

# MAINE STATE LEGISLATURE

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# 124th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2009

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Legislative Document

No. 630

H.P. 444

House of Representatives, February 19, 2009

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**An Act To Update and Streamline State Licensing Laws and Clarify  
the Process for Appealing Final Decisions of Certain Licensing  
Entities**

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

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

*Millicent M. MacFarland*  
MILLICENT M. MacFARLAND  
Clerk

Presented by Representative COHEN of Portland.  
Cosponsored by Senator SCHNEIDER of Penobscot and  
Representative: BEAUDETTE of Biddeford, Senator: PERRY of Penobscot.

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

2 PART A

3 Sec. A-1. 9 MRSA §5004, sub-§1, ¶C, as amended by PL 2007, c. 402, Pt. A,  
4 §3, is further amended to read:

5 C. Before issuance of a license by the office in accordance with section 5008, a  
6 charitable organization that is required to file an initial license application or annual  
7 renewal application may not solicit, accept or obtain contributions or have  
8 contributions solicited, accepted or obtained on its behalf by any other person,  
9 charitable organization, commercial co-venturer or professional solicitor, or  
10 participate in charitable sales promotion.

11 Sec. A-2. 10 MRSA §8003, sub-§8, as amended by PL 1995, c. 502, Pt. H, §10,  
12 is repealed.

13 Sec. A-3. 32 MRSA §554, as amended by PL 2007, c. 402, Pt. H, §12, is further  
14 amended to read:

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

16 When the board grants to an individual the license mentioned in section 552, the  
17 license must designate the holder as a doctor of chiropractic or a chiropractor and must be  
18 publicly displayed at the individual's principal place of business so long as that  
19 individual continues to practice chiropractic for gain or hire. The license entitles the  
20 individual to whom it is granted to practice chiropractic in this State in all of its branches  
21 of discipline, except obstetrics, so far as the same relates to parturition, the administering  
22 of drugs and the performance of surgical operations with the use of instruments, except as  
23 allowed by law. This section may not be construed to prohibit a legally licensed doctor  
24 of chiropractic in this State from practicing surgery after having passed a satisfactory  
25 examination before the State Board of Licensure in Medicine.

26 Sec. A-4. 32 MRSA §1104, as amended by PL 1999, c. 657, §14, is repealed and  
27 the following enacted in its place:

28 **§1104. State electrical inspectors**

29 **1. Inspection.** State electrical inspectors, upon an oral complaint of imminent  
30 danger or upon written complaint of any owner, lessee or tenant of a building, state fire  
31 inspector, fire chief, fire department inspector, personnel of a transmission and  
32 distribution utility or local electrical inspector or whenever they determine it necessary at  
33 all reasonable hours, for purposes of examination, may enter into and upon all buildings  
34 or premises within their jurisdiction and inspect the same. They may enter any building  
35 only with the permission of the person having control thereof or, after hearing, upon order  
36 of court. Whenever any state electrical inspector finds any electrical installation in any  
37 building or structure that does not comply with this chapter, that inspector shall order the  
38 same to be removed or remedied and the order must forthwith be complied with by the  
39 owner or occupant of the premises or buildings or the electrician that performed the work.

1 Whenever any state electrical inspector finds any electrical installation in any building or  
2 structure that creates a danger to other property or to the public, the inspector may forbid  
3 use of the building or structure by serving a written order upon the owner and the  
4 occupant, if any, to vacate within a reasonable period of time to be stated in the order.

5 2. Order to correct deficiency; appeal. Any person ordered by a state electrical  
6 inspector to correct an electrical deficiency or to vacate a building or structure may  
7 appeal the order to the Electricians' Examining Board by filing with that board within 30  
8 days of receipt of the order a written notice of appeal. The board shall review that appeal  
9 and issue its written decision thereof within a reasonable time after receipt of the notice  
10 of appeal. If the board upholds the inspector's order, it shall prescribe the time period for  
11 the requisite correction specified in its written decision or the time within which that  
12 person must vacate the building or structure. The decision must be complied with unless  
13 appealed as provided. Any person ordered by the board to correct an electrical deficiency  
14 or to vacate a building or structure may appeal the order to the Superior Court in  
15 accordance with Title 5, chapter 375, subchapter 7 by filing a petition for review within  
16 48 hours of receipt of the order. The court shall issue its written decision within 20 days  
17 after receipt of the petition for review.

18 The decision of the Superior Court on an appeal as provided is final. An order by a  
19 state electrical inspector or an order by the Electricians' Examining Board is final and  
20 subject to no further appeal upon failure to file a timely, written appeal therefrom as  
21 provided.

22 Upon the failure of any person to carry out a final order as provided, the Electricians'  
23 Examining Board may petition the Superior Court for the county in which the building or  
24 premises are located for an injunction to enforce that order. If the court determines upon  
25 hearing the petition that a lawful final order was issued, it shall order compliance.

26 **Sec. A-5. 32 MRSA §1202, sub-§1, ¶C,** as amended by PL 1999, c. 386, Pt. F,  
27 §14 and PL 2003, c. 20, Pt. OO, §2 and affected by §4, is further amended to read:

28 C. For a limited electrician's license, a person must meet the following requirements.

29 (1) A limited electrician in water pumps must have 135 hours of electrical  
30 education as approved by the Electricians' Examining Board or from an  
31 accredited institution and 2,000 hours of experience. The privileges of practice  
32 are restricted to electrical work between the branch circuits and power supplies.

33 (2) A limited electrician in outdoor signs, including sign lighting, must have 135  
34 hours of electrical education as approved by the Electricians' Examining Board or  
35 from an accredited institution and 2,000 hours of experience. The privileges of  
36 practice do not include branch circuit wiring.

37 (3) A limited electrician in gasoline dispensing must have 135 hours of electrical  
38 education as approved by the Electricians' Examining Board or from an  
39 accredited institution and 2,000 hours of experience. The privileges of practice  
40 are restricted to electrical work between the branch circuit and the power supply.

41 (4) A limited electrician in traffic signals, including outdoor lighting of traffic  
42 signals, must have 135 hours of electrical education as approved by the

1 Electricians' Examining Board or from an accredited institution and 2,000 hours  
2 of experience.

3 (5) A limited electrician in house wiring must have 225 hours of electrical  
4 education as approved by the Electricians' Examining Board or from an  
5 accredited institution and 4,000 hours of experience. Privileges of practice are  
6 restricted to one-family and 2-family dwellings, including modular and mobile  
7 homes. Any person having a limited license in mobile homes prior to the  
8 effective date of this section is automatically licensed as a limited electrician in  
9 house wiring.

10 (6) A limited electrician in refrigeration must have 270 hours of electrical  
11 education as approved by the Electricians' Examining Board or from an  
12 accredited institution and 6,000 hours of experience. Graduates of a Maine  
13 community college electrical program in refrigeration approved by the  
14 Electricians' Examining Board or from an accredited institution are credited with  
15 4,000 hours of experience upon graduation. Privileges of practice are restricted  
16 to all associated wire from the loadside of distribution.

17 (7) A limited electrician in low energy, including fire alarms, must have 270  
18 hours of electrical education as approved by the Electricians' Examining Board or  
19 from an accredited institution and 4,000 hours of experience. Any person having  
20 a limited license in fire alarms or experience in the installation of low-energy  
21 electronics, as defined by the National Electrical Code, prior to the effective date  
22 of this section, qualifies to be licensed as a limited electrician in low energy.

23 (8) A crane technician must have 135 hours of electrical education as approved  
24 by the Electricians' Examining Board or from an accredited institution and 2,000  
25 hours of experience. Any person having work experience in the installation of  
26 cranes and hoists, as defined by the National Electrical Code, prior to the  
27 effective date of this subparagraph, qualifies to be licensed as a crane technician.  
28 This covers the installation of electrical equipment and wiring used in connection  
29 with cranes, monorail hoists, hoists and runways.

30 **Sec. A-6. 32 MRSA §1524-B, sub-§1**, as enacted by PL 1999, c. 399, §11 and  
31 affected by §20, is amended to read:

32 **1. High school diploma.** Proof of a high school diploma or the equivalent; and

33 **Sec. A-7. 32 MRSA §1524-B, sub-§2**, as enacted by PL 1999, c. 399, §11 and  
34 affected by §20, is repealed.

35 **Sec. A-8. 32 MRSA §3115**, as amended by PL 2007, c. 402, Pt. N, §7, is further  
36 amended to read:

37 **§3115. Licensure**

38 The board shall license an applicant who meets the requirements of this chapter and  
39 pays the biennial licensure fee as set under section 3116-A. ~~The license must be~~  
40 ~~conspicuously displayed by the licensee at the place of employment.~~ Licensure as a  
41 physical therapist entitles the person to whom it is granted to engage in the practice of

1 physical therapy anywhere in this State and to use the words "physical therapist" or letters  
2 "P.T." to indicate that the person is licensed in this State. Licensure as a physical therapist  
3 assistant entitles the person to whom it is granted to act as a physical therapist assistant  
4 and to use the words "physical therapist assistant" or letters "P.T.A." to indicate that the  
5 person is licensed in this State.

6 **Sec. A-9. 32 MRSA §3552-A, sub-§1**, as enacted by PL 2005, c. 77, §1, is  
7 amended to read:

8 **1. Podiatric assistants permitted.** ~~This chapter may not be construed to prohibit a~~  
9 ~~podiatric assistant from rendering podiatric medical services if these services are rendered~~  
10 ~~under the supervision and control of a podiatrist and if that podiatric assistant is in a~~  
11 ~~training program approved by the board or has satisfactorily completed training and a~~  
12 ~~competency evaluation approved by the board. "Supervision and control" may not be~~  
13 ~~construed to require the personal presence of the supervising and controlling podiatrist at~~  
14 ~~the place where these services are rendered, unless a physical presence is necessary to~~  
15 ~~provide patient care of the same quality as provided by the podiatrist. This chapter may~~  
16 ~~not be construed to prohibit a podiatrist from delegating to a podiatric assistant certain~~  
17 ~~activities relating to medical care and treatment that are delegated by custom and usage,~~  
18 ~~as long as those activities are under the supervision or control of the podiatrist, who must~~  
19 ~~be present on the premises at the time the activities are performed. This section may not~~  
20 ~~be construed to require the presence of the supervising and controlling podiatrist during~~  
21 ~~the rendering of nondiagnostic or nontherapeutic services.~~

22 **Sec. A-10. 32 MRSA §3653**, as amended by PL 1993, c. 600, Pt. A, §246, is  
23 further amended to read:

24 **§3653. Use of title**

25 An applicant who satisfactorily meets the requirements for license to practice  
26 podiatry, as provided in this chapter, may be granted a license by the board ~~signed by the~~  
27 ~~chair, which that~~ entitles the individual to whom it is granted to practice podiatry in this  
28 State. ~~The license must be conspicuously displayed at the place of practice of the~~  
29 ~~podiatrist. A podiatrist licensed in accordance with this chapter may use the word~~  
30 ~~"Doctor" or the letters "Dr." when followed by the word "Podiatrist" or "Chiropracist," or~~  
31 ~~the designation of the degree "D.P.M."~~

32 **Sec. A-11. 32 MRSA §3812-A** is enacted to read:

33 **§3812-A. Delegation authorized**

34 **1. Delegation authorized.** This chapter may not be construed to prohibit a  
35 psychologist from delegating to an individual the administration and observation of tests  
36 and certain activities relating to the practice of psychology, as long as those activities are  
37 under the supervision and control of the psychologist. "Supervision and control" may not  
38 be construed to require the personal presence of the supervising and controlling  
39 psychologist at the place where those activities take place, unless a physical presence is  
40 necessary to provide patient care of the same quality as provided by the psychologist.  
41 The board may adopt rules identifying delegated activities and appropriate levels of

1 supervision in the practice setting. Rules adopted pursuant to this subsection are routine  
2 technical rules as defined by Title 5, chapter 375, subchapter 2-A. The activities  
3 delegated by a psychologist under this subsection may not include the interpretation of  
4 test results and diagnosing and treating mental, emotional and psychological illnesses and  
5 disorders.

6 2. Responsibility. A psychologist who delegates activities as described in  
7 subsection 1 to an individual is legally and ethically responsible for all of the professional  
8 activities of that individual, and the individual in this relationship is considered the  
9 psychologist's agent. This subsection may not be construed to apply to an individual  
10 acting under a separate license accepted by the State to render services independently.

11 **Sec. A-12. 32 MRSA §6210**, as amended by PL 2007, c. 402, Pt. U, §6, is further  
12 amended to read:

13 **§6210. Meetings; chair; quorum**

14 The board shall meet at least once a year to conduct its business and to elect a chair.  
15 Additional meetings must be held as necessary to conduct the business of the board and  
16 may be convened at the call of the chair or a majority of the board members. ~~Six~~ Five  
17 members of the board constitute a quorum.

18 **Sec. A-13. 32 MRSA §7053, sub-§3, ¶A**, as amended by PL 2001, c. 316, §2, is  
19 further amended to read:

20 A. The applicant must have received a bachelor's degree or higher in social work or  
21 social welfare from an accredited educational institution; demonstrated to the  
22 satisfaction of the board adherence to the ethics of the social worker profession; and  
23 successfully completed the examination prescribed by the board; or

24 **Sec. A-14. 32 MRSA §7053, sub-§3-B, ¶A**, as enacted by PL 2003, c. 429, §4  
25 and affected by §7, is amended to read:

26 A. Documented proof of a bachelor's degree or higher in a field that is sufficiently  
27 related to social work or social welfare, as determined by the board; and

28 **Sec. A-15. 32 MRSA §9854, sub-§1**, as amended by PL 2005, c. 511, §5, is  
29 further amended to read:

30 **1. License required.** A person may not practice or profess to be authorized to  
31 practice after September 1, 1984, as a radiographer, a nuclear medicine technologist or a  
32 radiation therapist unless that person is licensed in accordance with the provisions of this  
33 chapter. ~~A license issued by the board must be displayed conspicuously in each place of~~  
34 ~~regular employment of the licensee.~~

35 **Sec. A-16. 32 MRSA §9855, sub-§3, ¶C**, as amended by PL 2007, c. 402, Pt. X,  
36 §2, is further amended to read:

37 C. Either have successfully completed a course in radiologic radiation therapy  
38 technology and an examination that is approved by the board or possess valid

1 certification and current registration from the American Registry of Radiologic  
2 Technologists or its successor or other organization or another certification program  
3 approved by the board to practice as a radiation therapist.

4 **Sec. A-17. 32 MRSA §13198, sub-§2**, as enacted by PL 1987, c. 395, Pt. A,  
5 §212, is repealed and the following enacted in its place:

6 **2. Professional qualifications.** An applicant for a broker license must meet the  
7 qualifications under paragraphs A and B.

8 A. The applicant must have been licensed as an associate broker affiliated with a real  
9 estate brokerage agency for 2 years within the 5 years immediately preceding the date  
10 of application.

11 B. The applicant must satisfactorily complete the course of study meeting guidelines  
12 established by the commission.

13 **Sec. A-18. 32 MRSA §13199, sub-§2-A**, as enacted by PL 2005, c. 378, §10 and  
14 affected by §29, is amended to read:

15 **2-A. Professional qualifications.** An applicant for an associate broker license must  
16 have ~~practiced~~ been licensed as a real estate sales agent affiliated with a real estate  
17 brokerage agency for 2 years within the 5 years immediately preceding the date of  
18 application and satisfactorily completed a course of study meeting guidelines established  
19 by the commission. The commission may not issue a license under this section until an  
20 individual has completed 2 years as a licensed real estate sales agent.

21 **Sec. A-19. 32 MRSA §13852, sub-§7**, as amended by PL 2007, c. 621, §15, is  
22 further amended to read:

23 **7. Meetings; chair; quorum.** The board shall meet at least once a year to conduct  
24 its business and to elect a chair. Additional meetings must be held as necessary to  
25 conduct the business of the board and may be convened at the call of the chair or a  
26 majority of the board members. ~~Four~~ Five members of the board constitute a quorum.

27 **Sec. A-20. 32 MRSA §14002, sub-§9**, as enacted by PL 1999, c. 185, §5, is  
28 repealed and the following enacted in its place:

29 **9. Federally related transaction.** "Federally related transaction" means any  
30 financial transaction related to real estate that:

31 A. A federal financial institution's regulatory agency or the Resolution Trust  
32 Corporation or its successor agency engages in, contracts for or regulates; and

33 B. Requires the services of a real estate appraiser.

34 **Sec. A-21. 32 MRSA §14022**, as enacted by PL 1999, c. 185, §5, is amended to  
35 read:



1 **§14022. Place of business**

2 A licensee shall designate and maintain a principal place of business where real estate  
3 appraisal records may be inspected for purposes consistent with this chapter ~~and shall~~  
4 ~~conspicuously display the license in the principal place of business.~~ A nonresident is not  
5 required to maintain a place of business in this State if the nonresident maintains an  
6 active place of business in the state of domicile.

7 **Sec. A-22. 32 MRSA §14036, sub-§2, ¶D,** as enacted by PL 2005, c. 518, §7, is  
8 amended to read:

9 D. Hold a valid license under this chapter and demonstrate 2,500 hours of appraisal  
10 experience obtained during no fewer than 24 months, including complex residential  
11 property appraisals completed under the supervision of a certified residential real  
12 property appraiser or a certified general real property appraiser under section 14035.

13 **Sec. A-23. 32 MRSA §17104-A** is enacted to read:

14 **§17104-A. Delegation authorized**

15 1. Delegation authorized. This chapter may not be construed to prohibit an  
16 audiologist from delegating to an individual certain activities relating to the practice of  
17 audiology, as long as those activities are under the supervision and control of the  
18 audiologist. "Supervision and control" may not be construed to require the personal  
19 presence of the supervising and controlling audiologist at the place where those activities  
20 take place, unless a physical presence is necessary to provide patient care of the same  
21 quality as provided by the audiologist. The board may adopt rules identifying delegated  
22 activities and appropriate levels of supervision in the practice setting. Rules adopted  
23 pursuant to this subsection are routine technical rules as defined by Title 5, chapter 375,  
24 subchapter 2-A. The activities delegated by an audiologist under this subsection may not  
25 include the assessment and treatment of hearing and balance disorders or the dispensing  
26 of hearing aids.

27 2. Responsibility. An audiologist who delegates activities as described in  
28 subsection 1 to an individual is legally and ethically responsible for all of the professional  
29 activities of that individual, and the individual in this relationship is considered the  
30 audiologist's agent. This subsection may not be construed to apply to an individual acting  
31 under a separate license accepted by the State to render services independently.

32 **PART B**

33 **Sec. B-1. 4 MRSA §152, sub-§9,** as amended by PL 2005, c. 65, Pt. C, §1, is  
34 further amended to read:

35 **9. Licensing jurisdiction.** Except as provided in Title 5, section 10004; Title 8,  
36 section 279-B; Title 10, section 8003, ~~subsection 5~~; Title 20-A, sections 10712 and  
37 10713; Title 29-A; Title 32, chapters 2-B, 114 and 135; and Title 35-A, section 3132,  
38 exclusive jurisdiction upon complaint of an agency or, if the licensing agency fails or  
39 refuses to act within a reasonable time, upon complaint of the Attorney General to revoke  
40 or suspend licenses issued by the agency. The District Court has original jurisdiction

1 upon complaint of a licensing agency to determine whether renewal or reissuance of a  
2 license of that agency may be refused. The District Court has original concurrent  
3 jurisdiction to grant equitable relief in proceedings initiated by an agency or the  
4 Department of the Attorney General alleging any violation of a license or licensing laws  
5 or rules.

6 Notwithstanding any other provisions of law, a licensing agency may not reinstate or  
7 otherwise affect a license suspended, revoked or modified by the District Court pursuant  
8 to a complaint filed by the Attorney General without the approval of the Attorney  
9 General;

10 **Sec. B-2. 4 MRSA §152, sub-§10**, as amended by PL 1999, c. 731, Pt. ZZZ, §4  
11 and affected by §42, is repealed.

12 **Sec. B-3. 10 MRSA §8003, sub-§5-A**, as amended by PL 2007, c. 621, §§2 and  
13 3, is further amended to read:

14 **5-A. Authority of Office of Licensing and Registration.** In addition to authority  
15 otherwise conferred, unless expressly precluded by language of denial in its own  
16 governing law, the Office of Licensing and Registration, referred to in this subsection as  
17 "the office," including the licensing boards and commissions and regulatory functions  
18 within the office, have the following authority.

19 A. The office, board or commission may deny or refuse to renew a license, may  
20 suspend or revoke a license and may impose other discipline as authorized in this  
21 subsection for any of the following reasons:

22 (1) The practice of fraud, deceit or misrepresentation in obtaining a license from  
23 a bureau, office, board or commission, or in connection with services rendered  
24 while engaged in the occupation or profession for which the person is licensed;

25 (2) Any gross negligence, incompetence, misconduct or violation of an  
26 applicable code of ethics or standard of practice while engaged in the occupation  
27 or profession for which the person is licensed;

28 (3) ~~Subject to the limitations of Title 5, chapter 341, conviction of a Class A, B~~  
29 ~~or C crime or Conviction of a crime that bears directly on the licensed profession~~  
30 ~~or occupation to the extent permitted by Title 5, chapter 341;~~

31 (4) Any violation of the governing law of an office, board or commission;

32 (5) Any violation of the rules of an office, board or commission;

33 (6) Engaging in any activity requiring a license under the governing law of an  
34 office, board or commission that is beyond the scope of acts authorized by the  
35 license held;

36 (7) Continuing to act in a capacity requiring a license under the governing law of  
37 an office, board or commission after expiration, suspension or revocation of that  
38 license;

39 (8) Aiding or abetting unlicensed practice by a person who is not licensed as  
40 required by the governing law of an office, board or commission;

- 1 (9) Noncompliance with an order or consent agreement of an office, board or  
2 commission;
  - 3 (10) Failure to produce any requested documents in the licensee's possession or  
4 under the licensee's control concerning a pending complaint or proceeding or any  
5 matter under investigation; or
  - 6 (11) Any violation of a requirement imposed pursuant to section 8003-G.
- 7 B. The office, board or commission may impose the following forms of discipline  
8 upon a licensee or applicant for licensure:
- 9 (1) Denial or refusal to renew a license, or issuance of a license in conjunction  
10 with the imposition of other discipline;
  - 11 (2) Issuance of warning, censure or reprimand. Each warning, censure or  
12 reprimand issued must be based upon violation of a single applicable law, rules  
13 or condition of licensure or must be based upon a single instance of actionable  
14 conduct or activity;
  - 15 (3) Suspension of a license for up to 90 days for each violation of applicable  
16 laws, rules or conditions of licensure or for each instance of actionable conduct or  
17 activity. Suspensions may be set to run concurrently or consecutively. Execution  
18 of all or any portion of a term of suspension may be stayed pending successful  
19 completion of conditions of probation; although the suspension remains part of  
20 the licensee's record;
  - 21 (4) Revocation of a license;
  - 22 (5) Imposition of civil penalties of up to \$1,500, or such greater amount as may  
23 be authorized by statute, for each violation of applicable laws, rules or conditions  
24 of licensure or for each instance of actionable conduct or activity; or
  - 25 (6) Imposition of conditions of probation upon an applicant or licensee.  
26 Probation may run for such time period as the office, board or commission  
27 determines appropriate. Probation may include conditions such as: additional  
28 continuing education; medical, psychiatric or mental health consultations or  
29 evaluations; mandatory professional or occupational supervision of the applicant  
30 or licensee; practice restrictions; and other conditions as the office, board or  
31 commission determines appropriate. Costs incurred in the performance of terms  
32 of probation are borne by the applicant or licensee. Failure to comply with the  
33 conditions of probation is a ground for disciplinary action against a licensee.
- 34 C. The office, board or commission may execute a consent agreement that resolves a  
35 complaint or investigation without further proceedings. Consent agreements may be  
36 entered into only with the consent of the applicant or licensee; the office, board or  
37 commission; and the Department of the Attorney General. Any remedy, penalty or  
38 fine that is otherwise available by law, even if only in the jurisdiction of the Superior  
39 Court, may be achieved by consent agreement, including long-term suspension and  
40 permanent revocation of a professional or occupational license. A consent agreement  
41 is not subject to review or appeal and may be modified only by a writing executed by  
42 all parties to the original consent agreement. A consent agreement is enforceable by  
43 an action in Superior Court.

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D. The office, board or commission may:

(3) Except as provided in Title 37-B, section 390-A, adopt rules requiring continuing professional or occupational education and require applicants for license renewal to present proof of satisfactory completion of continuing professional or occupational education in accordance with such rules. Failure to comply with the continuing education rules is punishable by nonrenewal of the license and other discipline authorized by this subsection. Notwithstanding any contrary provision set forth in the governing law of an office, board or commission, continuing education requirements may coincide with the license renewal period. Rules adopted pursuant to this subparagraph are routine technical rules as described in Title 5, chapter 375, subchapter 2-A;

(4) Issue continuing education deferments in cases of undue hardship;

(5) Grant inactive status licenses to licensees in accordance with rules that may be adopted by each office, board or commission. The fee for an inactive status license may not exceed the statutory fee cap for license renewal set forth in the governing law of the office, board or commission. Licensees in inactive status are required to pay license renewal fees for renewal of an inactive status license and may be required to pay a reinstatement fee as set by the Director of the Office of Licensing and Registration if the license is reactivated on a date other than the ordinary renewal date of the license. Any rules of an office, board or commission regulating inactive status licensure must describe the obligations of an inactive status licensee with respect to any ongoing continuing education requirement in effect for licensees of the office, board or commission and must set forth any requirements for reinstatement to active status, which requirements may include continuing education. Rules adopted pursuant to this subparagraph are routine technical rules as described in Title 5, chapter 375, subchapter 2-A; and

(6) Delegate to staff the authority to review and approve applications for licensure pursuant to procedures and criteria established by rule. Rules adopted pursuant to this subparagraph are routine technical rules as described in Title 5, chapter 375, subchapter 2-A.

E. The office, board or commission may require surrender of licenses. In order for a licensee's surrender of a license to be effective, a surrender must first be accepted by vote of the office, board or commission. The office, board or commission may refuse to accept surrender of a license if the licensee is under investigation or is the subject of a pending complaint or proceeding, unless a consent agreement is first entered into pursuant to this subsection. The consent agreement may include terms and conditions for reinstatement.

F. The office, board or commission may issue a letter of guidance or concern to a licensee. A letter of guidance or concern may be used to educate, reinforce knowledge regarding legal or professional obligations or express concern over action or inaction by the licensee that does not rise to the level of misconduct sufficient to merit disciplinary action. The issuance of a letter of guidance or concern is not a formal proceeding and does not constitute an adverse disciplinary action of any form. Notwithstanding any other provision of law, letters of guidance or concern are not

1 confidential. The office, board or commission may place letters of guidance or  
2 concern, together with any underlying complaint, report and investigation materials,  
3 in a licensee's file for a specified period of time, not to exceed 10 years. Any letters,  
4 complaints and materials placed on file may be accessed and considered by the  
5 office, board or commission in any subsequent action commenced against the  
6 licensee within the specified time frame. Complaints, reports and investigation  
7 materials placed on file are confidential only to the extent that confidentiality is  
8 required pursuant to Title 24, chapter 21.

9 G. The office, board or commission may establish, by rule, procedures for licensees  
10 in another state to be licensed in this State by written agreement with another state,  
11 by entering into written licensing compacts with other states or by any other method  
12 of license recognition considered appropriate that ensures the health, safety and  
13 welfare of the public. Rules adopted pursuant to this paragraph are routine technical  
14 rules pursuant to Title 5, chapter 375, subchapter 2-A.

15 The jurisdiction to ~~suspend and revoke~~ impose discipline against occupational and  
16 professional licenses conferred by this subsection is concurrent with that of the District  
17 Court. Civil penalties must be paid to the Treasurer of State.

18 Any nonconsensual disciplinary action taken under authority of this subsection other than  
19 denial or nonrenewal of a license may be imposed only after a hearing conforming to the  
20 requirements of Title 5, chapter 375, subchapter 4, and, ~~except for revocation actions,~~ is  
21 subject to judicial review exclusively in the Superior Court in accordance with Title 5,  
22 chapter 375, subchapter 7.

23 The office, board or commission shall hold a hearing conforming to the requirements of  
24 Title 5, chapter 375, subchapter 4 at the written request of any person who is denied an  
25 initial or renewal license without a hearing for any reason other than failure to pay a fee,  
26 provided that the request for hearing is received by the office, board or commission  
27 within 30 days of the applicant's receipt of written notice of the denial of the application,  
28 the reasons for the denial and the applicant's right to request a hearing.

29 The office, board or commission may subpoena witnesses, records and documents in any  
30 adjudicatory hearing it conducts.

31 ~~Any nonconsensual revocation of a professional or occupational license taken under~~  
32 ~~authority of this subsection is subject to, upon appeal within the time frames provided in~~  
33 ~~Title 5, section 11002, subsection 3, de novo judicial review exclusively in District Court.~~  
34 Rules adopted to govern judicial appeals from agency action apply to cases brought under  
35 this subsection.

## 36 SUMMARY

37 This bill contains various updating and streamlining provisions. It corrects a cross-  
38 reference in the Charitable Solicitations Act and grants state electrical inspectors  
39 authority to issue an order of correction to an electrician when violations to the National  
40 Electrical Code are found. Currently, electrical inspectors can only issue orders of  
41 correction to homeowners. It removes a reference to the National Electrical Code in the  
42 licensure requirements for a limited electrician in low energy.

1           The bill eliminates the requirement for licensed podiatrists, chiropractors, radiologic  
2           technologists, physical therapists and real estate appraisers to publicly display licenses  
3           and repeals the license display requirement from the Maine Revised Statutes, Title 10. It  
4           also eliminates the sworn statement requirement for the applications for licensure for  
5           interpreters for deaf and hard-of-hearing persons. It clarifies language concerning  
6           podiatric assistants. It also grants authority to licensed psychologists and audiologists to  
7           use assistive personnel in the practice setting. It corrects the quorum requirement for the  
8           Board of Counseling Professionals Licensure and the State Board of Alcohol and Drug  
9           Counselors. It also changes professional qualification requirements for real estate brokers  
10          and real estate appraisers and amends the definition of "federally related transaction" in  
11          the Real Estate Appraisal Licensing and Certification Act to comply with federal law.

12          The bill clarifies that appeals from final decisions of licensing programs within the  
13          Department of Professional and Financial Regulation, Office of Licensing and  
14          Registration, including decisions to suspend or revoke a license, are to the Maine  
15          Superior Court. It also clarifies that appeals to the Superior Court are based on the record  
16          made by the licensing entity. Finally, the bill clarifies that conviction of a crime may be  
17          considered in license denial matters to the extent permitted by the occupational license  
18          disqualification law.