

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND ELEVENTH LEGISLATURE

FIRST REGULAR SESSION
December 1, 1982 to June 24, 1983
Chapters 1-452

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J.S. McCarthy Co., Inc.
Augusta, Maine
1983

PUBLIC LAWS
OF THE
STATE OF MAINE

AS PASSED AT THE
FIRST REGULAR SESSION

and

FIRST SPECIAL SESSION

of the

ONE HUNDRED AND ELEVENTH LEGISLATURE

1983

2. Time and method of recording. The record required by this section shall be made immediately upon delivery of the person concerned to the agency for detention. It shall be made upon serially numbered cards or sheets or on the pages of a permanently bound volume, made and maintained in chronological order, and shall be part of the permanent records of the agency making it. The record required by this section may be combined with the record required by Title 34, section 958.

3. Records public. The record required by this section shall be a public record, except for records of the detention of juveniles, as defined in Title 15, section 3003, subsection 14.

Effective September 23, 1983.

CHAPTER 378

S.P. 561 - L.D. 1618

AN ACT to Standardize the Disciplinary Proceedings of Health Profession Licensing Boards.

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

Sec. 1. 32 MRSA §64, as repealed and replaced by PL 1977, c. 694, §536, is repealed.

Sec. 2. 32 MRSA §64-A is enacted to read:

§64-A. Disciplinary actions

1. Disciplinary proceedings and sanctions. The board shall investigate a complaint, on its own motion or upon receipt of a written complaint filed with the board, regarding noncompliance with or violation of this chapter or of any rules adopted by the board.

The board shall notify the licensee of the content of a complaint filed against the licensee as soon as possible, but in no event later than within 60 days of receipt of this information. The licensee shall respond within 30 days. If the licensee's response to the complaint satisfies the board that the complaint does not merit further investigation or action, the matter may be dismissed, with notice of the dismissal to the complainant, if any.

If, in the opinion of the board, the factual basis of the complaint is or may be true, and it is of sufficient gravity to warrant further action, the board may request an informal conference with the licensee. The board shall provide the licensee with adequate notice of the conference and of the issues to be discussed. The conference shall be conducted in executive session of the board, unless otherwise requested by the licensee. Statements made at the conference may not be introduced at a subsequent formal hearing unless all parties consent.

If the board finds that the factual basis of the complaint is true and is of sufficient gravity to warrant further action, it may take any of the following actions it deems appropriate:

A. With the consent of the licensee, enter into a consent agreement which fixes the period and terms of probation best adapted to protect the public health and safety and to rehabilitate or educate the licensee. A consent agreement may be used to terminate a complaint investigation, if entered into by the board, the licensee and the Attorney General's office;

B. In consideration for acceptance of a voluntary surrender of the license, negotiate stipulations, including terms and conditions for reinstatement, which ensure protection of the public health and safety and which serve to rehabilitate or educate the licensee. These stipulations shall be set forth only in a consent agreement signed by the board, the licensee and the Attorney General's office;

C. If the board concludes that modification or nonrenewal of the license might be in order, the board shall hold an adjudicatory hearing in accordance with the provisions of the Maine Administrative Procedure Act, Title 5, chapter 375, subchapter IV; or

D. If the board concludes that suspension or revocation of the license is in order, the board shall file a complaint in the Administrative Court in accordance with Title 4, chapter 25.

2. Grounds for discipline. The board may suspend or revoke a license pursuant to Title 5, section 10004. The following shall be grounds for an action to refuse to issue, modify, suspend, revoke or refuse to renew the license of a person licensed under this chapter:

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

B. Habitual intemperance in the use of alcohol or the habitual use of narcotic or hypnotic or other substances the use of which has resulted or may result in the licensee performing his duties in a manner which endangers the health or safety of his patients;

C. A professional diagnosis of a mental or physical condition which has resulted or may result in the licensee performing his duties in a manner which endangers the health or safety of his patients;

D. Aiding or abetting the practice of administration of a medical care facility by a person not duly licensed under this chapter and who represents himself to be so;

E. Incompetence in the practice for which he is licensed. A licensee shall be deemed incompetent in the practice if the licensee has:

(1) Engaged in conduct which evidences a lack of ability or fitness to discharge the duty owed by the licensee to a client or patient or the general public; or

(2) Engaged in conduct which evidences a lack of knowledge, or inability to apply principles or skills to carry out the practice for which he is licensed;

F. Unprofessional conduct. A licensee shall be deemed to have engaged in unprofessional conduct if he violates any standard of professional behavior which has been established in the practice for which the licensee is licensed;

G. Subject to the limitations of Title 5, chapter 341, conviction of a crime which involves dishonesty or false statement or which relates directly to the practice for which the licensee is licensed, or conviction of any crime for which incarceration for one year or more may be imposed;

H. Any violation of this chapter or any rule adopted by the board; or

I. Engaging in false, misleading or deceptive advertising.

Sec. 3. 32 MRSA §503, as repealed and replaced by PL 1981, c. 594, §1, is repealed.

Sec. 4. 32 MRSA §503-A is enacted to read:

§503-A. Disciplinary actions

1. Disciplinary proceedings and sanctions. The board shall investigate a complaint, on its own motion or upon receipt of a written complaint filed with the board, regarding noncompliance with or violation of this chapter or of any rules adopted by the board.

The board shall notify the licensee of the content of a complaint filed against the licensee as soon as possible, but in no event later than within 60 days of receipt of this information. The licensee shall respond within 30 days. If the licensee's response to the complaint satisfies the board that the complaint does not merit further investigation or action, the matter may be dismissed, with notice of the dismissal to the complainant, if any.

If, in the opinion of the board, the factual basis of the complaint is or may be true, and it is of sufficient gravity to warrant further action, the board may request an informal conference with the licensee. The board shall provide the licensee with adequate notice of the conference and of the issues to be discussed. The conference shall be conducted in executive session of the board, unless otherwise requested by the licensee. Statements made at the conference may not be introduced at a subsequent formal hearing unless all parties consent.

If the board finds that the factual basis of the complaint is true and is of sufficient gravity to warrant further action, it may take any of the following actions it deems appropriate:

A. With the consent of the licensee, enter into a consent agreement which fixes the period and terms of probation best adapted to protect the public health and safety and to rehabilitate or educate the licensee. A consent agreement may be used to terminate a complaint investigation, if entered into by the board, the licensee and the Attorney General's office;

B. In consideration for acceptance of a voluntary surrender of the license, negotiate stipulations, including terms and conditions for reinstatement, which ensure protection of the public health and safety and which serve to rehabilitate or educate the licensee. These stipulations shall

be set forth only in a consent agreement signed by the board, the licensee and the Attorney General's office;

C. If the board concludes that modification or nonrenewal of the license might be in order, the board shall hold an adjudicatory hearing in accordance with the provisions of the Maine Administrative Procedure Act, Title 5, chapter 375, subchapter IV; or

D. If the board concludes that suspension or revocation of the license is in order, the board shall file a complaint in the Administrative Court in accordance with Title 4, chapter 25.

2. Grounds for discipline. The board may suspend or revoke a license pursuant to Title 5, section 10004. The following shall be grounds for an action to refuse to issue, modify, suspend, revoke or refuse to renew the license of a person licensed under this chapter:

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

B. Habitual intemperance in the use of alcohol or the habitual use of narcotic or hypnotic or other substances the use of which has resulted or may result in the licensee performing his duties in a manner which endangers the health or safety of his patients;

C. A professional diagnosis of a mental or physical condition which has resulted or may result in the licensee performing his duties in a manner which endangers the health or safety of his patients;

D. Aiding or abetting the practice of chiropractic by a person not duly licensed under this chapter and who represents himself to be so;

E. Incompetence in the practice for which he is licensed. A licensee shall be deemed incompetent in the practice if the licensee has:

(1) Engaged in conduct which evidences a lack of ability or fitness to discharge the duty owed by the licensee to a client or patient or the general public; or

(2) Engaged in conduct which evidences a

lack of knowledge, or inability to apply principles or skills to carry out the practice for which he is licensed;

F. Unprofessional conduct. A licensee shall be deemed to have engaged in unprofessional conduct if he violates any standard of professional behavior which has been established in the practice for which the licensee is licensed;

G. Subject to the limitations of Title 5, chapter 341, conviction of a crime which involves dishonesty or false statement or which relates directly to the practice for which the licensee is licensed, or conviction of any crime for which incarceration for one year or more may be imposed;

H. Any violation of this chapter or any rule adopted by the board; or

I. Engaging in false, misleading or deceptive advertising.

Sec. 5. 32 MRSA §552, as amended by PL 1977, c. 694, §554, is further amended to read:

§552. Examination of applicants; subjects included; certificate; certificate without examination

The board shall require the applicant to submit to an examination as to his ~~or her~~ qualifications for the practice of chiropractic, which examination shall include the subjects of anatomy, physiology, symptomatology, hygiene, sanitation, chemistry, pathology, electrotherapy, hydrotherapy, dietetics, bacteriology, chiropractic analysis, the principles and practice of chiropractic as taught in reputable chiropractic schools and colleges and such other subjects as the board may deem necessary. If such examination is passed in a manner satisfactory to the board, then the board shall issue to the ~~said~~ applicant a certificate granting him ~~or her~~ the right to practice chiropractic in this State.

Any person ~~of good moral character~~, licensed by a chiropractic board of any other state or territory having a standard equal to that of the State of Maine, shall be licensed without examination, upon the payment of \$40 and the production to the board of his ~~or her~~ diploma, and the license obtained in such other state and ~~satisfactory evidence of good moral character~~. The board may, in its discretion, require an examination of any such applicant.

The board may refuse to grant a certificate to

any person on the basis of criminal history record information in accordance with Title 5, chapter 341, or who has been guilty of grossly unprofessional conduct, or who is addicted to any vice to such a degree as to render such person unfit to practice chiropractic. Any certificate granted under this section shall be subject to annual renewal as provided in this chapter.

Sec. 6. 32 MRSA §1073, as amended by PL 1977, c. 458, §3, is repealed and the following enacted in its place:

§1073. Powers

The board may:

1. Employees. Employ such persons as it may deem necessary to assist it in carrying out its duties in the administration and enforcement of this chapter; provide offices, furniture, fixtures, supplies, printing or secretarial service; and may expend such funds as may be deemed necessary therefor;

2. Rules. Adopt rules to carry out and make effective this chapter and modify or repeal the rules whenever the board deems it necessary; and

3. False advertising. Establish rules relating to false, deceptive or misleading advertising, except that no rules may be inconsistent with any rule promulgated pursuant to Title 5, section 207, subsection 2.

Sec. 7. 32 MRSA §1077 is enacted to read:

§1077. Disciplinary actions

1. Disciplinary proceedings and sanctions. The board shall investigate a complaint, on its own motion or upon receipt of a written complaint filed with the board, regarding noncompliance with or violation of this chapter or of any rules adopted by the board.

The board shall notify the licensee of the content of a complaint filed against the licensee as soon as possible, but in no event later than within 60 days of receipt of this information. The licensee shall respond within 30 days. If the licensee's response to the complaint satisfies the board that the complaint does not merit further investigation or action, the matter may be dismissed, with notice of the dismissal to the complainant, if any.

If, in the opinion of the board, the factual basis of the complaint is or may be true, and it is of sufficient gravity to warrant further action, the board may request an informal conference with the licensee. The board shall provide the licensee with adequate notice of the conference and of the issues to be discussed. The conference shall be conducted in executive session of the board, unless otherwise requested by the licensee. Statements made at the conference may not be introduced at a subsequent formal hearing unless all parties consent.

If the board finds that the factual basis of the complaint is true and is of sufficient gravity to warrant further action, it may take any of the following actions it deems appropriate:

A. With the consent of the licensee, enter into a consent agreement which fixes the period and terms of probation best adapted to protect the public health and safety and to rehabilitate or educate the licensee. A consent agreement may be used to terminate a complaint investigation, if entered into by the board, the licensee and the Attorney General's office;

B. In consideration for acceptance of a voluntary surrender of the license, negotiate stipulations, including terms and conditions for reinstatement, which ensure protection of the public health and safety and which serve to rehabilitate or educate the licensee. These stipulations shall be set forth only in a consent agreement signed by the board, the licensee and the Attorney General's office;

C. If the board concludes that modification or nonrenewal of the license might be in order, the board shall hold an adjudicatory hearing in accordance with the provisions of the Maine Administrative Procedure Act, Title 5, chapter 375, subchapter IV; or

D. If the board concludes that suspension or revocation of the license is in order, the board shall file a complaint in the Administrative Court in accordance with Title 4, chapter 25.

2. Grounds for discipline. The board may suspend or revoke a license pursuant to Title 5, section 10004. The following shall be grounds for an action to refuse to issue, modify, suspend, revoke or refuse to renew the license of a person licensed under this chapter:

A. The practice of fraud or deceit in obtaining

a license under this chapter or in connection with service rendered within the scope of the license issued;

B. Habitual intemperance in the use of alcohol or the habitual use of narcotic or hypnotic or other substances the use of which has resulted or may result in the licensee performing his duties in a manner which endangers the health or safety of his patients;

C. A professional diagnosis of a mental or physical condition which has resulted or may result in the licensee performing his duties in a manner which endangers the health or safety of his patients;

D. Aiding or abetting the practice of a dental profession by a person not duly licensed under this chapter and who represents himself to be so;

E. Incompetence in the practice for which he is licensed. A licensee shall be deemed incompetent in the practice if the licensee has:

(1) Engaged in conduct which evidences a lack of ability or fitness to discharge the duty owed by the licensee to a client or patient or the general public; or

(2) Engaged in conduct which evidences a lack of knowledge, or inability to apply principles or skills to carry out the practice for which he is licensed;

F. Unprofessional conduct. A licensee shall be deemed to have engaged in unprofessional conduct if he violates any standard of professional behavior which has been established in the practice for which the licensee is licensed;

G. Subject to the limitations of Title 5, chapter 341, conviction of a crime which involves dishonesty or false statement or which relates directly to the practice for which the licensee is licensed, or conviction of any crime for which incarceration for one year or more may be imposed;

H. Any violation of this chapter or any rule adopted by the board; or

I. Engaging in false, misleading or deceptive advertising.

Sec. 8. 32 MRSA §1081, sub-§2, ¶E, as enacted by

PL 1967, c. 544, §80, is amended to read:

E. The filling of prescriptions of a licensed and registered dentist by any person or persons, association, corporation or other entity, for the construction, reproduction or repair of prosthetic dentures, bridges, plates or appliances to be used or worn as substitutes for natural teeth, provided that such person or persons, association, corporation or other entity shall not solicit nor advertise, directly or indirectly, by mail, card, newspaper, pamphlet, radio or otherwise, to the general public to construct, reproduce or repair prosthetic dentures, bridges, plates or other appliances to be used or worn as substitutes for natural teeth; and

Sec. 9. 32 MRSA §1081, sub-§2, ¶F, as enacted by PL 1967, c. 544, §80, is amended to read:

F. The use of roentgen or x ray machines or other rays for making radiograms or similar records of dental or oral tissue under the supervision of a licensed dentist or physician. Such service shall not be advertised by any name whatever as an aid or inducement to secure dental patronage, and no person shall advertise that he has, leases, owns or operates a roentgen or x ray machine for the purpose of making dental radiograms of the human teeth or tissues or the oral cavity or administering treatment thereto for any disease thereof; and

Sec. 10. 32 MRSA §1081, sub-§3, ¶C, as repealed and replaced by PL 1975, c. 484, §4, is amended to read:

C. Retains the ownership or control of dental equipment or material or office and makes the same available in any manner for the use by dentists or dental hygienists or other agents, provided that nothing in this subsection shall may apply to bona fide sales of dental equipment or material secured by a chattel mortgage or retain title agreement. A person licensed to practice dentistry who enters shall not enter into any of these arrangements with a person who is not licensed to practice dentistry may have his license suspended or reoked.

Sec. 11. 32 MRSA §1082, as amended by PL 1971, c. 598, §69, is further amended to read:

§1082. Qualifications

Before receiving a certificate to practice den-

tistry in this State, a person shall be at least 18 years of age, ~~of good moral character~~ and shall be a graduate of or have a diploma from an acceptable dental college, school or dental department of a university approved by the board.

Sec. 12. 32 MRSA §1088, as enacted by PL 1967, c. 544, §80, is repealed.

Sec. 13. 32 MRSA §1091, as amended by PL 1977, c. 458, §§4 and 4-A, is repealed.

Sec. 14. 32 MRSA §1096, as repealed and replaced by PL 1975, c. 484, §12, is amended to read:

§1096. Qualifications

A person ~~of good moral character~~, 18 years old or over, who has successfully completed 2 years' training in a school of dental hygiene approved by the board, or who is a full-time dental student who has satisfactorily completed at least half of the prescribed course of study in an accredited dental college, but who has not graduated from any dental college, shall be eligible to apply for examination.

Sec. 15. 32 MRSA §1099, as amended by PL 1981, c. 440, §14, is further amended to read;

§1099. Reciprocity

The board may at its discretion, without examination, issue its certificate to any applicant to practice dental hygiene who shall furnish proof satisfactory to ~~said the~~ board that ~~said the~~ dental hygienist has been duly licensed to practice in another state after full compliance with the requirements of its dental laws, provided that the professional education shall not be less than required in this State. The board may require letters of reference as to ability ~~and moral character~~. Every certificate so given shall state upon its face that it was granted on the basis of reciprocity. The fee for ~~such that~~ certificate shall be determined by the board, but not more than \$50.

Sec. 16. 32 MRSA §1100, as amended by PL 1981, c. 440, §15, is repealed and the following enacted in its place:

§1100. Use of former employers' lists; scope of duties

No dental hygienist may use or attempt to use in any manner whatsoever any prophylactic lists, call lists, records, reprints or copies of those lists.

records or reprints, or information gathered therefrom, of the names of patients whom he might have served in the office of a prior employer, unless these names appear on the bona fide call or prophylactic list of his present employer and were caused to so appear through the legitimate practice of dentistry as provided for in this chapter. No dentist may aid or abet or encourage a dental hygienist in his employ to make use of a so-called prophylactic call list, or the calling by telephone or by use of written letters transmitted through the mails to solicit patronage from patients, formerly served in the office of any dentist formerly employing the hygienist.

No dentist may permit any dental hygienist operating under his supervision to perform any operation other than that permitted under section 1095.

Sec. 17. 32 MRSA §1100-C, sub-§§3 and 4, as enacted by PL 1977, c. 484, §2, are repealed.

Sec. 18. 32 MRSA §1100-E, sub-§5, as enacted by PL 1977, c. 696, §382, is repealed and the following enacted in its place:

5. Additional prohibitions. No denturist may:

A. Hold himself out or permit himself to be represented as a licensed dentist;

B. Perform otherwise than at the direction and under the direct supervision of a dentist licensed by the board and practicing in the State. Direct supervision requires the dentist to be on the same premises as the denturist;

C. Perform a task beyond his competence; or

D. Administer, dispense or prescribe any medication or controlled substance.

Sec. 19. 32 MRSA §1100-E, sub-§6 is enacted to read:

6. Mental or physical examination. For the purposes of this subsection, a licensed denturist shall be deemed by the application for and acceptance of the license to have given his consent to a mental or physical examination when directed by the board. The board may direct the examination whenever it determines a denturist may be suffering from a mental illness which may be interfering with his competent practice of denture technology or from the use of intoxicants or drugs to an extent that they may be

preventing him from practicing denture technology competently and with safety to his patients. A denturist examined pursuant to an order of the board shall have no privilege to prevent the testimony of the examining individual or to prevent the acceptance into evidence of the report of any examining individual. Failure to comply with an order of the board to submit to a mental or physical exam shall require the Administrative Court to immediately order the license of the denturist suspended until such time as he shall submit to the examination.

Sec. 20. 32 MRSA §2105, as amended by PL 1973, c. 303, §3, is repealed.

Sec. 21. 32 MRSA §2105-A is enacted to read:

§2105-A. Disciplinary actions

1. Disciplinary proceedings and sanctions. The board shall investigate a complaint, on its own motion or upon receipt of a written complaint filed with the board, regarding noncompliance with or violation of this chapter or of any rules adopted by the board.

The board shall notify the licensee of the content of a complaint filed against the licensee as soon as possible, but in no event later than within 60 days of receipt of this information. The licensee shall respond within 30 days. If the licensee's response to the complaint satisfies the board that the complaint does not merit further investigation or action, the matter may be dismissed, with notice of the dismissal to the complainant, if any.

If, in the opinion of the board, the factual basis of the complaint is or may be true, and it is of sufficient gravity to warrant further action, the board may request an informal conference with the licensee. The board shall provide the licensee with adequate notice of the conference and of the issues to be discussed. The conference shall be conducted in executive session of the board, unless otherwise requested by the licensee. Statements made at the conference may not be introduced at a subsequent formal hearing unless all parties consent.

If the board finds that the factual basis of the complaint is true and is of sufficient gravity to warrant further action, it may take any of the following actions it deems appropriate:

A. With the consent of the licensee, enter into a consent agreement which fixes the period and terms of probation best adapted to protect the

public health and safety and to rehabilitate or educate the licensee. A consent agreement may be used to terminate a complaint investigation, if entered into by the board, the licensee and the Attorney General's office;

B. In consideration for acceptance of a voluntary surrender of the license, negotiate stipulations, including terms and conditions for reinstatement, which ensure protection of the public health and safety and which serve to rehabilitate or educate the licensee. These stipulations shall be set forth only in a consent agreement signed by the board, the licensee and the Attorney General's office;

C. If the board concludes that modification or nonrenewal of the license might be in order, the board shall hold an adjudicatory hearing in accordance with the provisions of the Maine Administrative Procedure Act, Title 5, chapter 375, subchapter IV; or

D. If the board concludes that suspension or revocation of the license is in order, the board shall file a complaint in the Administrative Court in accordance with Title 4, chapter 25.

2. Grounds for discipline. The board may suspend or revoke a license pursuant to Title 5, section 10004. The following shall be grounds for an action to refuse to issue, modify, suspend, revoke or refuse to renew the license of a person licensed under this chapter:

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

B. Habitual intemperance in the use of alcohol or the habitual use of narcotic or hypnotic or other substances the use of which has resulted or may result in the licensee performing his duties in a manner which endangers the health or safety of his patients;

C. A professional diagnosis of a mental or physical condition which has resulted or may result in the licensee performing his duties in a manner which endangers the health or safety of his patients;

D. Aiding or abetting the practice of nursing by a person not duly licensed under this chapter and who represents himself to be so;

E. Incompetence in the practice for which he is licensed. A licensee shall be deemed incompetent in the practice if the licensee has:

(1) Engaged in conduct which evidences a lack of ability or fitness to discharge the duty owed by the licensee to a client or patient or the general public; or

(2) Engaged in conduct which evidences a lack of knowledge, or inability to apply principles or skills to carry out the practice for which he is licensed;

F. Unprofessional conduct. A licensee shall be deemed to have engaged in unprofessional conduct if he violates any standard of professional behavior which has been established in the practice for which the licensee is licensed;

G. Subject to the limitations of Title 5, chapter 341, conviction of a crime which involves dishonesty or false statement or which relates directly to the practice for which the licensee is licensed, or conviction of any crime for which incarceration for one year or more may be imposed;

H. Any violation of this chapter or any rule adopted by the board; or

I. Engaging in false, misleading or deceptive advertising.

Sec. 22. 32 MRSA §2201, sub-§1 is repealed.

Sec. 23. 32 MRSA §2251, sub-§1, as amended by PL 1965, c. 206, §4, is repealed.

Sec. 24. 32 MRSA §2417, sub-§1, ¶B, as enacted by PL 1973, c. 788, §156, is repealed.

Sec. 25. 32 MRSA §2417, sub-§2, as enacted by PL 1973, c. 788, §156, is repealed.

Sec. 26. 32 MRSA §2419, sub-§1, as enacted by PL 1975, c. 563, §2, is amended to read:

1. Diagnostic drugs. The use of diagnostic drugs is permitted only by an optometrist who has obtained a diagnostic drug license under section 2427 or who has passed the examination under section 2422 after October 1, 1975.

Sec. 27. 32 MRSA §2423, sub-§4, as repealed and

replaced by PL 1977, c. 694, §596, is amended to read:

4. Default. In case of default in payment of any license renewal fees by any registered optometrist, his certificate shall expire. A license may be renewed up to 60 days after the date of expiration upon payment of a late fee established by the board in an amount not to exceed the annual renewal fee in addition to the renewal fee.

Sec. 28. 32 MRSA §2427, first ¶, as enacted by PL 1975, c. 563, §4, is amended to read:

Every presently licensed Unless he has passed the examination under section 2422 after October 1, 1975, every optometrist desiring to use diagnostic drugs shall:

Sec. 29. 32 MRSA §2431, as repealed and replaced by PL 1977, c. 694, §598, is repealed.

Sec. 30. 32 MRSA §2431-A is enacted to read:

§2431-A. Disciplinary actions

1. Disciplinary proceedings and sanctions. The board shall investigate a complaint, on its own motion or upon receipt of a written complaint filed with the board, regarding noncompliance with or violation of this chapter or of any rules adopted by the board.

The board shall notify the licensee of the content of a complaint filed against the licensee as soon as possible, but in no event later than within 60 days of receipt of this information. The licensee shall respond within 30 days. If the licensee's response to the complaint satisfies the board that the complaint does not merit further investigation or action, the matter may be dismissed, with notice of the dismissal to the complainant, if any.

If, in the opinion of the board, the factual basis of the complaint is or may be true, and it is of sufficient gravity to warrant further action, the board may request an informal conference with the licensee. The board shall provide the licensee with adequate notice of the conference and of the issues to be discussed. The conference shall be conducted in executive session of the board, unless otherwise requested by the licensee. Statements made at the conference may not be introduced at a subsequent formal hearing unless all parties consent.

If the board finds that the factual basis of the com-

plaint is true and is of sufficient gravity to warrant further action, it may take any of the following actions it deems appropriate:

A. With the consent of the licensee, enter into a consent agreement which fixes the period and terms of probation best adapted to protect the public health and safety and to rehabilitate or educate the licensee. A consent agreement may be used to terminate a complaint investigation, if entered into by the board, the licensee and the Attorney General's office;

B. In consideration for acceptance of a voluntary surrender of the license, negotiate stipulations, including terms and conditions for reinstatement, which ensure protection of the public health and safety and which serve to rehabilitate or educate the licensee. These stipulations shall be set forth only in a consent agreement signed by the board, the licensee and the Attorney General's office;

C. If the board concludes that modification or nonrenewal of the license might be in order, the board shall hold an adjudicatory hearing in accordance with the provisions of the Maine Administrative Procedure Act, Title 5, chapter 375, subchapter IV; or

D. If the board concludes that suspension or revocation of the license is in order, the board shall file a complaint in the Administrative Court in accordance with Title 4, chapter 25.

2. Grounds for discipline. The board may suspend or revoke a license pursuant to Title 5, section 10004. The following shall be grounds for an action to refuse to issue, modify, suspend, revoke or refuse to renew the license of a person licensed under this chapter:

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

B. Habitual intemperance in the use of alcohol or the habitual use of narcotic or hypnotic or other substances the use of which has resulted or may result in the licensee performing his duties in a manner which endangers the health or safety of his patients;

C. A professional diagnosis of a mental or physical condition which has resulted or may

result in the licensee performing his duties in a manner which endangers the health or safety of his patients;

D. Aiding or abetting the practice of optometry by a person not duly licensed under this chapter and who represents himself to be so;

E. Incompetence in the practice for which he is licensed. A licensee shall be deemed incompetent in the practice if the licensee has:

(1) Engaged in conduct which evidences a lack of ability or fitness to discharge the duty owed by the licensee to a client or patient or the general public; or

(2) Engaged in conduct which evidences a lack of knowledge, or inability to apply principles or skills to carry out the practice for which he is licensed;

F. Unprofessional conduct. A licensee shall be deemed to have engaged in unprofessional conduct if he violates any standard of professional behavior which has been established in the practice for which the licensee is licensed;

G. Subject to the limitations of Title 5, chapter 341, conviction of a crime which involves dishonesty or false statement or which relates directly to the practice for which the licensee is licensed, or conviction of any crime for which incarceration for one year or more may be imposed;

H. Any violation of this chapter or any rule adopted by the board;

I. Engaging in false, misleading or deceptive advertising;

J. Practicing in or on premises where any materials other than those necessary to render optometric services are dispensed to the public;

K. Practicing under a name other than that given in the certificate. Licensees practicing in association with other licensed optometrists or physicians, as authorized by section 2434, may, with the approval of the board, practice under a name adopted to denote this association if the names of all optometrists and physicians so associated are stated as they appear on each individual's license whenever the association name is used;

L. Representing one's self to the public as something other than an optometrist, by which shall be meant as an optician, eye physician or by any other designation which would confuse the nature of one's licensed practice. The following titles shall be considered lawful:

- (1) John Doe, O.D., Optometrist;
- (2) John Doe, O.D.;
- (3) John Doe, Optometrist;
- (4) Dr. John Doe, Optometrist; and
- (5) Doctor John Doe, Optometrist;

M. Engaging in house to house solicitation for the purpose of fitting, selling or peddling spectacles, eyeglasses or lenses, or in anyway otherwise peddling optometric services;

N. Maintaining more than one office in which to practice optometry without the prior written approval of the board;

O. Failure to display a diagnostic drug license issued under section 2427; or

P. Splitting or dividing any fee with any person not an associate in conformance with section 2434, or giving or accepting any rebate from an optician or ophthalmic dispenser.

Sec. 31. 32 MRSA §2432, as amended by PL 1975, c. 563, §5, is repealed.

Sec. 32. 32 MRSA §2433, as amended by PL 1977, c. 458, §§5 and 5-A, is repealed.

Sec. 33. 32 MRSA §2434, first ¶, as enacted by PL 1973, c. 788, §156, is amended to read:

An optometrist shall practice only in an individual capacity under his own name or in association with a licensed practitioner of optometry or of another of the healing arts and sciences. The following shall be deemed unauthorized associations subject to the sanctions of section ~~2431~~ 2431-A:

Sec. 34. 32 MRSA §2435, as enacted by PL 1973, c. 788, §156, is amended to read:

§2435. Corporate practice of optometry

No registered optometrist, under this chapter,

~~shall~~ may associate himself in any way with any person not a registered optometrist nor any copartnership, firm or corporation for the promotion of any commercial practice for profit or division of profit which enables any such person, copartnership, firm or corporation to engage, either directly or indirectly, in the practice of optometry in this State. Any ~~optometrist registered under this chapter guilty of such conduct or violation of this section shall be punished by having his certificate and registration to practice optometry in this State suspended or revoked. No certificate of registration shall be suspended or revoked for any of the foregoing causes unless the person accused has been given at least 10 days' notice in writing of the charge against him and afforded a public hearing before the board.~~

Sec. 35. 32 MRSA §2571, as enacted by PL 1973, c. 374, §1, is amended to read:

§2571. Registration; qualifications; fees

Any person, before engaging in the practice of osteopathic medicine in this State, shall make application for a certificate to the board, on a form prescribed by it. ~~Said~~ The application shall be filed with the secretary of the board at least 60 days before the date of examination together with a fee of \$125. The applicant shall present a diploma granted by an osteopathic college or university accredited by the American Osteopathic Association having the power to grant a D.O. degree. Applicants graduating from an osteopathic college or university having the power to grant a D.O. degree shall present evidence of having completed an internship of at least 12 months in a hospital conforming to the minimal standards for accreditation by the American Osteopathic Association, or the equivalency, as determined by the board. All applicants ~~must present a certificate of good moral character and such other~~ shall provide such reasonable and proper facts as the board in its application may require. The board at its discretion may permit an applicant who is otherwise qualified to be examined during his internship, a certificate of licensure to be withheld until successful completion of his internship.

Sec. 36. 32 MRSA §2572, as enacted by PL 1973, c. 374, §1, is amended to read:

§2572. Examination, reexamination; endorsement; temporary registration

Applicants shall be examined in whole or in part in writing and shall be thorough in such subjects as the board may deem necessary, including osteopathic

theories and methods, to determine the competency of the candidate to practice osteopathic medicine and surgery in the State of Maine. If such the examination is passed in a manner satisfactory to the board, the board shall issue to the said applicant a certificate granting him the right to practice osteopathic medicine in this State. If such the applicant fails to pass such the examination, he or she shall be entitled to one reexamination within one year thereafter upon payment of a fee of \$100. Osteopathic physicians who have been certified by the National Board of Osteopathic Examiners or have been strictly examined and thereafter licensed to practice osteopathic medicine in another state, which has equivalent licensing requirements as Maine, may be licensed to practice osteopathic medicine in this State upon the payment of \$100 and the substantiation to the board of an earned D.O. degree, and the license obtained in such other state and satisfactory evidence of good moral character. The board may at its discretion require an examination of any such applicant.

Sec. 37. 32 MRSA §2591, as amended by PL 1977, c. 694, §§599 and 600, is repealed.

Sec. 38. 32 MRSA §2591-A is enacted to read:

§2591-A. Disciplinary actions

1. Disciplinary proceedings and sanctions. The board shall investigate a complaint, on its own motion or upon receipt of a written complaint filed with the board, regarding noncompliance with or violation of this chapter or of any rules adopted by the board.

The board shall notify the licensee of the content of a complaint filed against the licensee as soon as possible, but in no event later than within 60 days of receipt of this information. The licensee shall respond within 30 days. If the licensee's response to the complaint satisfies the board that the complaint does not merit further investigation or action, the matter may be dismissed, with notice of the dismissal to the complainant, if any.

If, in the opinion of the board, the factual basis of the complaint is or may be true, and it is of sufficient gravity to warrant further action, the board may request an informal conference with the licensee. The board shall provide the licensee with adequate notice of the conference and of the issues to be discussed. The conference shall be conducted in executive session of the board, unless otherwise requested by the licensee. Statements made at the conference

may not be introduced at a subsequent formal hearing unless all parties consent.

If the board finds that the factual basis of the complaint is true and is of sufficient gravity to warrant further action, it may take any of the following actions it deems appropriate:

A. With the consent of the licensee, enter into a consent agreement which fixes the period and terms of probation best adapted to protect the public health and safety and to rehabilitate or educate the licensee. A consent agreement may be used to terminate a complaint investigation, if entered into by the board, the licensee and the Attorney General's office;

B. In consideration for acceptance of a voluntary surrender of the license, negotiate stipulations, including terms and conditions for reinstatement, which ensure protection of the public health and safety and which serve to rehabilitate or educate the licensee. These stipulations shall be set forth only in a consent agreement signed by the board, the licensee and the Attorney General's office;

C. If the board concludes that modification or nonrenewal of the license might be in order, the board shall hold an adjudicatory hearing in accordance with the provisions of the Maine Administrative Procedure Act, Title 5, chapter 375, subchapter IV; or

D. If the board concludes that suspension or revocation of the license is in order, the board shall file a complaint in the Administrative Court in accordance with Title 4, chapter 25.

2. Grounds for discipline. The board may suspend or revoke a license pursuant to Title 5, section 10004. The following shall be grounds for an action to refuse to issue, modify, suspend, revoke or refuse to renew the license of a person licensed under this chapter:

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

B. Habitual intemperance in the use of alcohol or the habitual use of narcotic or hypnotic or other substances the use of which has resulted or may result in the licensee performing his duties

in a manner which endangers the health or safety of his patients;

C. A professional diagnosis of a mental or physical condition which has resulted or may result in the licensee performing his duties in a manner which endangers the health or safety of his patients;

D. Aiding or abetting the practice of osteopathy medicine by a person not duly licensed under this chapter and who represents himself to be so;

E. Incompetence in the practice for which he is licensed. A licensee shall be deemed incompetent in the practice if the licensee has:

(1) Engaged in conduct which evidences a lack of ability or fitness to discharge the duty owed by the licensee to a client or patient or the general public; or

(2) Engaged in conduct which evidences a lack of knowledge, or inability to apply principles or skills to carry out the practice for which he is licensed;

F. Unprofessional conduct. A licensee shall be deemed to have engaged in unprofessional conduct if he violates any standard of professional behavior which has been established in the practice for which the licensee is licensed;

G. Subject to the limitations of Title 5, chapter 341, conviction of a crime which involves dishonesty or false statement or which relates directly to the practice for which the licensee is licensed, or conviction of any crime for which incarceration for one year or more may be imposed;

H. Any violation of this chapter or any rule adopted by the board;

I. Engaging in false, misleading or deceptive advertising;

J. Advertising, practicing or attempting to practice under a name other than one's own;

K. The revocation, suspension or denial of the individual's license in any other state or territory of the United States or any foreign country; or

L. Division of professional fees not based on

actual services rendered.

Sec. 39. 32 MRSA §2592, as amended by PL 1977, c. 694, §601, is repealed.

Sec. 40. 32 MRSA §2594-D, sub-§1, as amended by PL 1977, c. 694, §602, is repealed and the following enacted in its place:

1. Grounds for discipline. A physician's assistant shall be subject to the sanction of section 2591-A, if he:

A. Has held himself out or permitted himself to be represented as a licensed physician;

B. Has performed otherwise than at the direction of and under the supervision of a physician licensed by the board; and

C. Has been delegated and performed a task beyond his competence.

Sec. 41. 32 MRSA §2855, as repealed and replaced by PL 1971, c. 282, §8, is repealed.

Sec. 42. 38 MRSA §2856, as repealed and replaced by PL 1981, c. 426, is repealed.

Sec. 43. 32 MRSA §2856-A is enacted to read:

§2856-A. Disciplinary actions

1. Disciplinary proceedings and sanctions. The board shall investigate a complaint, on its own motion or upon receipt of a written complaint filed with the board, regarding noncompliance with or violation of this chapter or of any rules adopted by the board.

The board shall notify the licensee of the content of a complaint filed against the licensee as soon as possible, but in no event later than within 60 days of receipt of this information. The licensee shall respond within 30 days. If the licensee's response to the complaint satisfies the board that the complaint does not merit further investigation or action, the matter may be dismissed, with notice of the dismissal to the complainant, if any.

If, in the opinion of the board, the factual basis of the complaint is or may be true, and it is of sufficient gravity to warrant further action, the board may request an informal conference with the licensee. The board shall provide the licensee with adequate notice of the conference and of the issues to be dis-

cussed. The conference shall be conducted in executive session of the board, unless otherwise requested by the licensee. Statements made at the conference may not be introduced at a subsequent formal hearing unless all parties consent.

If the board finds that the factual basis of the complaint is true and is of sufficient gravity to warrant further action, it may take any of the following actions it deems appropriate:

A. With the consent of the licensee, enter into a consent agreement which fixes the period and terms of probation best adapted to protect the public health and safety and to rehabilitate or educate the licensee. A consent agreement may be used to terminate a complaint investigation, if entered into by the board, the licensee and the Attorney General's office;

B. In consideration for acceptance of a voluntary surrender of the license, negotiate stipulations, including terms and conditions for reinstatement, which ensure protection of the public health and safety and which serve to rehabilitate or educate the licensee. These stipulations shall be set forth only in a consent agreement signed by the board, the licensee and the Attorney General's office;

C. If the board concludes that modification or nonrenewal of the license might be in order, the board shall hold an adjudicatory hearing in accordance with the provisions of the Maine Administrative Procedure Act, Title 5, chapter 375, subchapter IV; or

D. If the board concludes that suspension or revocation of the license is in order, the board shall file a complaint in the Administrative Court in accordance with Title 4, chapter 25.

2. Grounds for discipline. The board may suspend or revoke a license pursuant to Title 5, section 10004. The following shall be grounds for an action to refuse to issue, modify, suspend, revoke or refuse to renew the license of a person licensed under this chapter:

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

B. Habitual intemperance in the use of alcohol or the habitual use of narcotic or hypnotic or

other substances the use of which has resulted or may result in the licensee performing his duties in a manner which endangers the health or safety of his patients;

C. A professional diagnosis of a mental or physical condition which has resulted or may result in the licensee performing his duties in a manner which endangers the health or safety of his patients;

D. Aiding or abetting the practice of pharmacy by a person not duly licensed under this chapter and who represents himself to be so;

E. Incompetence in the practice for which he is licensed. A licensee shall be deemed incompetent in the practice if the licensee has:

(1) Engaged in conduct which evidences a lack of ability or fitness to discharge the duty owed by the licensee to a client or patient or the general public; or

(2) Engaged in conduct which evidences a lack of knowledge, or inability to apply principles or skills to carry out the practice for which he is licensed;

F. Unprofessional conduct. A licensee shall be deemed to have engaged in unprofessional conduct if he violates any standard of professional behavior which has been established in the practice for which the licensee is licensed;

G. Subject to the limitations of Title 5, chapter 341, conviction of a crime which involves dishonesty or false statement or which relates directly to the practice for which the licensee is licensed, or conviction of any crime for which incarceration for one year or more may be imposed;

H. Any violation of this chapter or of the pharmacy laws of the State of any rule adopted by the board; or

I. Engaging in false, misleading or deceptive advertising.

3. Crime in course of business. If any registered pharmacist is convicted in state or federal court of a crime which is committed during the course of his duties as a registered pharmacist or committed by him through the use of the pharmacy in which he is employed, or which he owns or operates, and which

demonstrates his unfitness to practice as a pharmacist, including, but not limited to, convictions for defrauding the Medicaid program, and for illegally distributing prescription drugs, he is subject to the following action by the Administrative Court.

A. A pharmacist convicted of such a crime, if it is punishable by a maximum term of imprisonment of less than one year, shall have his registration and certificate suspended for a minimum period of 120 days.

B. A pharmacist convicted of such a crime, if it is punishable by a maximum term of imprisonment equal to or exceeding one year, shall have his registration and certificate suspended for a minimum period of one year, and may have his registration and certificate revoked and be permanently barred from reapplying for registration, notwithstanding Title 5, sections 5301 to 5304.

Sec. 44. 32 MRSA §2901, last ¶, as amended by PL 1971, c. 282, §13, is repealed and the following enacted in its place:

The board shall make such rules, consistent with the law, as may be necessary to carry out the purpose of and enforce this section. The permit to operate a pharmacy shall be subject to the disciplinary proceedings and grounds in section 2856-A.

Sec. 45. 32 MRSA §2903, as amended by PL 1979, c. 28, §4, is further amended to read:

§2903. Renewals; fees

Every registered pharmacist and every registered assistant pharmacist who desires to continue to practice pharmacy in this State shall annually, after the expiration of the first year of his registration, on or before the last day of June, pay a renewal fee of \$30 to the secretary of the board, in return for which a renewal registration shall be issued. If any person shall fail or neglect to procure his annual renewal registration or permit, notice of such failure having been mailed to his post-office address, the board may, the original registration or permit shall expire after the expiration of 30 days following the issue of said that notice, suspend his original registration and all other privileges conferred by this chapter. Such person in order to regain registration shall be required to pay one renewal fee in addition to the sum of all fees such person may be in arrears.

Sec. 46. 32 MRSA §3270-C, sub-§1, as amended by

PL 1977, c. 694, §607, is repealed and the following enacted in its place:

1. Grounds. The sanctions of section 3282-A shall apply to a physician's assistant who has:

A. Held himself out or permitted himself to be represented as a licensed physician;

B. Performed otherwise than at the direction and under the supervision of a physician licensed by the board;

C. Been delegated and performed a task beyond his competence; and

D. Administered, dispensed or prescribed any controlled substance otherwise than as authorized by law.

Sec. 47. 32 MRSA §3271, 2nd ¶, as amended by PL 1971, c. 622, §117-C, is further amended to read:

Each of the applicants must be 18 years of age ~~and of good moral character~~. The board at its discretion may permit an applicant who is otherwise qualified to be examined during his internship, the certificate of licensure to be withheld until the successful completion of his internship.

Sec. 48. 32 MRSA §3273, as amended by PL 1979, c. 345, §3, is further amended to read:

§3273. Reexamination

Any applicant who fails the examination may be reexamined by the board upon payment of a fee of ~~\$135~~ \$50 plus the current cost of the examination.

Sec. 49. 32 MRSA §3279, last ¶, as enacted by PL 1971, c. 591, §1, is amended to read:

A certificate, issued under this section or the right of any visiting medical instructor to practice without examination in this State, may be revoked for any one of the reasons stated in section ~~3282~~ 3282-A, and in addition thereto if any intern or hospital resident violates the limitations placed upon his temporary education certificate or in the case of the visiting medical instructor who performs medical procedures which are not a part of a course of instruction as provided in this section, the temporary educational certificate or the right of the visiting medical instructor may be revoked in accordance with the procedures set forth in this chapter.

Sec. 50. 32 MRSA §3280, first ¶, as amended by PL 1981, c. 616, §2, is further amended to read:

On or before the first day of July, 1966, and on or before the first day of July of every even-numbered year thereafter, every physician licensed under this chapter shall apply to the Board of Registration in Medicine for a certificate of biennial registration on forms provided by ~~said~~ the board. On or before the first day of July, 1982, and on or before the first day of July of every even-numbered year thereafter, any applicant actively practicing medicine in the State shall include satisfactory evidence to the board that, in the preceding 2 years, the applicant has completed a course of continuing medical education as prescribed in the rules and regulations of the board. The registration fee for residents of this State and for nonresidents shall in no event exceed the sum of \$100. This section shall not apply to interns or residents registered under section 3279 nor shall it apply to those holding temporary certificates for practice in hospitals or camps as provided in section 3277. ~~Said~~ The registration fees provided for under this section shall not be required of any physician who is 70 years of age on the first day of July of the year for which reregistration is made, although the requirement of reregistration as provided for shall apply without regard to age.

Sec. 51. 32 MRSA §3280, sub-§1, as enacted by PL 1977, c. 388, §7, is amended to read:

1. Cause. There exists no cause, as set forth in section ~~3282~~ 3282-A, which may be considered grounds for suspension or revocation of a license; and

Sec. 52. 32 MRSA §3282, as amended by PL 1979, c. 619, §1, is repealed.

Sec. 53. 32 MRSA §3282-A is enacted to read:

§3282-A. Disciplinary actions

1. Disciplinary proceedings and sanctions. The board shall investigate a complaint, on its own motion or upon receipt of a written complaint filed with the board, regarding noncompliance with or violation of this chapter or of any rules adopted by the board.

The board shall notify the licensee of the content of a complaint filed against the licensee as soon as possible, but in no event later than within 60 days of receipt of this information. The licensee shall respond within 30 days. If the licensee's response

to the complaint satisfies the board that the complaint does not merit further investigation or action, the matter may be dismissed, with notice of the dismissal to the complainant, if any.

If, in the opinion of the board, the factual basis of the complaint is or may be true, and it is of sufficient gravity to warrant further action, the board may request an informal conference with the licensee. The board shall provide the licensee with adequate notice of the conference and of the issues to be discussed. The conference shall be conducted in executive session of the board, unless otherwise requested by the licensee. Statements made at the conference may not be introduced at a subsequent formal hearing unless all parties consent.

If the board finds that the factual basis of the complaint is true and is of sufficient gravity to warrant further action, it may take any of the following actions it deems appropriate:

A. With the consent of the licensee, enter into a consent agreement which fixes the period and terms of probation best adapted to protect the public health and safety and to rehabilitate or educate the licensee. A consent agreement may be used to terminate a complaint investigation, if entered into by the board, the licensee and the Attorney General's office;

B. In consideration for acceptance of a voluntary surrender of the license, negotiate stipulations, including terms and conditions for reinstatement, which ensure protection of the public health and safety and which serve to rehabilitate or educate the licensee. These stipulations shall be set forth only in a consent agreement signed by the board, the licensee and the Attorney General's office;

C. If the board concludes that modification or nonrenewal of the license might be in order, the board shall hold an adjudicatory hearing in accordance with the provisions of the Maine Administrative Procedure Act, Title 5, chapter 375, subchapter IV; or

D. If the board concludes that suspension or revocation of the license is in order, the board shall file a complaint in the Administrative Court in accordance with Title 4, chapter 25.

2. Grounds for discipline. The board may suspend or revoke a license pursuant to Title 5, section 10004. The following shall be grounds for an action

to refuse to issue, modify, suspend, revoke or refuse to renew the license of a person licensed under this chapter:

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

B. Habitual intemperance in the use of alcohol or the habitual use of narcotic or hypnotic or other substances the use of which has resulted or may result in the licensee performing his duties in a manner which endangers the health or safety of his patients;

C. A professional diagnosis of a mental or physical condition which has resulted or may result in the licensee performing his duties in a manner which endangers the health or safety of his patients;

D. Aiding or abetting the practice of medicine by a person not duly licensed under this chapter and who represents himself to be so;

E. Incompetence in the practice for which he is licensed. A licensee shall be deemed incompetent in the practice if the licensee has:

(1) Engaged in conduct which evidences a lack of ability or fitness to discharge the duty owed by the licensee to a client or patient or the general public; or

(2) Engaged in conduct which evidences a lack of knowledge, or inability to apply principles or skills to carry out the practice for which he is licensed;

F. Unprofessional conduct. A licensee shall be deemed to have engaged in unprofessional conduct if he violates any standard of professional behavior which has been established in the practice for which the licensee is licensed;

G. Subject to the limitations of Title 5, chapter 341, conviction of a crime which involves dishonesty or false statement or which relates directly to the practice for which the licensee is licensed, or conviction of any crime for which incarceration for one year or more may be imposed;

H. Any violation of this chapter or any rule adopted by the board;

I. Engaging in false, misleading or deceptive advertising;

J. Prescribing narcotic or hypnotic or other drugs listed as controlled substances by the Drug Enforcement Administration for other than accepted therapeutic purposes; or

K. Failure to report to the secretary of the board a physician licensed under this chapter for addiction to alcohol or drugs or for mental illness in accordance with Title 24, section 2505, except when the impaired physician is or has been a patient of the licensee.

Sec. 54. 32 MRSA §3283, as repealed and replaced by PL 1979, c. 619, §2, is repealed.

Sec. 55. 32 MRSA §§3287 and 3288, as enacted by PL 1971, c. 591, §1, are repealed.

Sec. 56. 32 MRSA §3651, first ¶, as amended by PL 1979, c. 61, §3, is further amended to read:

Except as otherwise provided in this chapter, any person before engaging in the practice of podiatry shall be examined as to his qualifications. Each applicant shall, at least 60 days before the date of his examination, present to the secretary of the Board of Registration in Medicine an application for a license to practice podiatry on a form prescribed by the examiners and containing satisfactory proof that ~~said the~~ applicant is at least 18 years of age, ~~of good moral character~~ and that he has received a certificate of graduation from a legally incorporated, regular established school of podiatry, recognized by the Council of Education of the American Podiatry Association, having a minimum requirement of not less than 4 consecutive years of 8 months each of scholastic attendance, nor shall ~~such the~~ applicant be entitled to registration and certificate unless ~~such the~~ applicant shall have had, prior to the beginning of his course in podiatry, as a minimum requirement, a 2-year course in a legally recognized college of the liberal arts or of the sciences.

Sec. 57. 32 MRSA §3654, first ¶, is amended to read:

Any podiatrist ~~of good moral character~~ licensed to practice podiatry in a state maintaining a standard equal to that maintained by this State may, upon making application to the secretary of the Board of Registration in Medicine, be licensed to practice podiatry in this State without examination, upon payment of the required fee and the presentation ~~of~~

satisfactory evidence of good moral character and of his license to practice podiatry in such other state, provided such other state extends the same privilege to persons licensed to practice podiatry in this State.

Sec. 58. 32 MRSA §3655, as amended by PL 1981, c. 25, is repealed.

Sec. 59. 32 MRSA §3655-A is enacted to read:

§3655-A. Disciplinary actions

1. Disciplinary proceedings and sanctions. The board shall investigate a complaint, on its own motion or upon receipt of a written complaint filed with the board, regarding noncompliance with or violation of this chapter or of any rules adopted by the board.

The board shall notify the licensee of the content of a complaint filed against the licensee as soon as possible, but in no event later than within 60 days of receipt of this information. The licensee shall respond within 30 days. If the licensee's response to the complaint satisfies the board that the complaint does not merit further investigation or action, the matter may be dismissed, with notice of the dismissal to the complainant, if any.

If, in the opinion of the board, the factual basis of the complaint is or may be true, and it is of sufficient gravity to warrant further action, the board may request an informal conference with the licensee. The board shall provide the licensee with adequate notice of the conference and of the issues to be discussed. The conference shall be conducted in executive session of the board, unless otherwise requested by the licensee. Statements made at the conference may not be introduced at a subsequent formal hearing unless all parties consent.

If the board finds that the factual basis of the complaint is true and is of sufficient gravity to warrant further action, it may take any of the following actions it deems appropriate:

A. With the consent of the licensee, enter into a consent agreement which fixes the period and terms of probation best adapted to protect the public health and safety and to rehabilitate or educate the licensee. A consent agreement may be used to terminate a complaint investigation, if entered into by the board, the licensee and the Attorney General's office;

B. In consideration for acceptance of a voluntary surrender of the license, negotiate stipulations, including terms and conditions for reinstatement, which ensure protection of the public health and safety and which serve to rehabilitate or educate the licensee. These stipulations shall be set forth only in a consent agreement signed by the board, the licensee and the Attorney General's office;

C. If the board concludes that modification or nonrenewal of the license might be in order, the board shall hold an adjudicatory hearing in accordance with the provisions of the Maine Administrative Procedure Act, Title 5, chapter 375, subchapter IV; or

D. If the board concludes that suspension or revocation of the license is in order, the board shall file a complaint in the Administrative Court in accordance with Title 4, chapter 25.

2. Grounds for discipline. The board may suspend or revoke a license pursuant to Title 5, section 10004. The following shall be grounds for an action to refuse to issue, modify, suspend, revoke or refuse to renew the license of a person licensed under this chapter:

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

B. Habitual intemperance in the use of alcohol or the habitual use of narcotic or hypnotic or other substances the use of which has resulted or may result in the licensee performing his duties in a manner which endangers the health or safety of his patients;

C. A professional diagnosis of a mental or physical condition which has resulted or may result in the licensee performing his duties in a manner which endangers the health or safety of his patients;

D. Aiding or abetting the practice of podiatry by a person not duly licensed under this chapter and who represents himself to be so;

E. Incompetence in the practice for which he is licensed. A licensee shall be deemed incompetent in the practice if the licensee has:

(1) Engaged in conduct which evidences a

lack of ability or fitness to discharge the duty owed by the licensee to a client or patient or the general public; or

(2) Engaged in conduct which evidences a lack of knowledge, or inability to apply principles or skills to carry out the practice for which he is licensed;

F. Unprofessional conduct. A licensee shall be deemed to have engaged in unprofessional conduct if he violates any standard of professional behavior which has been established in the practice for which the licensee is licensed;

G. Subject to the limitations of Title 5, chapter 341, conviction of a crime which involves dishonesty or false statement or which relates directly to the practice for which the licensee is licensed, or conviction of any crime for which incarceration for one year or more may be imposed;

H. Any violation of this chapter or any rule adopted by the board;

I. Engaging in false, misleading or deceptive advertising; or

J. Practicing podiatry in conjunction with any business such as a shoe store or beauty parlor.

Effective September 23, 1983.

CHAPTER 379

H.P. 845 - L.D. 1095

AN ACT to Amend the Interception of
Wire and Oral Communications Law.

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

15 MRSA §713, as enacted by PL 1979, c. 701, §13, is amended to read:

§713. Evidence

The contents of an interception shall not be admissable admissible in court, except that the contents of an interception of any oral or wire communi-