

# MAINE STATE LEGISLATURE

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# 120th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2001

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Legislative Document

No. 1612

H.P. 1189

House of Representatives, March 13, 2001

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**An Act to Regulate Colonics.**

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

*Millicent M. MacFarland*

MILLICENT M. MacFARLAND, Clerk

Presented by Representative MENDROS of Lewiston.  
Cosponsored by Senator LEMONT of York and  
Representatives: CRESSEY of Baldwin, MICHAEL of Auburn, WHEELER of Eliot.

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

4 **Sec. 1. 32 MRSA c. 127-B** is enacted to read:

6 **CHAPTER 127-B**

8 **COLONIC PRACTITIONER**

10 **§14401. Definitions**

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

14 1. **Colonic irrigation.** "Colonic irrigation" means a method of hydrotherapy used to cleanse the colon with the aid of a mechanical device and water.

18 2. **Colonic practitioner.** "Colonic practitioner" means a person who provides or offers to provide colonic irrigation for a fee, monetary or otherwise.

22 3. **Commissioner.** "Commissioner" means the Commissioner of Professional and Financial Regulation or the commissioner's designee.

26 4. **Department.** "Department" means the Department of Professional and Financial Regulation.

28 **§14402. Commissioner; powers and duties**

30 The commissioner has the following powers and duties.

32 1. **Administer.** The commissioner shall administer and enforce this chapter.

36 2. **Rules.** The commissioner shall adopt rules in accordance with the Maine Administrative Procedure Act necessary to carry out the purposes of this chapter. Rules adopted pursuant to this chapter are routine technical rules as defined in Title 5, chapter 375, subchapter II-A.

42 3. **Complaints.** The commissioner shall investigate or cause to be investigated all complaints concerning violations of this chapter or rules adopted by the department made on the commissioner's own motion or on written complaint filed with the department and all cases of noncompliance with or violation of this chapter or any rules adopted by the department.

48 4. **Contracts.** The commissioner may enter into contracts to carry out the commissioner's responsibilities under this chapter.

2           5. Register. The commissioner shall make available, at  
4           cost, a register that contains the names of all individuals  
            licensed under this chapter.

6           6. Hearings. The commissioner may conduct hearings to  
8           assist with investigations and to determine whether grounds exist  
            for denial of license renewal, suspension of license or any other  
10           action necessary to the fulfillment of the commissioner's  
            responsibilities under this chapter.

12           7. Advisory council. The commissioner shall establish an  
14           advisory council to advise and consult with the commissioner  
            concerning the regulation of colonic practitioners. The  
16           commissioner may select members of the profession and other  
            interested parties to serve on an advisory council. Service on  
18           the council is not a conflict of interest regardless of the  
            occupations or associations of the members.

20           **§14403. Licensing**

22           1. License required. Beginning on January 1, 2002, unless  
24           exempt pursuant to section 14406, a person may not charge a fee  
            for performing a colonic irrigation unless licensed in accordance  
26           with this chapter.

28           2. Individual licensing. Only an individual who is  
            qualified under this chapter may be issued a license to practice  
30           colonic irrigation.

32           **§14404. Requirements for licensure; colonic practitioners**

34           Each applicant for licensure must demonstrate competence to  
            engage in the practice of colonic irrigation in a manner that  
36           safeguards the interests of the public. Rules adopted under this  
            chapter must provide for educational standards, examinations and  
38           certification for the practice of colonic irrigation by colonic  
            practitioners.

40           **§14405. Terms of license**

42           Each individual who applies for licensure shall fill out a  
            form designated by the department. A license expires yearly on  
44           the date of the individual's initial licensure or on such other  
            date as the commissioner determines. The commissioner shall mail  
46           a notice of expiration to a licensed colonic practitioner's last  
            known address at least 30 days before the expiration of the  
48           license. The notice must include requests for any information  
            necessary for renewal. A late fee of \$10 is assessed on any  
50           license renewal that is postmarked later than the anniversary

2 date of the individual's initial licensure. If an individual has  
3 not renewed the license prior to 90 days after the anniversary  
4 date, the individual must reapply for licensure.

5 2. Continuing education and supervision. The department,  
6 by rule, may establish continuing education and supervision  
7 requirements. An applicant for a renewal of a license shall show  
8 proof of satisfying the continuing education requirements set  
9 forth by the department.

10 **§14406. Exemption to certification**

11 A licensed physician is exempt from the requirements of this  
12 chapter.

13 **§14407. Disciplinary action; grounds; procedure; complaints**

14 1. Grounds. The commissioner may suspend, revoke or refuse  
15 to renew a license under the same grounds as contained in Title  
16 5, section 10004. In addition, the commissioner may take the  
17 same action granted to bureaus, boards and commissions pursuant  
18 to Title 10, section 8003, subsection 5. The commissioner's  
19 actions may be based on any of the following grounds:

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

23 B. Habitual substance abuse that has resulted or is  
24 foreseeably likely to result in the regulated person  
25 performing services in a manner that endangers the health or  
26 safety of clients;

27 C. A current medical finding of mental incompetence that  
28 affects the licensed person's ability to perform that  
29 person's occupation in a healthy and safe manner;

30 D. Aiding or abetting persons not duly licensed under this  
31 chapter who profess to be licensed;

32 E. Subject to the limitations of Title 5, chapter 341,  
33 conviction of a crime that involves dishonesty or false  
34 statement or that directly relates to the practice of  
35 colonic irrigation or conviction of a crime for which  
36 incarceration for one year or more may be imposed;

37 F. Revocation in any state of a professional or  
38 occupational license, certification or registration for  
39 disciplinary reasons or rejection of any application for  
40 reasons related to untrustworthiness within 3 years of the  
41 date of application; or

2           G. Violating any provisions of this chapter or any rule of  
3           the department.

4  
5           2. Procedure. Except as provided in Title 5, section  
6           10004, a license may not be denied, suspended, revoked or refused  
7           for renewal for the reasons set forth in subsection 1 without  
8           prior written notice and opportunity for hearing on that denial,  
9           suspension or revocation. A license may not be denied, suspended  
10          or revoked under this section except by a decision of the  
11          commissioner.

12  
13          3. Complaints. Any person may file a complaint with the  
14          commissioner seeking disciplinary action against a colonic  
15          practitioner concerning violations of this chapter or rules  
16          adopted by the department. Complaints must be in writing. If  
17          the commissioner determines that a complaint alleges facts that,  
18          if true, would require denial, revocation, suspension or  
19          nonrenewal of the license or other disciplinary action of a  
20          licensed colonic practitioner, the commissioner may conduct a  
21          hearing pursuant to the Maine Administrative Procedure Act.  
22          Whenever the commissioner establishes that a complaint does not  
23          state facts that warrant action, the complaint may be dismissed.

24  
25          The commissioner shall conduct proceedings under this subsection  
26          in accordance with the provisions of Title 5, chapter 375,  
27          subchapter IV.

28          **§14408. Penalty; injunction**

29  
30          A person who violates this chapter commits a Class E crime.  
31          The State may bring an action in Superior Court to enjoin any  
32          person from violating this chapter, regardless of whether  
33          proceedings have been or may be instituted in the District Court  
34          or whether criminal proceedings have been or may be instituted.

35          **§14409. Reciprocity**

36  
37          Reciprocity is granted to individuals from other states as  
38          long as those individuals meet the requirements of this chapter  
39          for status as a licensed colonic practitioner and show proof of  
40          current certification or registration from their states.

41  
42  
43                                 **SUMMARY**

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45           This bill requires practitioners of colonic irrigation to be  
46           licensed pursuant to criteria established by the Commissioner of  
47           Professional and Financial Regulation. The bill requires that  
48           the commissioner establish an advisory council to advise and  
49           the commissioner establish an advisory council to advise and  
50           the commissioner establish an advisory council to advise and

2 consult with the commissioner concerning the regulation of  
colonic practitioners. The bill authorizes the Department of  
Professional and Financial Regulation to establish continuing  
4 education requirements for maintaining a license. The bill sets  
forth guidelines for disciplinary action and makes practicing  
6 colonic irrigation without a license a Class E crime. Licensed  
physicians are exempt from the requirements of this bill.