference is
made to these words, they are amended to read and mean "human
46 remains" and the Revisor of Statutes shall implement this
revision when updating, publishing or republishing the statutes.

48

SUMMARY

50

52 This bill amends the Maine Revised Statutes, Title 10 to
allow the Office of Licensing and Registration to study

2 jurisdictional overlap between boards and commissions and other
state agencies. It clarifies the authority of bureaus, boards
4 and commissions to refuse to renew a license based on a violation
of orders or consent agreements with licensees. It also repeals
6 a duplicative reporting provision in the manufactured housing
laws.

8 This bill makes the following changes in the Maine Revised
Statutes, Title 32 with respect to various professional licensing
10 boards.

12 1. It increases the fee cap for the Electricians' Examining
Board's examination so that the fee reflects the actual cost
14 of the national exam.

16 2. It amends the State Board of Funeral Service laws to
remove a restriction on inactive licensees practicing in
18 another state.

20 3. It adds and amends definitions in the Arborist Examining
Board laws and removes language that allows for unlicensed
22 employees to work without direct supervision.

24 The bill updates and corrects a drafting error with respect
to the State Board of Alcohol and Drug Counselors and their
26 "registered" counselor category. It also defines the appropriate
use of initials for respiratory care technicians, respiratory
28 therapists and individuals who hold valid temporary licenses.
The bill adds "naturopath" to the list of terms used by
30 naturopathic doctors.

32 The bill amends the Board of Barbering and Cosmetology laws
to: eliminate references to the Commissioner of Education; add an
34 exemption from licensure for persons practicing the funeral
service profession on human remains in a licensed funeral
36 establishment; repeal language that references the board holding
examinations, as that function is now performed by a contractor;
38 and extends the permissible length of a temporary permit to
accommodate the new exam schedule.

40
42 The bill also changes terminology used in the State Board of
Funeral Service laws from "dead human body" to "human remains."