

# MAINE STATE LEGISLATURE

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# 119th MAINE LEGISLATURE

## SECOND REGULAR SESSION-2000

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Legislative Document

No. 2558

S.P. 996

In Senate, February 15, 2000

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### **An Act to Improve the Regulation of Occupations and Professions.**

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Reported by Senator KONTOS of Cumberland for the Joint Standing Committee on Business and Economic Development pursuant to Joint Order S.P. 978.

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

A handwritten signature in cursive script that reads "Joy J. O'Brien".

JOY J. O'BRIEN  
Secretary of the Senate

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

PART A

Sec. A-1. 3 MRSA §959, sub-§1, ¶C, as amended by PL 1999, c. 127, Pt. C, §§2 to 8, is further amended to read:

C. The joint standing committee of the Legislature having jurisdiction over business and economic development matters shall use the following list as a guideline for scheduling reviews:

(1) Maine Development Foundation in 1997;

~~(2) Board of Examiners in Physical Therapy in 1997;~~

~~(3) Board of Examiners on Speech Pathology and Audiology in 1997;~~

~~(4) Board of Hearing Aid Dealers and Fitters in 1997;~~

(5) Department of Professional and Financial Regulation, in conjunction with the joint standing committee of the Legislature having jurisdiction over banking and insurance matters, in 2007;

~~(6) Maine Athletic Commission in 1997;~~

~~(7) Manufactured Housing Board in 1997;~~

~~(8) Maine State Board for Licensure of Architects, Landscape Architects and Interior Designers in 1997;~~

~~(9) Oil and Solid Fuel Board in 1997;~~

~~(10) Plumbers' Examining Board in 1997;~~

~~(11) Real Estate Commission in 1997;~~

~~(12) Board of Barbering and Cosmetology in 1997;~~

~~(13) State Board of Certification for Geologists and Soil Scientists in 1997;~~

~~(15) State Board of Examiners of Psychologists in 1997;~~

~~(16) State Board of Funeral Service in 1997;~~

~~(17) State Board of Licensure for Professional Foresters in 1997;~~

2           ~~(18) -- State Board of Alcohol and Drug Counselors in~~  
3           ~~1997;~~  
4  
5           (19) Department of Economic and Community Development  
6           in 1997;  
7  
8           ~~(21) -- Board of Occupational Therapy Practice in 1999;~~  
9  
10          ~~(22) -- Board of Respiratory Care Practitioners in 1999;~~  
11  
12          (23) Maine State Housing Authority in 1999;  
13  
14          ~~(24) -- Radiologic Technology Board of Examiners in 1999;~~  
15  
16          ~~(25) -- Barberist Examining Board in 1999;~~  
17  
18          ~~(26) -- Board of Accountancy in 1999;~~  
19  
20          ~~(27) -- Maine Board of Pharmacy in 1999;~~  
21  
22          ~~(28) -- Electricians' Examining Board in 1999;~~  
23  
24          ~~(29) -- State Board of Social Worker Licensure in 1999;~~  
25  
26          ~~(30) -- Board of Counseling Professionals Licensure in~~  
27          ~~2001;~~  
28  
29          ~~(31) -- Board of Real Estate Appraisers in 2001;~~  
30  
31          (32) Finance Authority of Maine in 2001;  
32  
33          (33) Petroleum Advisory Committee in 2001;  
34  
35          ~~(34) -- State Board of Veterinary Medicine in 2001;~~  
36  
37          ~~(35) -- Board of Chiropractic Licensure in 2003;~~  
38  
39          (36) Board of Dental Examiners in 2003;  
40  
41          (37) Board of Osteopathic Licensure in 2003;  
42  
43          (38) Board of Licensure in Medicine in 2003;  
44  
45          ~~(39) -- Board of Licensure of Podiatric Medicine in 2003;~~  
46  
47          ~~(40) -- Nursing Home Administrators Licensing Board in~~  
48          ~~2003;~~  
49  
50          (41) State Board of Nursing in 2003;

- 2 (42) State Board of Optometry in 2003;
- 4 ~~(43)---Board---of---Licensure---for---Professional---Land~~  
5 ~~Surveyers-in-2003;~~
- 6 (45) State Board of Registration for Professional  
8 Engineers in 2003; and
- 10 ~~(47)--Board-of-Licensing-of-Auctioneers-in-2005;~~
- 12 ~~(48)--Board-of-Licensing-of-Dietetic-Practice-in-2005;~~
- 14 ~~(49)--Board-of-Complementary-Health-Care-Providers-in~~  
15 ~~2007;~~
- 16 (50) Maine Science and Technology Foundation in 2007~~;~~
- 18 ~~(51)--Board-of-Boiler-Rules-in-2007;-and~~
- 20 ~~(52)--Board-of-Elevator-and-Tramway-Safety-in-2007.~~

## PART B

24 **Sec. B-1. 5 MRSA §12004-A**, as amended by PL 1999, c. 84, §1,  
26 c. 146, §1, c. 185, §1, c. 355, §1 and c. 386, Pt. W, §1, is  
28 further amended to read:

### §12004-A. Occupational and professional licensing boards

30 The primary responsibilities of occupational and  
32 professional licensing boards include the examination of  
34 applicants, issuance of licenses or certificates, registration of  
36 licenses and rules of licensees with respect to the practice of a  
38 particular occupation or profession. The primary powers of these  
40 boards include the authority to hold hearings, adopt rules,  
establish standards and procedures, issue licenses and initiate  
action for the revocation or suspension of occupational or  
professional licenses.

42 For purposes of any occupational or professional licensing  
44 boards which have a public member or members, "public member"  
46 means a person who has no financial interest in the profession  
48 regulated by the board to which that member has been appointed  
and who has never been licensed, certified or given a permit in  
this or any other state for the occupation or profession that  
member is appointed to regulate.

50 This classification includes the following.

	NAME OF ORGANIZATION	RATE OF COMPENSATION	STATUTORY REFERENCE
2			
4	1. Board of Accountancy	Legislative Per-Diem <u>\$35/Day</u>	32 MRSA §3971
6			
8	4. Maine State Board for Licensure of Architects, Landscape Architects and Interior Designers	\$35/Day	32 MRSA §211
10			
12			
14	5. Board of Licensing of Auctioneers	<del>\$30</del> <u>\$35/Day</u>	32 MRSA §288
16			
18	5-A. Board of Bar Examiners	Set by Supreme Judicial Court	4 MRSA §801
20	6. Board of Barbering and Cosmetology	\$35/Day	32 MRSA §14211
22			
24	7. Board of Boilers and Pressure Vessels	Expenses Only <u>\$35/Day</u>	32 MRSA §15103
26			
28	8. Board of Chiropractic Examination and Registration	<del>\$25</del> <u>\$35/Day</u>	32 MRSA §501
30			
32	8-A. Board of Complementary Health Care Providers	Expenses Only <u>\$35/Day</u>	32 MRSA §12502
34			
36	9-B. Board of Real Estate Appraisers	\$35/Day	32 MRSA §14011
38			
40	10. Board of Dental Examiners	legislative <u>Legislative</u> per diem secretary- treasurer, as determined by board	32 MRSA §1072
42			
44			
46	11. Board of Licensing of Dietetic Practice	\$35/Day	32 MRSA §9903
48			
50	13. Electricians'	<del>\$30</del> <u>\$35/Day</u>	32 MRSA §1151

	Examining Board		
2			
4	14. Board of Elevator and Tramway Safety	Expenses Only <u>\$35/Day</u>	32 MRSA §15205
6			
8	15. Emergency Medical Services' Board	\$20/Day	32 MRSA §88
10			
12	16. State Board of Registration for Professional Engineers	Expenses Only <u>\$35/Day</u>	32 MRSA §1301
14			
16	17. State Board of Licensure for Professional Foresters	<del>\$30</del> <u>\$35/Day</u>	32 MRSA §5004
18			
20	18. State Board of Funeral Service	\$35/Day	32 MRSA §1451
22			
24	19. State Board of Certification for Geologists and Soil Scientists	<del>\$30</del> <u>\$35/Day</u>	32 MRSA §4907
26			
28	20. Board of Hearing Aid Dealers and Fitters	\$35/Day	32 MRSA §1658
30			
32	21. Board of Licensure for Professional Land Surveyors	\$35/Day	32 MRSA §13902
34			
36	22. Manufactured Housing Board	\$35/Day	10 MRSA §9003
38			
40	23. Nursing Home Administrators Licensing Board	<del>\$30</del> <u>\$35/Day</u>	32 MRSA §63-A
42			
44	24. Board of Registration in Medicine	\$1,250/Year - Member \$1,500/Year - Chair \$7,500/Year - Secretary	32 MRSA §3263
46			
48	25. State Board of Nursing	Legislative Per Diem	32 MRSA §2151
50			

2	26. Board of Occupational Therapy Practice	\$35/Day	32 MRSA §2273
4			
6	27. Oil and Solid Fuel Board	\$30 <u>\$35/Day</u>	32 MRSA §2351
8			
10	28. State Board of Optometry	\$25 <u>\$35/Day</u>	32 MRSA §2415
12			
14	29. Board of Osteopathic Examination and Registration	Legislative Per Diem	32 MRSA §2561
16			
18	30-A. Maine Board of Pharmacy	\$35/Day	32 MRSA §13711
20			
22	31. Board of Examiners in Physical Therapy	\$25 <u>\$35/Day</u>	32 MRSA §3112
24			
26	32. Plumbers' Examining Board	\$35/Day	32 MRSA §3401
28			
30	33. Board of Examiners of Podiatrists	\$25 <u>\$35/Day</u>	32 MRSA §3601
32			
34	33-A. Propane and Natural Gas Board	Expenses Only <u>\$35/Day</u>	32 MRSA §14803
36			
38	34. State Board of Examiners of Psychologists	\$35/Day	32 MRSA §3821
40			
42	35. Board of Respiratory Care Practitioners	\$35/Day	32 MRSA §9703
44			
46	36. Radiologic Technology Board of Examiners	Expenses Only <u>\$35/Day</u>	32 MRSA §9853
48			
50	37. Real Estate Commission	\$35/Day	32 MRSA §13062
	38. State Board of Social Worker Licensure	\$35/Day	32 MRSA §7026
	39. Board of	\$25 <u>\$35/Day</u>	32 MRSA §6010



2 Examiners on Speech  
3 Speech-language  
4 Pathology and Audiology

6 40. Maine Not Autho- 38 MRSA §89  
7 Pilotage Commission rized

8 41. State Board \$35/Day Plus 32 MRSA §6201  
9 of Alcohol and Drug Expenses  
10 Counselors

12 42. State Board Legislative 32 MRSA §4854  
13 of Veterinary Medicine Per-Diem  
14 \$35/Day

16 43. Board of Expenses 32 MRSA §10001  
17 Underground Oil Storage Only  
18 Tank Installers

20 44. Maine \$35/Day Plus 32 MRSA §13501  
21 Athletic Commission Expenses

22 46. Board of Expenses Only 22 MRSA §2624-A  
23 Licensure of Water  
24 Treatment Plant Operators

26 **Sec. B-2. 5 MRSA §12015, sub-§1,** as enacted by PL 1983, c.  
28 814, is amended to read:

30 1. **Membership; terms; vacancies.** Each board shall may have  
31 no fewer than 3 members. Boards regulating professions or  
32 occupations may have no more than 9 members, including at least 2  
33 public members. Law establishing the board shall must provide  
34 for appointments, terms of office, qualifications and removal of  
35 its members. In the event of the death, resignation or removal  
36 of any member, the vacancy for his that member's unexpired term  
37 shall must be filled in the same manner as his that member's  
38 original appointment.

40 **PART C**

42 **Sec. C-1. 10 MRSA §8001, first ¶,** as amended by PL 1995, c.  
43 502, Pt. H, §6, is further amended to read:

44 There is created and established the Department of  
45 Professional and Financial Regulation, in this chapter referred  
46 to as the "department," to regulate financial institutions,  
47 insurance companies, grantors of consumer credit and to license  
48 and regulate professions and occupations. The mission of the  
49 department is to protect consumers and encourage sound, ethical  
50

2 business practices through high-quality, impartial and efficient  
3 regulation of insurers, financial institutions, creditors,  
4 investment providers and numerous professions and occupations.  
The department is composed of the following:

6 **Sec. C-2. 10 MRSA §8002, first ¶,** as amended by PL 1997, c.  
7 727, Pt. A, §3, is further amended to read:

8  
9 The Commissioner of Professional and Financial Regulation,  
10 referred to in this chapter as the "commissioner," is the chief  
11 administrative officer of the department and is responsible for  
12 supervising the administration of the department. The  
13 commissioner is appointed by the Governor, subject to review by  
14 the joint standing committee of the Legislature having  
15 jurisdiction over banking and insurance matters, and to  
16 confirmation by the Legislature. The commissioner serves at the  
17 pleasure of the Governor. Unless otherwise provided in law, the  
18 commissioner may not exercise or interfere with the exercise of  
19 discretionary regulatory authority granted by statute to the  
20 bureaus, offices, boards or commissions within and affiliated  
21 with the department. As chief administrative officer of the  
22 department, the commissioner has the following duties and  
23 authority to:

24 **Sec. C-3. 10 MRSA §8002, sub-§10,** as enacted by PL 1999, c.  
25 184, §14, is amended to read:

26  
27 **10. Confidentiality of shared information.** Keep  
28 confidential any information provided by or to the commissioner  
29 that has been designated confidential by the agency, bureau,  
30 board or commission within or affiliated with the department that  
31 furnished the information and that is the property of the agency,  
32 bureau, board or commission that furnished the information. Any  
33 information provided pursuant to this subsection may not be  
34 disclosed by the recipient of the information unless disclosure  
35 has been authorized by the agency, bureau, board or commission  
36 that furnished the information.

37  
38 **Sec. C-4. 10 MRSA §8002, last ¶,** as amended by PL 1995, c. 502,  
39 Pt. H, §9, is repealed.

40  
41 **Sec. C-5. 10 MRSA §8003, sub-§2,** as amended by PL 1999, c.  
42 184, §§15 to 17 and c. 386, Pt. B, §2, is repealed:

43  
44 **Sec. C-6. 10 MRSA §8003, sub-§2-A** is enacted to read:

45  
46 **2-A. Office of Licensing and Registration.** There is  
47 created an Office of Licensing and Registration, referred to in  
48 this subsection as the "office," composed of the boards,  
49 commissions and regulatory functions set forth in section 8001,  
50

2 subsection 38. The commissioner may appoint a Director of the  
3 Office of Licensing and Registration and those clerical and  
4 technical assistants who are necessary to discharge the duties of  
5 the office and shall outline their duties and fix their  
6 compensation, subject to the Civil Service Law. Notwithstanding  
7 any other provision of law granting authority to a board or  
8 commission, the Director of the Office of Licensing and  
9 Registration has the following superseding powers, duties and  
10 functions:

11 A. To administer the office and maximize and direct the use  
12 of personnel and financial resources to regulate  
13 professionals in the best interest of the public;

14 B. To prepare and administer an office budget necessary to  
15 carry out the administrative and regulatory functions of the  
16 office;

17 C. To provide all staffing necessary and appropriate to  
18 administer the office and carry out the statutory missions  
19 of the boards, commissions and regulatory functions. All  
20 clerks, technical support staff and supervisors must be  
21 assigned to the office and allocated by the director to  
22 perform functions on behalf of the various boards,  
23 commissions and regulatory functions according to need;

24 D. To establish by rule all fees necessary and appropriate  
25 for all boards, commissions and regulatory functions within  
26 the office. A separate fee must be established for each  
27 application, license, service or activity, except that a fee  
28 for any one purpose may not exceed \$300 annually. The  
29 director shall set criteria for fees. The criteria must  
30 include, but are not limited to, the costs, statutory  
31 requirements and enforcement requirements of each regulatory  
32 program. A fee cap may not apply to the cost of an  
33 examination unless the examination is administered directly  
34 to an applicant by the office. Rules adopted pursuant to  
35 this paragraph are routine technical rules pursuant to Title  
36 5, chapter 375, subchapter II-A;

37 E. To pay to the Treasurer of State and credit to the  
38 account of the office all money received, including, but not  
39 limited to, money paid for fees, reimbursements and  
40 recovered costs of investigations. The money must be used  
41 for the expenses of administering the office's statutory  
42 responsibilities, including, but not limited to, the costs  
43 of licensing, conducting investigations, taking testimony  
44 and procuring the attendance of witnesses and the costs of  
45 all legal proceedings initiated for enforcement and  
46 administrative expenses. Any balance of money may not lapse  
47

2 but must be carried forward as a continuing account to be  
3 expended for the same purposes in the following fiscal years:

4 F. To establish by rule, such processes and procedures  
5 necessary to administer the various boards, commissions and  
6 regulatory functions of the office, including, but not  
7 limited to, a uniform complaint procedure, a uniform  
8 procedure regarding protested checks and a uniform procedure  
9 for substantiating continuing education requirements. Rules  
10 adopted pursuant to this paragraph are routine technical  
11 rules pursuant to Title 5, chapter 375, subchapter II-A;

12 G. To keep records of public meetings, proceedings and  
13 actions and to make those records available to the public at  
14 cost upon request, unless otherwise prohibited by state or  
15 federal law;

16 H. To enter into contracts to ensure the provision of goods  
17 and services necessary to perform regulatory functions and  
18 to fulfill statutory responsibilities. This authority  
19 includes the ability to employ and engage experts,  
20 professionals or other personnel of other state or federal  
21 regulatory agencies as necessary to assist the office in  
22 carrying out its regulatory functions and to contract office  
23 staff to other state and federal regulatory agencies to  
24 assist those agencies in carrying out their regulatory  
25 functions;

26 I. To perform licensing functions for other state agencies  
27 on a fee-for-service basis;

28 J. To enter into cooperative agreements with other state,  
29 federal or foreign regulatory agencies to facilitate the  
30 regulatory functions of the office, including, but not  
31 limited to, information sharing, coordination of  
32 examinations or inspections and joint examinations or  
33 inspections. Any information furnished pursuant to this  
34 paragraph by or to the office that has been designated  
35 confidential by the agency furnishing the information  
36 remains confidential and the property of the agency  
37 furnishing the information and may not be disclosed by the  
38 recipient of the information unless disclosure has been  
39 authorized by the agency that furnished the information;

40 K. To direct staff to review and approve applications for  
41 licensure or renewal. Licensing decisions made by staff may  
42 be appealed to the full board or commission; and

43 L. To prepare and submit to the commissioner an annual  
44 report of the office's operations, activities and goals.

2           **Sec. C-7. 10 MRSA §8003, sub-§5, ¶F** is enacted to read:

4           F. A bureau, office, board or commission may establish, by  
6           rule, procedures for licensees in another state to be  
8           licensed in this State by written agreement with another  
10           state, by entering into written licensing compacts with  
12           other states or by any other method of license recognition  
          considered appropriate that ensures the health, safety and  
          welfare of the public. Rules adopted pursuant to this  
          paragraph are routine technical rules pursuant to Title 5,  
          chapter 375, subchapter II-A.

14           **Sec. C-8. 10 MRSA §8003, sub-§6**, as amended by PL 1995, c.  
16           502, Pt. H, §10, is further amended to read:

18           **6. Funding.** The commissioner may assess each internal  
20           bureau, and office,---board---or---commission served by the  
22           commissioner's office, the Division of Administrative Services or  
24           by the Office of Licensing and Registration its reasonable share  
26           of an amount sufficient to cover the cost of operating those  
          service agencies. The commissioner may assess any board  
          affiliated with the department for the services the board  
          receives from the department. The commissioner may assess other  
          state agencies for licensing functions performed on behalf of  
          those agencies by the Office of Licensing and Registration.

28           **Sec. C-9. 10 MRSA §8003, sub-§9**, as amended by PL 1995, c.  
30           502, Pt. H, §10, is repealed.

32           **Sec. C-10. 10 MRSA §8003-B, sub-§1, ¶B**, as enacted by PL 1989,  
          c. 173, is repealed.

34           **Sec. C-11. 10 MRSA §8003-B, sub-§2-A**, as enacted by PL 1993,  
36           c. 552, §1, is amended by amending the first paragraph to read:

38           **2-A. Certain client records confidential.** Notwithstanding  
40           subsections 1 and 2, a treatment record provided to a licensing  
42           board or commission within or affiliated with the department  
44           during investigation of a person licensed by the department in a  
46           medical, mental health, substance abuse, psychological or health  
          field that contains information personally identifying a  
          licensee's client or patient is confidential during the pendency  
          of the investigation and remains confidential upon the conclusion  
          of the investigation. A treatment record may be disclosed only  
          if:

48           **Sec. C-12. 10 MRSA §§8003-C to 8003-E** are enacted to read:

**§8003-C. Unlicensed practice**

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**1. Complaints of unlicensed practice.** A board or commission listed in section 8001, subsection 38 or section 8001-A may receive or initiate complaints of unlicensed practice.

**2. Investigation of unlicensed practice.** Complaints or allegations of unlicensed practice may be investigated by the Office of Licensing and Registration, the Attorney General's office or a board's or commission's complaint officer or inspector. If sufficient evidence of unlicensed practice is uncovered, the evidence must be compiled and presented to the Department of the Attorney General or the local district attorney's office for prosecution.

**3. Unlicensed practice; criminal penalties.** Notwithstanding any other provision of law, any person who practices or represents to the public that the person is authorized to practice a profession or trade and intentionally, knowingly or recklessly fails to obtain a license as required by this Title or intentionally, knowingly or recklessly practices or represents to the public that the person is authorized to practice after the license required by this Title has expired or been suspended or revoked commits a Class E crime. Violation of this subsection is a Class D crime if the person has a prior conviction under this subsection. For purposes of this subsection, the date of the prior conviction must precede the commission of the offense being enhanced by no more than 3 years.

**4. Unlicensed practice; civil penalties.** Any person who practices or represents to the public that the person is authorized to practice a profession or trade without first obtaining a license as required by this Title or after the license has expired or has been suspended or revoked commits a civil violation punishable by a fine of not less than \$100 but not more than \$2,000 for each violation. An action under this subsection may be brought in District Court or, in combination with an action under subsection 5, in Superior Court.

**5. Unlicensed practice; injunctions.** The Attorney General may bring an action in Superior Court to enjoin any person from violating subsection 4 and to restore to any person who has suffered any ascertainable loss by reason of that violation any money or personal or real property that may have been acquired by means of that violation and to compel the return of compensation received for engaging in that unlawful conduct.

A person who violates the terms of an injunction issued under this subsection shall pay to the State a fine of not more than \$10,000 for each violation. In any action under this subsection,

2 when a permanent injunction has been issued, the court may order  
3 the person against whom the permanent injunction is issued to pay  
4 to the General Fund the costs of the investigation of that person  
5 by the Attorney General and the costs of suit, including  
6 attorney's fees. In any action by the Attorney General brought  
7 against a person for violating the terms of an injunction issued  
8 under this subsection, the court may make the necessary orders or  
9 judgments to restore to any person who has suffered any  
10 ascertainable loss of money or personal or real property or to  
11 compel the return of compensation received by reason of such  
12 conduct found to be in violation of an injunction.

13 **§8003-D. Investigations; enforcement duties; assessments**

14  
15 When there is a finding of a violation, a board or  
16 commission listed in section 8001, subsection 38 or section  
17 8001-A may assess the licensed person or entity for all or part  
18 of the actual expenses incurred by the board, commission or its  
19 agents for investigations and enforcement duties performed.

20  
21 "Actual expenses" include, but are not limited to, travel  
22 expenses and the proportionate part of the salaries and other  
23 expenses of investigators or inspectors, hourly costs of hearing  
24 officers, costs associated with record retrieval and the costs of  
25 transcribing or reproducing the administrative record.

26  
27 The board or commission, as soon as feasible after finding a  
28 violation, shall give the licensee notice of the assessment. The  
29 licensee shall pay the assessment in the time specified by the  
30 board or commission, which may not be less than 30 days.

31 **§8003-E. Citations and fines**

32  
33 Any board or commission listed in section 8001, subsection  
34 38 or section 8001-A may adopt by rule a list of violations for  
35 which citations may be issued by professional technical support  
36 staff. A violation may carry a fine not to exceed \$200.  
37 Citations issued by employees of the Office of Licensing and  
38 Registration or an affiliated board must expressly inform the  
39 licensee that the licensee may pay the fine or request a hearing  
40 before the board or commission regarding the violation.

41  
42 **Sec. C-13. 10 MRSA §8004, as enacted by PL 1975, c. 767, §9,**  
43 **is amended to read:**

44  
45 **§8004. Annual reports**

46  
47 Notwithstanding any other provision of law, all annual  
48 reports or statements required of bureaus,--boards-and-commissions  
49 and offices within the department shall must be submitted to the  
50

2 commissioner not later than August 1st of each year and shall  
3 must summarize the operations and financial position of the  
4 bureau, ~~board or commission~~ or office for the preceding fiscal  
5 year ending June 30th. After reviewing such reports and  
6 statements, the commissioner shall compile them into a report for  
7 submission to the Governor, together with such analysis as the  
8 Governor may direct.

9  
10 **Sec. C-14. Rules in effect.** Any rules adopted by a board or  
11 commission listed in the Maine Revised Statutes, Title 10,  
12 section 8001, subsection 38 in effect on June 1, 2000 remain in  
13 effect until rules are adopted by the Director of the Office of  
14 Licensing and Registration as set forth by Title 10, section  
15 8003, subsection 2, paragraph D.

## 16 PART D

17 **Sec. D-1. 32 MRSA §60, first ¶,** as enacted by PL 1993, c. 600,  
18 Pt. A, §26, is repealed.

19 **Sec. D-2. 32 MRSA §60, 2nd ¶,** as enacted by 1993, c. 600, Pt.  
20 A, §26, is amended to read:  
21

22 Notwithstanding any other provision of law, upon expiration  
23 of a professional or occupational licensing board member's term,  
24 that member serves until a successor is appointed. The  
25 successor's term commences at the expiration of the preceding  
26 term, regardless of the date of appointment. A vacancy occurring  
27 prior to the expiration of a specified term must be filled by  
28 appointment of a similarly qualified individual as a  
29 replacement. The replacement member serves for the remainder of  
30 the unexpired term, regardless of the date of appointment.  
31

32 **Sec. D-3. 32 MRSA §§60-B and 60-C,** as amended by PL 1995, c.  
33 502, Pt. H, §18, are repealed.

34 **Sec. D-4. 32 MRSA §60-D,** as amended by PL 1999, c. 386, Pt.  
35 D, §1, is repealed.

36 **Sec. D-5. 32 MRSA §§60-E and 60-F,** as amended by PL 1995, c.  
37 502, Pt. H, §18, are repealed.

38 **Sec. D-6. 32 MRSA §60-G,** as amended by PL 1997, c. 727, Pt.  
39 C, §7, is repealed.

40 **Sec. D-7. 32 MRSA §60-H,** as amended by PL 1999, c. 386, Pt.  
41 D, §2, is repealed.

42 **Sec. D-8. 32 MRSA §60-I,** as amended by PL 1999, c. 386, Pt.  
43 D, §3, is repealed.  
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**PART E**

**Sec. E-1. 10 MRSA §9005, sub-§3,** as amended by PL 1977, c. 694, §192, is repealed.

**Sec. E-2. 32 MRSA §211, first ¶,** as amended by PL 1993, c. 389, §5, is further amended to read:

The Maine State Board for Licensure of Architects, Landscape Architects and Interior Designers, established by Title 5, section 12004-A, subsection 4, referred to in this chapter as the "board," shall administer this chapter. The board consists of ~~11~~ 9 members appointed by the Governor: Five must be licensed and practicing architects, one of whom may be a professor of architecture; ~~2~~ 1 must be a licensed and practicing landscape ~~architeets~~ architect; ~~2~~ 1 must be a certified and practicing interior ~~designers~~ designer and 2 must be representatives of the public.

**Sec. E-3. 32 MRSA §213, last ¶,** as amended by PL 1993, c. 389, §7, is further amended to read:

The board shall annually elect a chair and a secretary. ~~Seven~~ Five members of the board constitute a quorum for all purposes. ~~A license or certificate may not be issued, except in an affirmative vote of at least 7 members of the board.~~

**Sec. E-4. 32 MRSA §1660-A, sub-§2,** as amended by PL 1993, c. 659, Pt. A, §4, is further amended to read:

**2. Membership.** Members of the board must be residents of the State. The board consists of the following ~~9~~ 7 members: ~~five~~ 4 licensed hearing aid dealers and fitters, ~~one--licensed~~ physieian, one licensed audiologist and 2 representatives of the public. Each hearing aid dealer and fitter on the board must have had not less than 5 years of experience and must hold a valid license as a hearing aid dealer and fitter, as provided under this chapter.

**Sec. E-5. 32 MRSA §1660-C,** as amended by PL 1983, c. 413, §85, is further amended to read:

**§1660-C. Meetings of board**

The board shall meet twice each year at a place, day and hour determined by the board. Additional meetings ~~shall~~ must be held as necessary to conduct the business of the board, and may be convened at the call of the ~~chairman~~ chair or ~~5~~ 4 of the board members. A quorum of the board ~~shall consist~~ consists of not

less than 5 4 members. The board shall keep correct records of all of its proceedings.

**Sec. E-6. 32 MRSA §6010, first ¶**, as amended by PL 1997, c. 379, §11, is further amended to read:

The Board of Examiners on Speech-language Pathology and Audiology, as established by Title 5, section 12004-A, subsection 39, consists of 7 members appointed by the Governor. All members must have been residents of this State for at least one year immediately preceding their appointment. ~~Two~~ Three members must have been engaged full time in the practice of speech-language pathology for at least one year immediately preceding appointment. Two members must have been engaged full time in the practice of audiology for at least one year immediately preceding appointment. All such professional members at all times must be holders of valid licenses for the practice of speech-language pathology or audiology. The additional members consist of a ~~physician,--licensed--pursuant--to--chapter--48,--with--specialized training--in--the--field--of--otolaryngology--and--of~~ 2 representatives of the public.

**Sec. E-7. 32 MRSA §9853, first ¶**, as amended by PL 1985, c. 295, §48, is further amended to read:

The Radiologic Technology Board of Examiners, as authorized by Title 5, chapter 379, shall administer this chapter. The board ~~shall--consist~~ consists of ~~12~~ 9 members appointed by the Governor.

**Sec. E-8. 32 MRSA §9853, sub-§1**, as amended by PL 1985, c. 748, §42, is further amended to read:

**1. Appointment and membership.** The membership of the board ~~shall--consist~~ consists of 2 radiologists; ~~3~~ 2 radiographers; one nuclear medicine technologist; one radiation therapy technologist; one radiation physicist; ~~2--licensed--practitioners who--are--not--radiologists;--one--representative--of--the--Department--of--Professional--and--Financial--Regulation--who--shall--be--the--executive secretary--and--nonvoting--member;~~ and ~~one~~ 2 public member members who shall are not be affiliated with the medical or any allied health profession. The Governor may appoint these members from lists submitted by the following organizations or their successors.

A. Radiologist members may be appointed from lists submitted by the Maine Radiological Society.

2 B. Radiation The radiation physicist member may be  
appointed from lists submitted by the Maine Radiological  
Society.

4  
6 C. Radiologic technologist members may be appointed from  
lists submitted by the Maine Society of Radiologic  
8 Technologists, the Society of Nuclear Medicine Technologists  
and the New England Society of Radiation Therapy  
Technologists.

10  
12 ~~D. The Department of Professional and Financial Regulation  
member may be appointed from lists submitted by the  
Commissioner of Professional and Financial Regulation.~~

14  
16 ~~E. The licensed practitioner members may be appointed from  
lists submitted by the Maine Chiropractic Association, Maine  
18 Medical Association, Maine Osteopathic Association and the  
Maine Pediatrics Association.~~

20 The list submitted by each organization shall ~~include~~ must  
22 include at least 2 names for each position to be filled from that  
organization.

24 The consumer member ~~shall be~~ members are appointed by the  
Governor.

26  
28 **Sec. E-9. 32 MRSA §9853, sub-§2**, as amended by PL 1993, c.  
600, Pt. A, §261, is further amended to read:

30 **2. Term of office.** The term of office is 3 years, ~~except~~  
32 ~~that of the first appointed members. Of the members first~~  
~~appointed to the board: Four members, including one radiologist,~~  
34 ~~one radiographer, one licensed practitioner and one public member~~  
~~are appointed to terms of 3 years; 4 members, including one~~  
36 ~~nuclear medicine technologist, one radiation therapy~~  
~~technologist, one licensed practitioner and one radiation~~  
38 ~~physicist are appointed to terms of 2 years; and one radiologist~~  
~~and 2 radiographers are appointed to a term of one year.~~  
Appointments of members must comply with section 60.

40 A member may be removed by the Governor for cause.

42  
44 **Sec. E-10. 32 MRSA §13852, sub-§2**, as amended by PL 1991, c.  
263, §2, is further amended to read:

46 **2. Members.** The board consists of ~~13~~ 9 members, ~~12~~ 8  
48 of them appointed by the Governor. Each member must be a citizen of  
the United States and a resident of this State. ~~Eight~~ Six  
50 members must be licensed counseling professionals under this  
chapter, 2 of whom must be professional counselors, 2 must be

2 clinical professional counselors, 2 one must be a marriage and  
family therapists therapist and 2 one must be a pastoral  
4 counselors counselor. ~~Two members must be registered counseling~~  
~~professionals who are not qualified for licensure.~~ Each  
6 counselor member must have been, for at least 5 years immediately  
preceding appointment, actively engaged as a practitioner,  
8 educator or researcher. Two members must be representatives of  
the general public and may not be currently practicing counseling  
10 or receiving compensation for counseling services. One of the 2  
public members must be a consumer of counseling services. One  
12 member, appointed by the Chancellor of the University of Maine  
System, must be a member of the university faculty involved in  
the training of counselors.

14 **Sec. E-11. 32 MRSA §13852, sub-§3**, as enacted by PL 1989, c.  
16 465, §3, is amended to read:

18 **3. Officers.** ~~The Governor shall make initial appointments~~  
~~by January 1, 1990. The initial appointees, with the exception~~  
20 ~~of the representatives of the general public, shall be licensed~~  
~~in accordance with this chapter following their appointment and~~  
22 ~~qualification as members of the board.~~ The board shall elect a  
chair and secretary at its first meeting of each year, provided  
24 that no person may serve as chair for more than 3 years. The  
~~commissioner shall call the first meeting of the board which~~  
26 ~~shall take place within 30 days of the completion of the~~  
~~appointments of the initial members.~~

28 **Sec. E-12. 32 MRSA §13852, sub-§4**, as amended by PL 1993, c.  
30 600, Pt. A, §273, is further amended to read:

32 **4. Terms of office.** ~~Of the first board members, the~~  
~~Governor shall appoint 3 for a term of one year, 3 for 2 years,~~  
34 ~~and 2 for 3 years. Their successors are appointed~~ Appointments  
are for terms of 3 years each. Appointments of members must  
36 comply with section 60.

38 **Sec. E-13. 32 MRSA §13852, sub-§7**, as amended by PL 1989, c.  
40 895, §4, is further amended to read:

42 **7. Meetings; quorum.** The board shall hold at least 2  
regular meetings each year. Additional meetings may be held upon  
44 the call of the chair or the secretary or upon the written  
request of any 2 board members. Seven Five members of the board  
constitute a quorum.

46 **Sec. E-14. 32 MRSA §14211-A, sub-§1**, as enacted by PL 1997, c.  
48 771, §8, is amended to read:

1. **Membership.** The Board of Barbering and Cosmetology, as  
2 established by Title 5, section 12004-A, subsection 6, consists  
of ~~10~~ 9 members ~~including the Commissioner of Education or the~~  
4 ~~commissioner's designee who is an ex-officio and a nonvoting~~  
~~member appointed by the Governor. The Governor shall appoint the~~  
6 ~~remaining~~ ~~9~~ ~~members, of whom~~ ~~2~~ Two members must be  
representatives of the public; 3 must be licensed and practicing  
8 cosmetologists; 2 must be licensed and practicing barbers; one  
must be a licensed instructor having no affiliation with any  
10 school currently licensed in the State; and one must be the owner  
of a licensed barbering or cosmetology school.

12 **Sec. E-15. 32 MRSA §15116, first ¶**, as amended by PL 1999, c.  
14 386, Pt. W, §26, is further amended to read:

16 When a boiler or pressure vessel is insured and inspected by  
a duly accredited insurance company licensed to do business in  
18 this State, a copy of the record of each ~~internal~~ certificate  
inspection of the boiler or pressure vessel must be filed with  
20 the board.

22 **Sec. E-16. 32 MRSA §15117, first ¶**, as amended by PL 1999, c.  
24 386, Pt. W, §27, is further amended to read:

Each boiler or pressure vessel used or proposed for use  
26 within this State, except boilers or pressure vessels exempt  
under section 15102, must be thoroughly inspected by the chief  
28 inspector or one of the deputy inspectors or authorized  
inspectors, as to its design, construction, installation,  
30 condition and operation. The board shall adopt rules pursuant to  
the Maine Administrative Procedure Act specifying the method and  
32 frequency of inspection. When any boiler or pressure vessel  
inspected as specified by the board is found to be suitable and  
34 to conform to the rules of the board, the chief inspector shall  
issue to the owner or user of that boiler or pressure vessel,  
36 upon payment of a fee to the board, an inspection certificate for  
each boiler or pressure vessel. The fee must be set by the board  
38 and may not exceed \$100. Inspection certificates must specify  
the maximum pressure that the boiler or pressure vessel inspected  
40 is allowed to carry. The inspection certificate may be valid for  
not more than 14 months from its date and must be posted under  
42 glass in the engine or boiler room containing the boiler or  
pressure vessel or an engine operated by it or, in the case of a  
44 portable boiler, in the office of the plant where it is  
temporarily located. The board may adopt rules setting forth  
46 criteria by which a temporary extension of an inspection  
48 certificate beyond 14 months may be authorized. Rules adopted  
pursuant to this section are routine technical rules pursuant to  
Title 5, chapter 375, subchapter II-A.





2 elimination of separate board accounts, and allows for license  
3 recognition between states. The bill also transfers existing law  
4 from Title 32 to Title 10, consolidating all department general  
5 authorities into one location.

6 Part D amends and repeals the "General Provisions" in Title  
7 32 that are archaic or that have been relocated to Title 10.

8  
9 Part E amends individual board statutes. Title 10 is  
10 amended to remove a burdensome requirement that all Manufactured  
11 Housing Board licensees receive personal notice of all meetings  
12 and hearings and copies of rules. Title 32 is amended to allow  
13 the Board of Boilers and Pressure Vessels to extend an inspection  
14 certificate beyond 14 months. The number of board members on the  
15 Board for Licensure of Architects, Landscape Architects and  
16 Interior Designers; the Radiologic Technology Board of Examiners;  
17 the Board of Counseling Professionals Licensure; and the Board of  
18 Barbering and Cosmetology is reduced to 9. Physician members are  
19 removed from the Board of Hearing Aid Dealers and Fitters, the  
20 Board of Examiners on Pathology and Audiology and the Radiologic  
21 Technology Board of Examiners. All changes in board composition  
22 will occur through attrition.

23 Part F appropriates funds for one health board investigator  
24 position.

25  
26 Part G directs the joint standing committee of the  
27 Legislature having jurisdiction over business and economic  
28 development to report out to the First Regular Session of the  
29 120th Legislature a bill to make statutory changes necessary to  
30 correct cross-references to sections of law repealed by this Act.