

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

subjects of collective bargaining, determination of appropriate bargaining units, certification and election of a bargaining agent, appeals process, impasse resolution procedure and enforcement mechanisms.

2. Advisory committee. The Supreme Judicial Court shall designate an advisory committee to recommend procedures. The committee shall include representatives of public sector management and public sector bargaining agents. Opportunity shall be provided for the expression of views of Judicial Department employees.

Sec. 2. Report. The proposed procedures shall be reported back to the Legislature by the start of the Second Regular Session of the 111th Legislature.

Effective September 23, 1983.

CHAPTER 413

S.P. 495 - L.D. 1502

AN ACT Providing Uniformity, Conformity
with the Maine Administrative Procedure Act
and Compliance with Court Decisions
of the Statutes of Licensing Boards
within the Department of Business Regulation.

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

Sec. 1. 8 MRSA cc. 5 and 6, as amended, are repealed.

Sec. 2. 8 MRSA c. 6-A is enacted to read:

CHAPTER 6-A

THE MAINE ATHLETIC COMMISSION

§141. Commission

The Maine Athletic Commission, in this chapter called "the commission," shall consist of 5 members appointed by the Commissioner of Business Regulation, with the advice and consent of the Governor. No member may receive any compensation or remuneration for promoting, competing or otherwise engaging in boxing or wrestling. Each member of the commission shall receive a salary of \$1,000 a year and reason-

able expenses, including transportation, incurred in the performance of his duties.

Appointments shall be for 3-year terms, except that no more than 2 members' terms may expire in any one calendar year. Appointments for terms of less than 3 years may be made in order to comply with this limitation. No person may be eligible to serve more than 3 full consecutive terms, provided that for this purpose only a period actually served which exceeds 1/2 of the 3-year term shall be deemed a full term. Upon expiration of a member's term, he shall serve until his successor is qualified and appointed. The successor's term shall be 3 years from the date of that expiration, regardless of the date of his appointment. Any vacancy shall be filled by appointment for the unexpired term. A member may be removed by the Governor for cause.

§142. Declaration of policy

It is declared to be the policy of the State, that professional and amateur boxing and professional and exhibition wrestling in this State shall be supervised by the commission in a manner designed to promote these sports in accordance with the public interest, insure the safety of all participants and spectators and achieve uniformity in the rules governing participation in these sports within the State.

§143. Meetings; chairman; quorum

The commission shall meet at least once a year to conduct its business and to elect a chairman and a secretary. Additional meetings shall be held as necessary to conduct the business of the commission, and may be convened at the call of the chairman or a majority of the board members. Three members of the commission shall constitute a quorum for all purposes. The commission shall keep such records and minutes as are necessary to the ordinary dispatch of its functions.

§144. Disbursements

The compensation of the commissioners, reasonable transportation expenses incurred in the performance of their duties and other necessary expenses of the commission shall be charged to and paid out of such amount as the Legislature may appropriate. The Commissioner of Business Regulation shall employ, subject to the Personnel Law, the personnel that he deems necessary to discharge the duties of the commission and shall outline their duties and fix their compensation, subject to the Personnel Law.

§145. Annual reports

Not later than August 1st of each year, the commission shall submit to the Commissioner of Business Regulation, for the preceding fiscal year ending June 30th, an annual report of its operations and financial position, together with such comments and recommendations as the commission deems relevant.

§146. Jurisdiction

1. Boxing. The commission shall have the sole direction, control and jurisdiction over all boxing contests and exhibitions, except that it shall have no jurisdiction over any amateur intercollegiate, interscholastic or intramural boxing contest or exhibition conducted under the direct auspices of a school, college or university.

No boxing contests or exhibitions, except as provided in this chapter, may be held or conducted within this State unless the contest or exhibition is properly licensed by the commission and conducted in accordance with this chapter and the rules adopted pursuant to this chapter.

2. Wrestling. The commission shall have the sole direction, control and jurisdiction over all professional wrestling matches, shows or exhibitions.

No professional wrestling match, show or exhibition may be held or conducted within this State unless the match, show or exhibition is licensed by the commission and conducted in accordance with this chapter and the rules adopted pursuant to this chapter.

§147. Powers and duties

The commission shall administer, coordinate and enforce this chapter consistent with the declaration of policy set forth in section 142, and shall have the following powers and duties in addition to those otherwise set forth in this chapter.

1. Rules. The commission may, in accordance with procedures established by the Maine Administrative Procedure Act, Title 5, chapter 375, subchapter II, adopt rules commensurate with the authority vested in it by this chapter.

A. In the exercise of its jurisdiction over boxing as set forth in section 146, subsection 1, the commission may adopt rules governing, among others, referees, judges, boxers, seconds, promoters, managers, physicians, timekeepers and knockdown timekeepers. These rules may include,

but not be limited to: Licensing requirements; age limits and physical condition of participants; lengths of contests and rounds; specifications of the facilities and equipment used in boxing contests and uniforms of contestants and referees; scoring of decisions; standards of weight and weighing of contestants; and the manner of presentation of closed circuit events. Rules governing amateur boxing contests shall conform to tournament regulations of the Amateur Athletic Union or its successor in interest.

B. In the exercise of its jurisdiction over wrestling as set forth in section 146, subsection 2, the commission may adopt rules governing, among others, wrestlers, managers, seconds, referees, matchmakers, physicians, timekeepers, trainers and promoters. These rules may include, but not be limited to: Licensing and qualifications of participants; conduct of contests; specifications of equipment and facilities used in wrestling contests or exhibitions; and scoring of decisions.

C. The commission may adopt rules requiring accident insurance providing coverage in the event of injury or death for persons competing in boxing events subject to this chapter or for persons competing in wrestling events subject to this chapter, or for both. This insurance, if required, shall comply with standards prescribed by the Superintendent of Insurance.

2. Officials. The officials at all boxing contests or exhibitions shall be selected or approved by the commission. For purposes of this subsection, the term "officials" includes referees, judges, physicians, timekeepers and knockdown timekeepers.

3. Hearings. Hearings may be conducted by the commission to assist with investigations, to determine whether grounds exist for suspension, revocation or denial of a license, or as otherwise deemed necessary to the fulfillment of its responsibilities under this chapter.

The commission shall not refuse to renew a license for any reason other than failure to pay a required fee, unless it has afforded the licensee an opportunity for an adjudicatory hearing. The commission shall hold an adjudicatory hearing at the written request of any person who is denied a license without a hearing for any reason other than failure to pay a required fee, provided that the request for hearing is received by the commission within 30 days of the applicant's receipt of written notice of the denial

of his application, the reasons therefor and his right to request a hearing. Hearings shall be conducted in conformity with the Maine Administrative Procedure Act, Title 5, chapter 375, subchapter IV, to the extent applicable. The commission may subpoena witnesses, records and documents in any hearing it conducts.

4. Contracts. The commission may enter into contracts to carry out its responsibilities under this chapter.

§148. Boxing licenses

1. Persons to whom licenses may be issued. The commission may issue, in its discretion, a license for a term of one year from date of issuance to any person, club, association or corporation, who or which is properly qualified, to promote and conduct boxing contests and exhibitions in accordance with this chapter and the rules adopted pursuant to this chapter. All persons engaged in such boxing contests and exhibitions as boxers, seconds, managers, timekeepers, knockdown timekeepers, referees, judges and physicians shall be licensed by the commission in a like manner.

2. Application for license. Each applicant for a promoter's license shall specify the location for which the license is desired, and each promoter's license, when issued, shall be limited to that specified location. No license issued under this section, other than a promoter's license, may be limited to a specified location.

3. Fee for license. The commission may, in its discretion, fix the fee for each promoter's license at a figure between \$10 and \$100, depending upon the probable income of the licensee to be derived from the conducting of the boxing contests and exhibitions. The commission may, in its discretion, fix the fees for all other licenses issued under this section at a figure between \$5 and \$15. When application by a fraternal, charitable or patriotic organization for a license to promote and conduct amateur boxing contests or exhibitions is made to the commission, it may grant the license without the requirement of the payment of a license fee.

4. Temporary license. Upon application being made for any license under this section, any member of the commission may, in his discretion, temporarily issue or temporarily refuse to issue the license. In the event that such a temporary license is issued, the temporary license shall be valid only until the next meeting of the commission at which a quorum is

present. No license, except such a temporary license, may be issued under this section, except by a majority vote taken at a commission meeting at which a quorum is present. All license applications shall be considered in the first meeting of the commission following the receipt of the application, at which a quorum is present.

§149. Wrestling licenses

The commission may, in its discretion and in accordance with this chapter and the rules adopted pursuant to this chapter, issue a license for a term of one year, to any person, club, association or corporation who or which is properly qualified, to conduct professional wrestling matches, shows or exhibitions. The commission may, in its discretion, fix the fee for the license at a figure between \$10 and \$100, depending upon the probable income of the licensee to be derived from the conducting of professional wrestling matches, shows or exhibitions.

All persons engaging in professional wrestling matches, shows or exhibitions as wrestlers shall be licensed by the commission in a like manner. The fee for a license is \$5. Upon the application for a license as enumerated, the chairman of the commission shall in his discretion temporarily issue or refuse to issue the license. The commission shall consider the matter at its regular meeting and rule upon the issuance or denial of the license.

§150. Permits for foreign copromoters

No foreign copromoter, meaning a promoter who has no place of business within the State, may directly or indirectly participate in the promotion of or receive any remuneration from or render any services in connection with any boxing contest or exhibition, or any professional wrestling match, show or exhibition held within the State, unless he first has been granted a permit by the commission. No promoter may be associated with any foreign copromoter in promoting any boxing contest or exhibition, unless the foreign copromoter has first secured a permit. That permit shall expire one year from date of issue and the fee shall be fixed by the commission at a figure between \$10 and \$100, depending upon the probable income of the applicant for a permit to be derived from the conducting of the boxing or wrestling event.

A foreign copromoter, by accepting a permit, agrees to be subject to all the provisions of this chapter and the rules promulgated under this chapter.

Any foreign copromoter who violates any provision of this chapter or any rule promulgated under this chapter shall be guilty of a Class E crime.

§151. Promoter's reports

The commission shall provide to each promoter a printed report form, which shall be completed and returned to the commission by registered letter mailed within 48 hours of the conclusion of any boxing contest or exhibition or any wrestling match, show or exhibition held under this chapter. The completed form shall contain the following:

1. Names of contestants. A list of the names of the contestants;

2. Physician's statement. The signed statement of a physician that he examined each of the contestants within 10 hours of the contest and found them to be in good physical condition, and, in the case of any boxing contest, further stating what he found each contestant's weight to be; and

3. Promoter's statement. The signed statement of the promoter setting forth the results of the contest, the name of the referee, the names of the judges in the case of a boxing contest or exhibition and the amount of the gross receipts.

§152. Taxes

The promoter or promoters of all boxing contests or exhibitions and all professional wrestling matches, shows or exhibitions held under this chapter shall pay to the Treasurer of State, for credit to the General Fund, a tax of 3% of the gross receipts from the contest or exhibition. This section shall apply to all boxing contests or exhibitions which are shown over closed circuit television.

On the day on which the contest or exhibition is held, the promoter or promoters shall either tender the tax to the commissioner in attendance, or provide a surety bond acceptable to the commission in the amount of \$5,000 payable to the Treasurer of State and conditioned for payment of the tax and any penalties imposed under this section. This tax shall have been paid to the Treasurer of State within 15 days of the date on which the contest or exhibition is held, in the event a bond is provided. Upon failure to pay the tax to the Treasurer of State, the promoter or promoters shall be liable to pay a penalty of 25% of the amount of the tax due, which penalty and the tax due shall be recovered by a civil action upon the bond brought in the name of the com-

mission, and the penalty and the tax due shall be paid to the Treasurer of State to be credited to the General Fund.

Failure by a promoter to pay the tax or provide the surety under this section shall be cause for cancellation of the event by the commissioner in attendance. The commission may examine the promoter's records to verify the amount of gross receipts and tax due under this section. On the failure of any promoter or promoters to pay such a tax, the promoter's license may be revoked or suspended by the Administrative Court.

§153. Decisions

1. Boxing. In all boxing contests or exhibitions conducted under this chapter, there may be a decision as to the winner by 2 judges and the referee, or by 3 judges, licensed under this chapter.

2. Wrestling. In all professional wrestling matches, shows or exhibitions conducted under this chapter, there may be a decision as to the winner by the referee.

§154. Disciplinary actions

The commission may suspend or revoke a license pursuant to Title 5, section 10004. The commission may refuse to renew or the Administrative Court may revoke, suspend or refuse to renew any license issued under this chapter if the holder of that license has violated any provision of this chapter or any rule or order of the commission.

§155. Penalties; injunction

1. Penalties. Any person, club, association or corporation, or any member or officer of a club, association or corporation who promotes, competes or otherwise engages in a boxing contest or exhibition or wrestling match, show or exhibition without first obtaining a license as required by this chapter, or after the license has expired or has been suspended, revoked or temporarily suspended or revoked, is guilty of a Class E crime.

2. Injunction. The State may bring an action in Superior Court to enjoin any person from violating this chapter, regardless of whether proceedings have been or may be instituted in the Administrative Court or whether criminal proceedings have been or may be instituted.

564, §118-G, is repealed and the following enacted in its place:

§211. Membership; term

The Maine State Board for Registration of Architects and Landscape Architects shall administer this chapter. The board shall consist of 8 members appointed by the Governor, of which 5 shall be registered and practicing architects, one of whom may be a professor of architecture; 2 shall be registered and practicing landscape architects; and one shall be a representative of the public.

Appointments shall be for 3-year terms, except that no more than 3 members' terms may expire in any one calendar year. Appointments for terms of less than 3 years may be made in order to comply with this limitation. No person may be eligible to serve more than 3 full consecutive terms, provided that for this purpose only, a period actually served which exceeds 1/2 of the 3-year term shall be deemed a full term. Upon expiration of a member's term, he shall serve until his successor is qualified and appointed. The successor's term shall be 3 years from the date of the expiration, regardless of the date of his appointment. Any vacancy shall be filled by appointment for the unexpired term. A member may be removed by the Governor for cause.

Sec. 4. 32 MRSA §213, as amended by PL 1977, c. 694, §§540 and 541, is repealed and the following enacted in its place:

§213. Meetings; chairman; quorum

The board shall meet at least once a year to conduct its business and to elect its officers. Additional meetings shall be held as necessary to conduct the business of the board and may be convened at the call of the chairman or a majority of the board members.

The board shall annually elect a chairman and a secretary. Five members of the board shall constitute a quorum for all purposes. No certificate of registration may be issued, except in an affirmative vote of at least 5 members of the board.

Sec. 5. 32 MRSA §213-A is enacted to read:

§213-A. Compensation

Each member of the board, except the secretary, shall receive compensation for his services of \$35 a day for each meeting and his actual and necessary

expenses incurred in the discharge of his duties. These expenses shall be certified by the secretary of the board.

The secretary may receive an annual salary to be fixed by the board not to exceed \$5,000, which shall be in lieu of per diem. The secretary shall be paid his necessary expenses incurred in the discharge of his official duties, including, but not limited to, clerical and stenographical assistance, printing and postage. The salary and allowance for expenses shall be certified by the chairman of the board.

Sec. 6. 32 MRSA §214, as amended by PL 1977, c. 694, §§542 and 543, is repealed and the following enacted in its place:

§214. Powers and duties

The board shall administer, coordinate and enforce this chapter and have the following powers and duties in addition to those otherwise set forth in this chapter.

1. Rules. The board may, in accordance with the Maine Administrative Procedure Act, Title 5, chapter 375, subchapter II, adopt rules commensurate with the authority vested in it by this chapter. The rules may include rules necessary for the performance of the duties of the board in carrying out the purposes of this chapter, as well as such rules as are appropriate to establish and maintain high standards of ethical conduct. These rules shall include, but not be limited to, rules concerning misconduct, compensation, fee splitting, advertising and standards of workmanship.

2. Hearings. Hearings may be conducted by the board to assist with investigations, to determine whether grounds exist for suspension, revocation or denial of a license, or as otherwise deemed necessary to the fulfillment of its responsibilities under this chapter.

The board shall not refuse to renew a certificate for any reason other than failure to pay a required fee, unless it has afforded the licensee an opportunity for an adjudicatory hearing. The board shall hold an adjudicatory hearing at the written request of any person who is denied a certificate without a hearing for any reason other than failure to pay a required fee, provided that the request for hearing is received by the board within 30 days of the applicant's receipt of written notice of the denial of his application, the reasons therefor and his right to request a hearing. Hearings shall be conducted in

conformity with the Maine Administrative Procedure Act, Title 5, chapter 375, subchapter IV, to the extent applicable. The board may subpoena witnesses, records and documents in any hearing it conducts.

3. Contracts. The board may enter into contracts to carry out its responsibilities under this chapter.

4. Legal services. The board, or any committee thereof, is entitled to the services of the Attorney General and the services of the prosecuting attorney for the county in which enforcement is required. The board may employ legal advice and such other assistance as may be deemed necessary for the proper conduct of its affairs, the expense of that assistance to be defrayed by the revenues provided by this chapter.

Sec. 7. 32 MRSA §215, as repealed and replaced by PL 1977, c. 564, §118-H, is repealed.

Sec. 8. 32 MRSA §216, as enacted by PL 1977, c. 463, §3, is repealed and the following enacted in its place:

§216. Records

The board shall keep such records and minutes as are necessary to the ordinary dispatch of its functions. The board shall keep a register of all applicants for registration and a register of all registrants.

Sec. 9. 32 MRSA §218, as repealed and replaced by PL 1977, c. 694, §544, is repealed and the following enacted in its place:

§218. Disciplinary actions

The board may order an investigation of a complaint on its own motion or on written complaint filed with the board regarding noncompliance with or violation of any section of this chapter or of any rules adopted by the board.

The board may suspend or revoke a certificate pursuant to Title 5, section 10004. The board may refuse to renew or the Administrative Court may revoke, suspend or refuse to renew any certificate issued under this chapter if the holders of the license have violated any provision of this chapter or any rule or order of the board.

Sec. 10. 32 MRSA §222, sub-§§1 and 2, as enacted by PL 1977, c. 463, §3, are amended to read:

1. Application for registration. For an application for registration an amount shall be fixed by the board which shall ~~not exceed the sum of \$50~~ be reasonable and necessary for its purpose.

2. Examination fee. For an examination fee an amount shall be fixed by the board which is reasonable and necessary for its purpose.

Sec. 11. 32 MRSA §224, last ¶, as amended by PL 1977, c. 694, §548, is repealed and the following enacted in its place:

Certificates of registration shall expire on the last day of June of each year. Renewal may be effected at any time during the month of June by payment of the renewal fee. A certificate may be renewed up to 90 days after the date of its expiration upon payment of a late fee of \$10 in addition to the renewal fee. Any person who submits an application for renewal more than 90 days after the license expiration date shall be subject to all requirements governing new applicants under this chapter, except that the board may in its discretion, giving due consideration to the protection of the public, waive examination if the renewal application is made within 2 years from the date of the expiration.

Sec. 12. 32 MRSA §228, as enacted by PL 1977, c. 463, §3, is amended by adding at the end a new paragraph to read:

The State may bring an action in Superior Court to enjoin any person from violating this chapter, regardless of whether proceedings have been or may be instituted in the Administrative Court or whether criminal proceedings have been or may be instituted.

Sec. 13. 32 MRSA §271, as enacted by PL 1979, c. 478, §2, is repealed and the following enacted in its place:

§271. Advisory board

The Auctioneers Advisory Board, as established within the Department of Business Regulation, shall advise the commissioner or his designee and provide assistance on any matter he deems relevant to the administration of this chapter.

The board shall be composed of 3 members, 2 of whom shall be auctioneers and one of whom shall be a public member. Members shall be appointed by the commissioner and shall serve without compensation. Members shall be reimbursed for actual expenses incurred for attendance at meetings.

Appointments shall be for 3-year terms, with no person being eligible to serve more than 3 full consecutive terms, provided that for this purpose only a period actually served which exceeds 1/2 of the 3-year term shall be deemed a full term. Upon expiration of a member's term, he shall serve until his successor is qualified and appointed. The successor's term shall be 3 years from the date of the expiration, regardless of the date of his appointment. Any vacancy shall be filled by appointment for the unexpired term. A board member may be removed by the commissioner for cause.

The board shall meet at least once a year and at such other times as the commissioner deems necessary.

The commissioner may, in accordance with the procedures established by the Maine Administrative Procedure Act, Title 5, chapter 375, subchapter II, adopt such rules as may be reasonably necessary for the proper performance of his duties in the administration of this chapter.

Sec. 14. 32 MRSA §272, as enacted by PL 1979, c. 478, §2, is amended to read:

§272. Prohibition

No person in this State shall ~~may~~ engage in the business of auctioneering, hold himself out as an auctioneer or advertise that he will sell the real, personal or mixed property of another by auction unless he holds a valid auctioneer's license ~~at the time of the sale.~~

Sec. 15. 32 MRSA §273, as amended by PL 1979, c. 705, §1, is further amended by adding after the first paragraph a new paragraph to read:

The commissioner may establish an application fee and an examination fee in amounts which are reasonable and necessary for their respective purposes.

Sec. 16. 32 MRSA §274, as enacted by PL 1979, c. 478, §2, is amended to read:

§274. Renewal

Notice of expiration shall be mailed to each licensee's last known address at least 30 days in advance of the expiration of his license. The renewal notice shall include any requests for information necessary to update the individual's records. The biennial license fee shall be \$50.

~~A renewal received 30 days after expiration will~~

be considered as a new application.

A license may be renewed up to 90 days after the date of its expiration upon payment of a late fee of \$10 in addition to the renewal fee. Any person who submits an application for renewal more than 90 days after the license expiration date shall be subject to all requirements governing new applicants under this chapter.

Sec. 17. 32 MRSA §276, as enacted by PL 1979, c. 478, §2, is amended to read:

§276. Nonresident licensure

Every nonresident person desiring to do business as an auctioneer in this State shall obtain an auctioneer's license. The commissioner may issue a license to any nonresident auctioneer duly licensed as an auctioneer in the state in which he resides upon fulfillment of the same application requirements as those set forth for resident auctioneers.

In addition, the an applicant shall furnish proof to the commissioner that he is licensed to conduct auctions in the state in which he resides shall furnish proof of that licensure to the commissioner.

Sec. 18. 32 MRSA §278, as amended by PL 1979, c. 705, §§2 to 6, is repealed.

Sec. 19. 32 MRSA §278-A is enacted to read:

§278-A. Investigations; hearings; license suspension or revocation

1. Investigations. The commissioner shall investigate, or cause to be investigated, all complaints made to him and all cases of noncompliance with or violation of this chapter.

2. Hearings. Hearings may be conducted by the commissioner before the board to assist with investigations, to determine whether grounds exist for suspension, revocation or denial of a license, or as otherwise deemed necessary by the commissioner to the fulfillment of his responsibilities under this chapter.

The commissioner shall not refuse to renew a license for any reason other than failure to pay a required fee unless he has afforded the licensee an opportunity for an adjudicatory hearing. The commissioner shall hold an adjudicatory hearing at the written request of any person who is denied a license without a hearing for any reason other than failure to pay a

required fee, provided that the request for hearing is received within 30 days of the applicant's receipt of written notice of the denial of his application, the reasons therefor and his right to request a hearing. Hearings shall be conducted in conformity with the Maine Administrative Procedure Act, Title 5, chapter 375, subchapter IV, to the extent applicable. The commissioner may subpoena witnesses, records and documents in any hearing he conducts.

3. Refusal to issue or renew; suspension or revocation. The commissioner may suspend or revoke a license pursuant to Title 5, section 10004. In addition, the commissioner may refuse to issue or renew a license or the Administrative Court may revoke, suspend or refuse to renew a license for any of the following reasons:

A. Conviction of the licensee of a violation of the Maine Criminal Code, Title 17-A, chapter 15, 19 or 37 or of a Class A, Class B or Class C crime thereunder or of a felony under federal law, subject to the limitations of Title 5, chapter 341;

B. Failure to comply with or properly maintain records required by Title 15, section 456;

C. Failure, within reasonable time, to account for or remit any moneys coming into his possession which belong to others; or

D. Any act in violation of this chapter.

Sec. 20. 32 MRSA §282, as enacted by PL 1979, c. 478, §2, is repealed and the following enacted in its place:

§282. Penalties; injunction

A violation of any provision of this chapter is a civil violation for which a forfeiture not to exceed \$500 may be adjudged.

The State may bring an action in Superior Court to enjoin any person from violating this chapter, regardless of whether proceedings have been or may be instituted in the Administrative Court or whether proceedings to impose a civil forfeiture have been or may be instituted.

Sec. 21. 32 MRSA §303, as amended by PL 1977, c. 694, §549, is repealed:

Sec. 22. 32 MRSA §304, as repealed and replaced by PL 1977, c. 398, §5, is amended by adding at the

end a new paragraph to read:

The State may bring an action in Superior Court to enjoin any person from violating this chapter, regardless of whether proceedings have been or may be instituted in the Administrative Court or whether criminal proceedings have been or may be instituted.

Sec. 23. 32 MRSA §351, sub-§2, as enacted by PL 1977, c. 398, §7, is repealed and the following enacted in its place:

2. Meetings; chairman; quorum. The board shall meet at least once a year to conduct its business and to elect a chairman. Additional meetings shall be held as necessary to conduct the business of the board, and may be convened at the call of the chairman or a majority of the board members. The chairman shall serve for a term of one year or until a successor is elected. All meetings of the board shall be open to the public, except that the board may hold closed sessions to prepare, approve, grade or administer examinations, or to prepare or provide a response upon request of an applicant for review of his examination. Three voting members of the board shall constitute a quorum for all purposes.

Sec. 24. 32 MRSA §352, sub-§1, as enacted by PL 1977, c. 398, §8, is amended to read:

1. Board to administer, coordinate and enforce. The board shall administer, coordinate and enforce this chapter, evaluate the qualifications and supervise the examinations of applicants for registration under this chapter and shall, at its discretion, investigate allegations of violations of this chapter. The board shall keep such records and minutes as are necessary to the ordinary dispatch of its functions.

Any member or employee of the board shall have the power to enter and make reasonable examination of any approved school or any barber shop during business hours for the purpose of ascertaining whether or not the rules and regulations are being observed.

The board shall submit to the Commissioner of Business Regulation its budgetary requirements in the same manner as is provided in Title 5, section 1665, and the commissioner shall in turn transmit those requirements to the Bureau of the Budget without any revision, alteration or change.

Sec. 25. 32 MRSA §352, sub-§2, as amended by PL 1977, c. 694, §§550 and 551, is repealed and the following enacted in its place:

2. Rules. The board may adopt rules commensurate with the authority vested in it by this chapter, subject to the Maine Administrative Procedure Act, Title 5, chapter 375, except as otherwise provided in this subsection, and subject to the approval of the Commissioner of Human Services.

The rules shall include, but not be limited to, rules concerning the proper use of appliances, apparatus and electrical machines used in any establishment for or in connection with any of the practices defined in section 301, and prescribing the sanitary requirements to be observed by proprietors of barber shops and by persons engaged in this practice and shall make regulations not contrary to law relative to the applications for licenses and certificates of registration. The board shall cause these rules to be printed in suitable form and a copy thereof to be sent to the proprietors of the shops, which copy shall be kept posted in a conspicuous place in the shops so as to be easily read by customers.

A copy of all rules which are adopted by vote of the board and which are approved by the Commissioner of Human Services shall be sent to all persons licensed under this chapter.

Sec. 26. 32 MRSA §352, sub-§3, as repealed and replaced by PL 1981, c. 698, §154, is repealed and the following enacted in its place:

3. Hearings. Hearings may be conducted by the board to assist with investigations, to determine whether grounds exist for suspension, revocation or denial of a license, or as otherwise deemed necessary to the fulfillment of its responsibilities under this chapter.

The board shall not refuse to renew a license for any reason other than failure to pay a required fee, unless it has afforded the licensee an opportunity for an adjudicatory hearing. The board shall hold an adjudicatory hearing at the written request of any person who is denied a license without a hearing for any reason other than failure to pay a required fee, provided that the request for hearing is received by the board within 30 days of the applicant's receipt of written notice of the denial of his application, the reasons therefor and his right to request a hearing. Hearings shall be conducted in conformity with the Maine Administrative Procedure Act, Title 5, chapter 375, subchapter IV, to the extent applicable. The board may subpoena witnesses, records and documents in any hearing it conducts.

Sec. 27. 32 MRSA §352, sub-§5 is enacted to read:

5. Contracts. The board may enter into contracts to carry out its responsibilities under this chapter.

Sec. 28. 32 MRSA §404, as repealed and replaced by PL 1977, c. 398, §9, is amended to read:

§404. Reciprocity with other states

The board may waive the examination and grant registration to any applicant who shall present proof of current registration or licensure in another state, other jurisdiction of the United States or another country which grants similar privileges to persons registered under this chapter and maintains professional standards deemed by the board to be equivalent to those set forth in this chapter, provided that no cause exists for denial of a license under section 408. Such an applicant shall pay the same fee as provided in section 407.

The board may allow an applicant to take the examination who presents proof of training or experience, of an amount at least equal to that required under section 402, subsection 3, in another state, other jurisdiction of the United States or another country which maintains professional standards ~~con-~~sidered deemed by the board to be equivalent to those set forth in this chapter, provided that no cause exists for denial of a license under section 408. Such an applicant shall pay the examination fee as provided in section 402.

Sec. 29. 32 MRSA §407, last ¶, as repealed and replaced by PL 1977, c. 398, §9, is repealed and the following enacted in its place:

A license may be renewed up to 90 days after the date of its expiration upon payment of a late fee of \$10 in addition to the renewal fee. Any person who submits an application for renewal more than 90 days after the license expiration date shall be subject to all requirements governing new applicants under this chapter, except that the board may in its discretion, giving due consideration to the protection of the public, waive examination if the renewal application is made within 2 years from the date of the expiration.

Sec. 30. 32 MRSA §408, as amended by PL 1977, c. 694, §553, is further amended to read:

§408. Suspension, revocation and refusal to issue or to renew registration or license

The board shall investigate or cause to be inves-

tigated all complaints made to it and all cases of noncompliance with or violation of this chapter. The board shall have the authority, after a hearing in conformance with Title 5, section 9051 et seq., to refuse to issue or renew a registration or license. The Administrative Court Judge shall have the power to suspend or revoke the registration or license of any person registered under this chapter who is guilty of: The board may suspend or revoke a license pursuant to Title 5, section 10004. The board may refuse to issue or renew a license or the Administrative Court may revoke, suspend or refuse to renew a license of any person registered under this chapter for any of the following reasons:

1. Obtaining registration or license by fraud. Obtaining registration or license by means of fraud, misrepresentation or concealment of material facts;

2. Violation of any lawful order, rule. Violating any lawful order, or rule or regulation rendered and adopted by the board;

3. Violations. Violating any provision of this chapter;

4. Conviction of a crime. Being convicted of a crime in any court of the United States if the acts for which the person is convicted are found by the board to have a direct bearing on whether the person should be entrusted to serve the public in a capacity which is subject to license or registration under this chapter, subject to the limitations of Title 5, chapter 341; or

5. Certain conduct. Repeated acts or continued conduct while serving customers which is dangerous or injurious, or potentially so, to customers.

The board may reissue a license or registration to any person whose license or registration has been revoked, if 3 or more members of the board vote in favor of such reissuance.

Sec. 31. 32 MRSA §1101, sub-§4, as amended by PL 1981, c. 577, §7, is repealed and the following enacted in its place:

4. Journeyman electrician. "Journeyman electrician" means a person doing work of installing electrical wires, conduits, apparatus, fixtures and other electrical equipment in the employment of a master electrician. The biennial renewal fee for a journeyman electrician license is \$40.

Sec. 32. 32 MRSA §1101, sub-§4-A is enacted to read:

4-A. Supervision. Each master electrician or journeyman electrician may have one apprentice electrician or one helper electrician working with him and under his personal supervision. A master electrician, who teaches an electrical course at a Maine regional vocational-technical center, a Maine vocational region or a Maine vocational-technical institute, may have a maximum of 12 helper electricians under his direct supervision while making electrical installations which are a part of the instructional program of the school, provided that the total value of each installation does not exceed \$1,000. No electrical installation may be commenced pursuant to this subsection without the prior approval of the director of the school at which the master electrician is an instructor. These installations are limited to those done in buildings or facilities owned or controlled by:

A. School administrative units;

B. Nonprofit organizations; and

C. Households as defined in Title 36, section 6103, where the household income as defined in that section is within the limits established for one or 2 member households by Title 36, section 6108, except that if there are more than 2 members in a household, an additional \$500 of household income shall be allowed for each additional member of the household in computing the income limitation and provided that the household is owner-occupied.

The Electricians' Examining Board and the municipal electrical inspector of the municipality in which the installation is to be made, if the municipality has an inspector, shall be notified of all installation projects entered into pursuant to this subsection prior to the commencement of the project. There shall be an inspection by a state electrical inspector or by the municipal electrical inspector of the municipality in which the installation has been made, if the municipality has an inspector, before any wiring on the project is concealed.

Sec. 33. 32 MRSA §1105, as repealed and replaced by PL 1973, c. 363, is amended to read:

§1105. Violations; penalty

Any person, firm or corporation who makes electrical installations without being licensed as provided in this chapter, ~~any person, firm or corporation~~ or who, being in such that business, employs an unlicensed person, firm or corporation to do such

that work, unless he is an apprentice electrician or an electrician's helper as set forth in this chapter, unless the person, firm or corporation or work is exempted under section 1102 or 1102-A; any person, firm or corporation who procures a license as provided in this chapter wrongfully or by fraud; or any person, firm or corporation who violates this chapter or rules or regulations promulgated thereunder, or standards adopted by the board, shall be is guilty of a misdemeanor and shall be punished by a fine of not more than \$500 Class E crime.

The State may bring an action in Superior Court to enjoin any person from violating this chapter, regardless of whether proceedings have been or may be instituted in the Administrative Court or whether criminal proceedings have been or may be instituted.

Nothing in this chapter shall may prevent a person from making electrical installations in a single family residence occupied by him or to be occupied by him as his bona fide personal abode, providing such that the installation conforms with the standards of the National Electric Code.

Sec. 34. 32 MRSA §1151, as amended by PL 1981, c. 383, §4, is repealed and the following enacted in its place:

§1151. Appointment; vacancies; removal; compensation

The Electricians' Examining Board, as established and in this chapter called the "board," shall consist of 6 members appointed by the Governor, called the "appointive members," and an executive secretary, who shall be the Commissioner of Business Regulation or a representative appointed by the commissioner with the approval of at least 4 of the appointive members.

The 6 appointive members shall consist of: One master electrician; one electrician who is a bona fide member from organized labor classified as an inside electrician; one electrical inspector; one master electrician from the education field; and one person experienced in the electrical field, all of whom shall have at least 10 years of experience in the electrical field; provided that the latter 3 need not be active electricians at the time of their appointment; and one representative of the public. At the time of each appointment, the State Electrical Associates may nominate 3 persons for that appointment. To the extent the State Electrical Associates so nominates persons otherwise qualified for appointment to the board, the appointive members, other than the representative of the public, may be selected from the persons so nominated.

Appointments shall be made for a 5-year term, except that at least one appointive member's term shall expire each calendar year and appointments for terms of less than 5 years may be made in order to comply with this limitation. No person may be eligible to serve more than 2 full consecutive terms, provided that for this purpose only a period actually served which exceeds 1/2 of the 5-year term shall be deemed a full term. Upon expiration of a member's term, he shall serve until his successor is qualified and appointed. The successor's term shall be 5 years from the date of that expiration, regardless of the date of his appointment.

Any vacancy in the board caused by death, resignation or removal of any members shall be filled by the appointment of a person qualified as was the board member being replaced, to hold office during the unexpired term of the member whose place is thus filled.

Any appointive member of the board may be removed from office for cause by the Governor.

The members of the board, other than state employees, shall each be allowed the sum of \$30 each day and their necessary traveling expenses for actual attendance at meetings of the board held for the purposes of examining candidates, hearings on complaints or conducting business required by the board.

Sec. 35. 32 MRSA §1153, as amended by PL 1979, c. 127, §178, is repealed and the following enacted in its place:

§1153. Meetings; rules

The board shall hold regular meetings at least twice a year. Additional meetings shall be held as necessary to conduct the business of the board, and may be convened at the call of the chairman or 4 of the board members. At the first meeting in each calendar year, the 6 appointive members shall choose one appointive member to act as chairman. A quorum of the board shall consist of not less than 4 members. The board shall keep correct records of all its proceedings and may adopt, pursuant to the Maine Administrative Procedure Act, Title 5, chapter 375, subchapter II, such rules as it shall deem necessary for the holding of examinations and for carrying out this chapter; provide for the licensing requirements of Title 8, section 653; and provide for reciprocity of licensing with similar boards of other states which maintain electrical standards at least equal to those of this State.

Sec. 36. 32 MRSA §1153-B is enacted to read:

§1153-B. Powers

The board shall have the following duties and powers, in addition to those otherwise set forth in this chapter.

1. Licenses. The board shall evaluate the qualifications and supervise the examination of applicants for licensure under this chapter.

2. Hearings. Hearings may be conducted by the board to assist with investigations, to determine whether grounds exist for suspension, revocation or denial of a license, or as otherwise deemed necessary to the fulfillment of its responsibilities under this chapter.

The board shall not refuse to renew a license for any reason other than failure to pay a required fee, unless it has afforded the licensee an opportunity for an adjudicatory hearing. The board shall hold an adjudicatory hearing at the written request of any person who is denied a license without a hearing for any reason other than failure to pay a required fee, provided that the request for hearing is received by the board within 30 days of the applicant's receipt of written notice of the denial of his application, the reasons for the denial and his right to request a hearing. Hearings shall be conducted in conformity with the Maine Administrative Procedure Act, Title 5, chapter 375, subchapter IV, to the extent applicable. The board may subpoena witnesses, records and documents in any hearing it conducts.

3. Contracts. The board may enter into contracts to carry out its responsibilities under this chapter.

Sec. 37. 32 MRSA §1155, as amended by PL 1977, c. 694, §562, is repealed.

Sec. 38. 32 MRSA §1155-A is enacted to read:

§1155-A. Investigation of complaints; revocation of license

1. Investigations. The board shall investigate or cause to be investigated all complaints made to it and all cases of noncompliance with or violation of this chapter. Any person may register a complaint of fraud, deceit, gross negligence, incompetency or misconduct against any person licensed or required to be licensed under this chapter. These complaints shall be in writing, shall be sworn to by the person making

them and filed with the executive secretary of the board.

2. Suspension; revocation. The board may suspend or revoke a license pursuant to Title 5, section 10004. The board may refuse to issue or renew a license or the Administrative Court may suspend or revoke a license of any licensed person who is found guilty of:

A. The practice of any fraud or deceit in obtaining a license;

B. Any gross negligence, incompetency or misconduct in the performance of the work of making electrical installations. Continued failure to conform with application regulations of the National Electrical Code, National Electrical Safety Code or of other safety codes which have been approved by the American Standards Association shall be prima facie evidence of that gross negligence and incompetency. For motion picture projectionists licensed under Title 8, section 653, any gross negligence, incompetency or misconduct in the performance of their work shall be prima facie evidence of that gross negligence and incompetency;

C. Violating any provision of this chapter or any rule of the board; or

D. Conviction of a crime, subject to the limitations of Title 5, chapter 341.

3. Reinstatement. The board, for reasons it may deem sufficient, may reissue a license to any person whose license has been revoked, providing 4 or more members of the board vote in favor of that reissuance.

Sec. 39. 32 MRSA §1204, as amended by PL 1975, c. 767, §39, is repealed and the following enacted in its place:

§1204. Renewals

All licenses issued shall expire October 31st of each biennial period as to master electricians and April 30th of each biennial period as to other licensees and they may be renewed thereafter for 2-year periods without further examination, upon the payment of the proper renewal fee as set forth in section 1101. The expiration dates for licenses issued under this chapter may be established at such other times as the Commissioner of Business Regulation may designate. The board shall notify everyone registered

under this chapter of the date of expiration of his license and the fee required for its renewal for a 2-year period. The notice shall be mailed to the person's last known address at least 30 days in advance of the expiration date of his license.

A license may be renewed up to 90 days after the date of its expiration upon payment of a late fee of \$10 in addition to the renewal fee. Any person who submits an application for renewal more than 90 days after the license expiration date shall be subject to all requirements governing new applicants under this chapter, except that the board may in its discretion, giving due consideration to the protection of the public, waive examination if the renewal application is made within 2 years from the date of the expiration. Notwithstanding any other provision of this chapter, the board shall waive examination if a renewal application is made within 90 days after separation from the United States Armed Forces, under conditions other than dishonorable, by a person who has failed to renew his license because he was on active duty in the Armed Forces; provided that the waiver of examination shall not be granted if the person served more than 4 years in the Armed Forces, except if he is required by some mandatory provision to serve a longer period and he shall submit satisfactory evidence of this mandatory provision to the board.

Any master electrician giving up his master's license for a lower grade license shall be required to successfully pass an examination in order to reinstate his master license.

Sec. 40. 32 MRSA §1253 is amended to read:

§1253. Corporations, partnerships and associations

A firm, copartnership, corporation or joint stock association may engage in the practice of professional engineering in this State, provided ~~only such~~ that the practice is carried on only by professional engineers registered in this State.

Sec. 41. 32 MRSA §1256 is amended to read:

§1256. Violations; penalties; injunction

Any person who shall practice or offer to practice the profession of engineering in this State without being registered or exempted in accordance with this chapter, or any person presenting or attempting to use as his own the certificate of registration or the seal of another, or any person who shall give any false or forged evidence of any

kind to the board or to any member thereof in obtaining a certificate of registration, or any person who shall falsely impersonate any other registrant of like or different name, or any person who shall attempt to use an expired or revoked certificate of registration, or any person who shall violate any of the provisions of this chapter shall be guilty of a misdemeanor and shall, upon conviction, be punished by a fine of not less than \$100 nor more than \$500, or by imprisonment for not more than 3 months, or by both Class E crime.

The State may bring an action in Superior Court to enjoin any person from violating this chapter, regardless of whether proceedings have been or may be instituted in the Administrative Court or whether criminal proceedings have been or may be instituted.

It shall be the duty of all duly constituted officers of the law of this State or any political subdivision thereof to enforce this chapter and to prosecute any persons violating same. The Attorney General or his assistant shall act as legal adviser of the board and render such legal assistance as may be necessary in carrying out this chapter.

Sec. 42. 32 MRSA §1301, as amended by PL 1975, c. 771, §341, is repealed and the following enacted in its place:

§1301. Appointment; term

The State Board of Registration for Professional Engineers shall administer this chapter. The board shall consist of 6 members appointed by the Governor, of which 5 shall be professional engineers who have the qualifications required by section 1302 and one shall be a representative of the public. Nominees for appointment may be recommended to the Governor by representative engineering societies in the State.

Appointments shall be for 5-year terms, except that no more than one engineer member's term may expire in any one calendar year and appointments for terms of less than 5 years may be made in order to comply with this limitation. No person may be eligible to serve more than 2 full consecutive terms, provided that for this purpose only a period actually served which exceeds 1/2 of the 5-year term shall be deemed a full term. Upon expiration of a member's term, he shall serve until his successor is qualified and appointed. The successor's term shall be 5 years from the date of that expiration, regardless of the date of his appointment.

Sec. 43. 32 MRSA §1304, as amended by PL 1975, c. 771, §342, is further amended to read:

§1304. Removal; vacancies

The Governor may remove any member of the board for misconduct, incompetency, neglect of duty or for any other sufficient cause. Vacancies in the membership of the board shall be filled for the unexpired term by appointment by the Governor as provided in accordance with section 1301.

Sec. 44. 32 MRSA §1305, as amended by PL 1975, c. 575, §18, is repealed and the following enacted in its place:

§1305. Organization and meetings

The board shall meet at least once a year to conduct its business and to elect its officers. Additional meetings shall be held as necessary to conduct the business of the board, and may be convened at the call of the chairman or a majority of the board members.

The board shall elect or appoint annually a chairman, vice-chairman and secretary. A quorum of the board shall consist of not less than 4 members. The board may adopt and have an official seal.

Sec. 45. 32 MRSA §1306, as amended by PL 1977, c. 694, §563, is repealed and the following enacted in its place:

§1306. Powers

The board shall have the following duties and powers in addition to those otherwise set forth in this chapter.

1. Licenses; enforcement. The board shall evaluate the qualifications and supervise the examination of applicants for licensure under this chapter, and shall investigate or cause to be investigated all complaints made to it and all cases of non-compliance with this chapter.

2. Rules. The board may, in accordance with procedures established by the Maine Administrative Procedure Act, Title 5, chapter 375, subchapter II, adopt such rules as may be reasonably necessary for the proper performance of its duties and the administration of this chapter.

3. Hearings. Hearings may be conducted by the board to assist with investigations, to determine whether grounds exist for suspension, revocation or denial of a license, or as otherwise deemed necessary to the fulfillment of its responsibilities under this chapter.

The board shall not refuse to renew a license for any reason other than failure to pay a required fee, unless it has afforded the licensee an opportunity for an adjudicatory hearing. The board shall hold an adjudicatory hearing at the written request of any person who is denied a license without a hearing for any reason other than failure to pay a required fee, provided that the request for hearing is received by the board within 30 days of the applicant's receipt of written notice of the denial of his application, the reasons therefor and his right to request a hearing. Hearings shall be conducted in conformity with the Maine Administrative Procedure Act, Title 5, chapter 375, subchapter IV, to the extent applicable. The board may subpoena witnesses, records and documents in any hearing it conducts.

4. Contracts. The board may enter into contracts to carry out its responsibilities under this chapter.

Sec. 46. 32 MRSA §1308, as amended by PL 1981, c. 456, Pt. A, §§107 and 108, is repealed and the following enacted in its place:

§1308. Records and reports

The board shall keep such records and minutes as are necessary to the ordinary dispatch of its functions.

Not later than August 1st of each year, the board shall submit to the Commissioner of Business Regulation a report of its transactions of the preceding fiscal year ending June 30th and shall transmit to him a complete statement of the receipts and expenditures of the board, attested by affidavits of its chairman and its secretary.

The commissioner shall act as a liaison between the board and the Governor.

The commissioner shall not have the authority to exercise or interfere with the exercise of discretionary, regulatory or licensing authority granted by statute to the board.

The board shall submit to the Commissioner of Business Regulation its budgetary requirements in the same manner as is provided in Title 5, section 1665,

and the commissioner shall in turn transmit these requirements to the Bureau of the Budget without any revision, alteration or change.

Sec. 47. 32 MRSA §1352, first ¶ is amended to read:

To be eligible for registration as a professional engineer, or certification as a engineer-in-training, an applicant ~~must be of good character and reputation~~ and shall submit 5 references with his application for registration as a professional engineer, 3 of which references shall be registered engineers having personal knowledge of his engineering experience, or in the case of an application for certification as an engineer-in-training, by 3 character references. Each applicant shall demonstrate that he is trustworthy and competent to engage in the practice of engineering in such manner as to safeguard the interests of the public.

Sec. 48. 32 MRSA §1353 is amended to read:

§1353. Application; fees

Application for registration as a professional engineer or certification as an engineer-in-training shall be on a form prescribed and furnished by the board; shall contain statements made under oath, showing the applicant's education and a detailed summary of his technical experience, and shall contain references as set forth in section 1352, none of whom may be members of the board. An application fee and an examination fee may be established by the board in amounts which are reasonable and necessary for their respective purposes.

The registration fee for professional engineers shall be established by the board in an amount not to exceed \$25; ~~1/2 of which shall accompany the application.~~

The registration fee for engineer-in-training certification or enrollment shall be established by the board in an amount not to exceed 1/2 of the registration fee for professional engineers, and ~~shall accompany the application.~~ The fee paid by an applicant for certification or enrollment as an engineer-in-training shall be credited as the initial payment if and when application is made for registration as a professional engineer.

Should the board deny the issuance of a certificate to any applicant, the fee paid shall be retained as an application fee.

Sec. 49. 32 MRSA §1356, as amended by PL 1977, c. 694, §§564 and 565, is repealed and the following enacted in its place:

§1356. Revocation and reissuance

The board may suspend or revoke the registration of an engineer or the certificate of an engineer-in-training pursuant to Title 5, section 10004. The board may refuse to issue or renew or the Administrative Court, pursuant to Title 4, chapter 25, may revoke, suspend or refuse to renew the registration of a registered professional engineer or the certificate of an engineer-in-training who is found guilty of:

1. Fraud or deceit. The practice of any fraud or deceit in obtaining a certificate of registration as professional engineer or a certificate as an engineer-in-training;

2. Negligence or misconduct. Any gross negligence, incompetency or misconduct in the practice of professional engineering as a registered professional engineer or as an engineer-in-training; or

3. Violations. Violating any provision of this chapter or any rule of the board.

Any person may register a complaint of fraud, deceit, gross negligence, incompetency or misconduct against any registered professional engineer or any engineer-in-training. These complaints shall be in writing, sworn to by the person making them and filed with the secretary of the board.

The board, for reasons it may deem sufficient, may reissue a certificate of registration as a professional engineer or as an engineer-in-training to any person whose certificate has been revoked, provided that 4 or more members of the board vote in favor of that reissuance. A new certificate of registration as a professional engineer or as an engineer-in-training, to replace any certificate revoked, lost, destroyed or mutilated, may be issued, subject to the rules of the board, and a charge of \$3 shall be made for that issuance.

Sec. 50. 32 MRSA §1357, as repealed and replaced by PL 1975, c. 535, is amended to read:

§1357. Expiration and renewals

Certificates of registration shall expire on the last day of December of odd-numbered years following their issuance or renewal and shall become invalid on that date unless renewed. It shall be the duty of the

secretary of the board to notify every person registered under this chapter of the date of the expiration of his certificate and the amount of the fee that shall be required for its renewal for a 2-year period, except when the applicant has become registered during the first year of the 2-year period, then the renewal fee shall be for the remaining one year of that 2-year period. ~~Such~~ The notice shall be mailed at least one month in advance of the date of the expiration of ~~said~~ the certificate. Renewal may be effected at any time during the month of December by the payment of a fee designated by the board, which shall not exceed \$15 annually nor be less than \$5 annually. ~~The failure on the part of any registrant to renew his certificate by the end of the month of December as required shall not deprive such person of the right of renewal, but the fee to be paid for the renewal of a certificate after the month of December shall be increased 10% for each month or fraction of a month that payment of renewal is delayed. The maximum fee for delayed renewal shall not exceed twice the normal renewal fee for the period of delinquency. Registration may be renewed up to 90 days after the date of expiration upon payment of a late fee of \$10 in addition to the renewal fee. Any person who submits an application for renewal more than 90 days after the registration renewal date shall be subject to all requirements governing new applicants under this chapter, except that the board may in its discretion, giving due consideration to the protection of the public, waive examination if the renewal application is made within 3 years from the date of the expiration.~~

Sec. 51. 32 MRSA §1359 is amended to read:

§1359. Reciprocity

The board may, upon application therefor and the payment of a fee established by the board as provided in section 1353, issue a certificate of registration as a professional engineer to any person whose qualifications ~~meet~~ are equivalent to the requirements of section 1352, subsection 1, paragraph A.

Sec. 52. 32 MRSA §1360 is amended to read:

§1360. Residents certified elsewhere

A person who is a resident of the State and has been certified in another state as an engineer-in-training may, upon payment of a fee of \$5, be certified as an engineer-in-training in Maine, provided that he submits evidence satisfactory to the board that he has been certified as an engineer-in-training in another state under qualifications ~~substantially~~

equivalent to those specified in this chapter for such that certification.

Sec. 53. 32 MRSA §1401, first ¶ is amended to read:

~~After September 12, 1959, all~~ All moneys paid during a person's lifetime to any individual, firm, association, partnership or corporation, by such that person or by someone in his behalf under an agreement that services be performed or personal property be delivered in connection with the disposition of such that person's body after his death shall be deposited by the payee within 30 days after receipt thereof in a separate account in a bank, trust company or savings institution in this State in the name of the payee as mortuary trustee for the person for whose benefit the payment was made and shall be held in such that account together with interest if any thereon. Nothing in this section ~~shall~~ may be construed to prevent transfer of such these funds to another such bank, trust company or savings institution by merger or consolidation or by operation of law.

Sec. 54. 32 MRSA §1401, last ¶ is repealed and the following enacted in its place:

Any person who violates this section is guilty of a Class E crime.

Sec. 55. 32 MRSA §1402, last ¶ is repealed and the following enacted in its place:

Any person who violates this section is guilty of a Class E crime.

Sec. 56. 32 MRSA §1403; last ¶ is repealed and the following enacted in its place:

Any person who violates this section is guilty of a Class E crime.

Sec. 57. 32 MRSA §1451, as amended by PL 1981, c. 703, Pt. A, §45, is repealed and the following enacted in its place:

§1451. Board; powers and duties

The State Board of Funeral Service, and in this chapter called the "board," shall consist of 8 members, one of whom shall be the commissioner, who shall be the secretary of the board; 6 of whom shall be persons licensed for the practice of funeral service for 10 consecutive years or who have had 10 consecutive years' experience as an embalmer or funeral

director in this State immediately preceding their appointment; and one of whom shall be a representative of the public. Members, other than the commissioner, shall be appointed by the Governor for a term of 4 years, except that no more than 2 members' terms may expire in any one calendar year and appointments for terms of less than 4 years may be made in order to comply with this limitation. Upon expiration of a member's term, he shall serve until his successor is qualified and appointed. The successor's term shall be 4 years from the date of the expiration, regardless of the date of his appointment. Any vacancy in the board shall be filled by appointment of a person, qualified as was the board member being replaced, to hold office during the unexpired term. No person may be eligible to serve more than 2 full consecutive terms, provided that for this purpose only a period actually served which exceeds 1/2 of the 4-year term shall be deemed a full term. A board member may be removed by the Governor for cause.

The board may adopt rules consistent with law governing the care, preparation, transportation, cremation, burial or disposition of dead human bodies, and governing funeral service, including licensing and registration of resident trainees. These rules shall not become effective, unless adopted in conformity with the Maine Administrative Procedure Act, Title 5, chapter 375, subchapter II.

The board shall meet at least once a year to conduct its business and elect its officers. Additional meetings shall be held as necessary to conduct the business of the board, and may be convened at the call of the chairman or a majority of the board members. Five members of the board shall constitute a quorum for all purposes.

The members of the board shall each receive \$20 a day and expenses while engaged in the business of the board. The secretary shall receive actual expenses while engaged in the business of the board.

The secretary of the board shall be the treasurer and shall receive all fees, charges and assessments payable to the board, and account for and pay over the fees, charges and assessments according to law.

The secretary of the board shall keep a record of all proceedings, issue all notices, certificates of registration and licenses, attest all such papers and orders as the board shall direct, cause inspections to be made at least once every 3 years of all establishments or places of business of any person engaged in the profession of funeral service in the State and

perform such other duties as shall be designated by the board. The inspection shall be for the purpose of determining that these establishments and places are maintained in a clean and sanitary manner and that suitable equipment for their proper conduct is maintained and that the laws and the regulations of the board and of the Department of Human Services relating to the conduct of these establishments are observed. The board may employ one or more inspectors to carry out the duties of inspection imposed by this section, and the inspection may be made by members of the board upon authorization by the board, and may otherwise enter into contracts to carry out its responsibilities under this chapter.

The board may enter into reciprocal agreements with corresponding boards of other states for the purpose of allowing the practitioners of funeral services to perform their licensed functions in this or other states under such terms and conditions as the boards may prescribe.

Sec. 58. 32 MRSA §1451-A is enacted to read:

§1451-A. Hearings

Hearings may be conducted by the board to assist with investigations, to determine whether grounds exist for suspension, revocation or denial of a license, or as otherwise deemed necessary to the fulfillment of its responsibilities under this chapter.

The board shall not refuse to renew a license for any reason other than failure to pay a required fee, unless it has afforded the licensee an opportunity for an adjudicatory hearing. The board shall hold an adjudicatory hearing at the written request of any person who is denied a license without a hearing for any reason other than failure to pay a required fee, provided that the request for hearing is received by the board within 30 days of the applicant's receipt of written notice of the denial of his application, the reasons for the denial and his right to request a hearing. Hearings shall be conducted in conformity with the Maine Administrative Procedure Act, Title 5, chapter 375, subchapter IV, to the extent applicable. The board may subpoena witnesses, records and documents in any hearing it conducts.

Sec. 59. 32 MRSA §1455, as amended by PL 1977, c. 694, §567, is repealed.

Sec. 60. 32 MRSA §1455-A is enacted to read:

§1455-A. Investigations; refusal of license or renewal

The board shall investigate or cause to be investigated all complaints made to it and all cases of noncompliance with or violation of this chapter by licensees. The board may suspend or revoke a license pursuant to Title 5, section 10004.

The board may refuse to issue or to renew any license and the Administrative Court may revoke, suspend or refuse to renew a license issued under this chapter for any of the following reasons:

1. Criminal conviction. 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 of funeral service, or conviction of any crime for which incarceration for one year or more may be imposed;

2. Unprofessional conduct. Unprofessional conduct which is defined to include:

A. Misrepresentation or fraud in obtaining a license or in the conduct of the funeral service profession;

B. False or misleading advertising as practitioner of funeral service, funeral director or embalmer; advertising or using the name of a person in connection with that of any funeral establishment who is not licensed as a practitioner of funeral service, funeral director or embalmer;

C. Solicitation of dead human bodies by the licensee, his agents, assistants or employees, whether that solicitation occurs after death or while death is impending. This shall not be deemed to prohibit general advertising;

D. Employment by the licensee of persons known as "cappers," "steerers," "solicitors" or other such persons to obtain the services of a licensee or one engaged in the practice of funeral service;

E. Employment, directly or indirectly, of a resident trainee, agent, assistant, embalmer, employee or other person, on part or full time, or on commission, for the purpose of calling upon individuals or institutions by whose influence dead human bodies may be turned over to a partic-

ular funeral establishment;

F. The direct or indirect payment or offer of payment of a commission by the licensee, his agents, assistants or employees for the purpose of securing business;

G. Aiding or abetting an unlicensed person to practice within the funeral service profession;

H. Solicitation or acceptance by a licensee of any commission, bonus or rebate in consideration of recommending or causing a dead human body to be disposed of in any crematory, mausoleum or cemetery;

I. Refusing to promptly surrender the custody of a dead human body, upon the express order of the person lawfully entitled to the custody thereof;

J. Negligent, careless or willful noncompliance with the laws relating to filing death certificates and obtaining burial permits;

K. Gross incompetency, negligence or misconduct in carrying on the business or profession of funeral service; or

L. Abuse or disrespect in the handling of a dead human body, violation of any law or ordinance affecting the handling, custody, care or transportation of dead human bodies; or

3. Violations. Any violation of this chapter or any rule adopted by the board.

Whoever violates any provision of this chapter or any rule prescribed by the board for the preparation, embalming, transportation or burial of any dead human body is guilty of a Class E crime. The county attorney of the county in which that violation occurs shall prosecute all those persons. The District Court shall have original and concurrent jurisdiction with the Superior Court in all prosecutions under this chapter. The State may bring an action in Superior Court to enjoin any person from violating this chapter, regardless of whether proceedings have been or may be instituted in the Administrative Court or whether criminal proceedings have been or may be instituted.

Sec. 61. 32 MRSA §1501, first ¶, as amended by PL 1971, c. 598, §70, is further amended to read:

The Board of Funeral Service is authorized and empowered to may determine the qualifications neces-

sary to enable any person to lawfully engage in the funeral service profession and to operate a funeral establishment. The board shall examine all applicants for licenses for the practice of funeral service and shall issue a license to all persons who successfully pass such that examination. To be licensed for the practice of funeral service under this section, a person must be at least 18 years of age, a resident of this State and a citizen of the United States, of good moral character, have successfully completed a prescribed course at a school or schools approved by the Maine Board of Funeral Service, and must have served as a resident trainee for not less than 12 months under the personal supervision of a person licensed for the practice of funeral service or a prior equivalent license, and approved by the board. Each applicant shall demonstrate that he is trustworthy and competent to engage in the profession of funeral service in such a manner as to safeguard the interests of the public.

Sec. 62. 32 MRSA §1501-A, as enacted by PL 1969, c. 285, §3, is repealed.

Sec. 63. 32 MRSA §1504, as amended by PL 1981, c. 328, §§1 to 4, is repealed and the following enacted in its place:

§1504. Fees; expiration and renewal of licenses

An application fee and an examination fee may be established by the board in amounts which are reasonable and necessary for their respective purposes.

All licenses and certificates of registration which have been issued by the board shall expire on December 31st, annually. Any person holding a license or registration under this law may have the license renewed by making and filing with the secretary of the board an application therefor within 30 days preceding the expiration of his license or certificate of registration, upon blanks prescribed by the board and upon payment of the established renewal fee. The board shall establish the initial and renewal fees, which shall not exceed \$40 for an embalmer's license, funeral director's license and funeral home registration. The license for the practitioner of funeral services shall not exceed \$50 and the fee for a resident trainee shall not exceed \$10. A license may be renewed up to 90 days after the date of its expiration upon payment of a late fee of \$10 in addition to the renewal fee. Any person who submits an application for renewal more than 90 days after the license expiration date shall be subject to all requirements governing new applicants under this chapter, except that the board may in its discretion, giving

due consideration to the protection of the public, waive examination if the renewal application is made within 2 years from the date of the expiration.

Sec. 64. 32 MRSA §1553, as amended by PL 1977, c. 696, §238, is repealed:

Sec. 65. 32 MRSA §1555, as repealed and replaced by PL 1977, c. 398, §10, is amended by adding at the end a new paragraph to read:

The State may bring an action in Superior Court to enjoin any person from violating this chapter, regardless of whether proceedings have been or may be instituted in the Administrative Court or whether criminal proceedings have been or may be instituted.

Sec. 66. 32 MRSA §1601, sub-§1, as enacted by PL 1977, c. 398, §10, is amended to read:

1. Membership. The State Board of Cosmetology, as ~~heretofore~~ established and in this chapter designated as the "board," shall consist of 7 members who shall be citizens of this State, 5 of whom shall have been engaged in the practice of cosmetology for at least 3 years immediately prior to their appointment and one of whom shall be a representative of the public. The 7th member of the board shall be the Director of Health who shall have no board vote.

The 6 voting members of the board shall be appointed by the Governor and their terms shall be for 3 years. None of them ~~shall~~ may be eligible to serve more than 3 consecutive 3-year terms or to serve more than 9 years consecutively, provided that for this purpose only a period actually served which exceeds 1/2 of the 3-year term shall be deemed a full term. Upon expiration of a member's term, he shall serve until his successor is qualified and appointed. The successor's term shall be 3 years from the date of the expiration, regardless of the date of his appointment. The cosmetologist members shall at all times be registered cosmetologists and shall be actively engaged in the practice during their membership on the board. A board member may be removed by the Governor for cause.

Any vacancy in the board shall be filled by the appointment by the Governor of a person, qualified as was the board member being replaced, to hold office during the unexpired term of the member whose place is thus filled.

No person operating or employed by a school of cosmetology ~~shall~~ may be appointed as a member of the board. If any member of the board, after appointment,

shall become affiliated in any way with any such school, that person's membership on the board shall immediately terminate and the unexpired term of that member shall be filled by the Governor.

Sec. 67. 32 MRSA §1601, sub-§2, as enacted by PL 1977, c. 398, §10, is repealed and the following enacted in its place:

2. Meetings; chairman; quorum. The board shall meet at least once a year to conduct its business and to elect a chairman. Additional meetings shall be held as necessary to conduct the business of the board, and may be convened at the call of the chairman or a majority of the board members. All meetings of the board shall be open to the public, except that the board may hold closed sessions to prepare, approve, grade or administer examinations, or to prepare or provide a response upon request of an applicant for review of his examination. Four voting members of the board shall constitute a quorum for all purposes.

Sec. 68. 32 MRSA §1602, sub-§1, as enacted by PL 1977, c. 398, §10, is amended to read:

1. Board to administer, coordinate and enforce. The board shall administer, coordinate and enforce this chapter, evaluate the qualifications and supervise the examinations of applicants for registration under this chapter and shall, at its discretion, investigate allegations of violations of this chapter. The board shall keep such records and minutes as are necessary to the ordinary dispatch of its functions.

Any member or employee of the board ~~shall have the power to~~ may enter and make reasonable examination of ~~any approved school or~~ any beauty shop during business hours for the purpose of ascertaining whether or not the rules ~~and regulations~~ are being observed.

Sec. 69. 32 MRSA §1602, sub-§2, as amended by PL 1977, c. 694, §§570 and 571, is further amended to read:

2. Rules. The board shall make may adopt rules and regulations commensurate with the authority vested in it by this chapter, subject to the Maine Administrative Procedure Act, Title 5, section 8051 et seq. chapter 375, and subject to the approval of the Commissioner of Human Services.

The rules and regulations shall include, but not be limited to, rules and regulations concerning the proper use of appliances, apparatus and electrical

machines used in any establishment for or in connection with the practice of cosmetology, and prescribing the sanitary requirements to be observed by proprietors of beauty shops and schools of cosmetology and by persons engaged in this practice and shall make regulations not contrary to law relative to the applications for licenses and certificates of registration. The board shall cause ~~such~~ these rules and regulations to be printed in suitable form and a copy thereof to be sent to the proprietors of ~~such~~ those shops, which copy shall be kept posted in a conspicuous place in ~~such~~ those shops so as to be easily read by customers.

The rules and regulations shall include rules and regulations prescribing the requirements for the construction, operation, maintenance and sanitation of any school of cosmetology, subject to a license under this chapter.

The rules and regulations in effect on October 24, 1977, shall be considered temporary rules and regulations. Thereafter, the board shall adopt rules and regulations in accordance with the Maine Administrative Procedure Act, Title 5, section 8051 et seq. Before any rules or regulations can be adopted, the board shall hold a public hearing prior to which it shall send a copy of all proposed rules to all persons licensed under this chapter. A copy of all rules and regulations which are adopted by vote of the board after the hearing and which are approved by the Commissioner of Human Services shall be sent to all persons licensed under this chapter and shall not take effect until 30 days after the date of the vote.

Sec. 70. 32 MRSA §1602, sub-§3, as repealed and replaced by PL 1977, c. 694, §572, is repealed and the following enacted in its place:

3. Hearings. Hearings may be conducted by the board to assist with investigations, to determine whether grounds exist for suspension, revocation or denial of a license, or as otherwise deemed necessary to the fulfillment of its responsibilities under this chapter.

The board shall not refuse to renew a license for any reason other than failure to pay a required fee, unless it has afforded the licensee an opportunity for an adjudicatory hearing. The board shall hold an adjudicatory hearing at the written request of any person who is denied a license without a hearing for any reason other than failure to pay a required fee, provided that the request for hearing is received by the board within 30 days of the applicant's receipt of written notice of the denial of his application.

the reasons for the denial and his right to request a hearing. Hearings shall be conducted in conformity with the Maine Administrative Procedure Act, Title 5, chapter 375, subchapter IV, to the extent applicable. The board may subpoena witnesses, records and documents in any hearing it conducts.

Sec. 71. 32 MRSA §1602, sub-§5 is enacted to read:

5. Contracts. The board may enter into contracts to carry out its responsibilities under this chapter.

Sec. 72. 32 MRSA §1654, first 2 ¶¶, as repealed and replaced by PL 1977, c. 398, §10, are amended to read:

The board may waive the examination and grant registration to any applicant who shall present proof of current registration or licensure in another state, other jurisdiction of the United States or another country which grants similar privileges to persons registered under this chapter and maintains professional standards deemed by the board to be equivalent to those set forth in this chapter, provided that no cause exists for denial of a license under section 1657-A. Such an applicant shall pay the same fee as provided in section 1657.

The board may allow an applicant to take the examination who presents proof of training or experience, of an amount at least equal to that required under section 1652, subsection 3, in another state, other jurisdiction of the United States or another country which maintains professional standards ~~con-~~sidered deemed by the board to be equivalent to those set forth in this chapter, provided that no cause exists for denial of a license under section 1658. Such an applicant shall pay the same fee as provided in section 1652.

Sec. 73. 32 MRSA §1657, last ¶, as repealed and replaced by PL 1977, c. 398, §10, is repealed and the following enacted in its place:

A license may be renewed up to 90 days after the date of its expiration upon payment of a late fee of \$10 in addition to the renewal fee. Any person who submits an application for renewal more than 90 days after the license expiration date shall be subject to all requirements governing new applicants under this chapter, except that the board may in its discretion, giving due consideration to the protection of the public, waive examination if the renewal application is made within 2 years from the date of the expiration.

Sec. 74. 32 MRSA §1657-A, as amended by PL 1979, c. 127, §§179 and 180, is repealed and the following enacted in its place:

§1657-A. Suspension, revocation and refusal to issue or to renew registration or license

The board shall investigate or cause to be investigated all complaints made to it and all cases of noncompliance with or violation of this chapter. The board may suspend or revoke a license pursuant to Title 5, section 10004. The board may refuse to issue or renew a license or the Administrative Court may revoke, suspend or refuse to renew a license of any person registered under this chapter for any of the following reasons:

1. Obtaining registration or license by fraud. Obtaining registration or license by means of fraud, misrepresentation or concealment of material facts;

2. Violation of any lawful order, rule. Violating any lawful order or rule adopted by the board;

3. Violations. Violating any provision of this chapter;

4. Conviction of a crime. Being convicted of a crime in any court of the United States, if the acts for which the person is convicted are found by the board to have a direct bearing on whether the person should be entrusted to serve the public in a capacity which is subject to license or registration under this chapter, subject to the limitations of Title 5, chapter 341; or

5. Certain conduct. Repeated acts or continued conduct while serving customers which is dangerous or injurious, or potentially so, to customers.

The board may reissue a license or registration to any person whose license or registration has been revoked, if 4 or more members of the board vote in favor of reissuance.

Sec. 75. 32 MRSA §1658-A, as amended by PL 1981, c. 703, Pt. A, §§51 and 52, is repealed and the following enacted in its place:

§1658-A. License required to sell or fit hearing aids

1. License for person. No person may engage in the sale of or practice of fitting and dealing in hearing aids or display a sign or in any other way advertise or represent himself as a person who prac-

tices the fitting, dealing and sale of hearing aids, unless he holds a valid license issued by the board as provided in section 1658-I. The board shall issue a license to any person who applies for the license and who is qualified for the license pursuant to section 1658-I, upon payment of a fee of \$100. The license shall be effective for 12 months following the date of issuance. The license required by this chapter shall be conspicuously posted in the licensee's office or place of business. The board shall, without requiring additional payment, issue duplicate licenses to license holders operating more than one office. A license issued under this chapter shall confer on the holder the right to select, fit and sell hearing aids.

2. License for business organization. Any corporation, partnership, trust, association or other like organization engaged in the business of selling or offering for sale hearing aids at retail in the State shall apply to the board for a license to engage in that business. No business entity may so engage in the business of selling or offering for sale hearing aids without a license to do so. The board shall issue a license upon payment by the business entity of a fee in such amount as the board may establish up to \$150 and upon filing of a sworn statement from a person with authority from the business entity. That sworn statement shall list the names and addresses of all hearing aid dealers and fitters directly or indirectly employed by the entity and shall certify that the entity employs only hearing aid dealers and fitters who are duly licensed by the State. The license shall be effective for 12 months following the date of issuance. Licenses may be renewed annually by each such business engaged in the fitting and sale of hearing aids by filing an application for a renewal of its license accompanied by a fee in such amount as the board may establish up to \$150. A license may be renewed up to 90 days after the date of its expiration upon payment of a late fee of \$10 in addition to the renewal fee. Any application for renewal submitted more than 90 days after the license expiration date shall be subject to all requirements governing new applicants under this chapter.

The license required by this chapter shall be conspicuously posted in the licensee's office or place of business. Notwithstanding this subsection, the board may, whenever it deems necessary, extend existing licenses so that an equal number expire each month to allow for the equal distribution of relicensure throughout the year.

3. Violations by business organizations. No person, corporation, partnership, trust or other like organization, or the officers, partners, directors or trustees, engaged in the business of selling hearing aids or hearing aid equipment in the State may knowingly employ any person who has neither a license nor a trainee permit in the direct sale of hearing aids or hearing aid equipment; nor may that business entity knowingly permit or advise any of its employees to violate any provision in this chapter or any provision in the rules; nor may that business entity employ 2 or more persons in any one-year period concerning whom the department has refused to issue a license.

If one or more of the employees of the licensee violates the standards of conduct established in section 1658-N and if, the licensee fails to prove that it exercised reasonable care in the hiring, training, instructing and supervising of its employees so as to avoid any violation of section 1658-N, the licensee shall be deemed to have permitted its employees to violate section 1658-N.

Sec. 76. 32 MRSA §1658-H, as amended by PL 1981, c. 703, Pt. A, §§60 and 61, is further amended to read:

§1658-H. Reciprocity

The board shall register each applicant without discrimination who satisfactorily passes an examination as provided in section 1658-I and upon the applicant's payment of \$100 shall issue to the applicant a license signed by the commissioner. The license shall be effective for a period of 24 months.

Whenever the board determines that another state or jurisdiction has requirements equivalent to or higher than those in effect pursuant to this chapter for the practice to fit and sell hearing aids, and that that state or jurisdiction has a program equivalent to or stricter than the program for determining whether applicants pursuant to this chapter are qualified to dispense and fit hearing aids, the board may issue certificates of equivalent license to applicants who have current, unsuspended and unrevoked certificates or licenses to fit and sell hearing aids in such other state or jurisdiction. No such applicant for a certificate or equivalent license pursuant to this paragraph shall may be required to submit to or undergo a qualifying examination, other than the payment of fees pursuant to this chapter. The holder of a certificate of equivalent license shall be registered in the same manner as holders of a li-

cense. Fee, grounds for renewal and procedures for suspension and revocation of certificates of equivalent license shall be the same as for the renewal, suspension or revocation of a license. The fee for an initial certificate of equivalent license shall be the same as the fee for an initial license.

Sec. 77. 32 MRSA §1658-I, as amended by PL 1981, c. 703, Pt. A, §§62 and 63, is further amended to read:

§1658-I. Qualifications

1. Qualifications. Applicants may obtain a license by for a license issued pursuant to section 1658-A, subsection 1, shall be qualified upon successfully passing a qualifying examination, provided that the applicant:

A. Is at least 18 years of age;

B. Is of good moral character trustworthy and competent to engage in practice in such a manner as to safeguard the interests of the public and without a record of violation of another state's statutes regarding hearing aid dealers and fitters;

C. Has an education equivalent of a 4-year course in an accredited high school; and

D. Has obtained a trainee permit pursuant to section 1658-J and has received training in the practice of fitting and dealing in hearing aids under the direct supervision of a licensee for at least a 30-day period.

The board may require letters of reference, physician's statements of applicant's good health, verification of age or other supportive documents as may be required.

The board may promulgate rules to further define the qualifications in this section in order to insure that only properly qualified persons take the licensing examination.

Any person knowingly furnishing false information or omitting pertinent information from an application to take the qualifying examination for a fitter's and dealer's license shall be denied the right to take the examination for not less than one year nor more than 3 years.

2. Examination. The applicant for license by examination shall appear at a time, place and before

such persons as the board may designate, to be examined by means of written, practical and oral tests in order to demonstrate that he is qualified to practice the fitting and sale of hearing aids. The board may appoint a consultant to assist in preparing the examination itself as well as conducting and supervising the testing. The examination administered as directed by the board constituting standards for licensing shall not be conducted in such a manner that college training be required in order to pass the examination. Nothing in this examination may imply that the applicant possesses the degree of medical competence normally expected by physicians.

3. Time. The board shall give examinations at least twice a year, with additional dates for examination set at the discretion of the board. The board will give 30 days' public notice of the date, time and place of examination.

Sec. 78. 32 MRSA §1658-J, first ¶, as amended by PL 1981, c. 703, Pt. A, §64, is further amended to read:

An applicant who fulfills the requirements as set forth in section 1658-I, subsection 1, paragraphs A to E D, may obtain a trainee permit upon application to the board, accompanied by a fee of \$50 and the signature of the licensed hearing aid dealer and fitter who is responsible for the direct supervision of the trainee.

Sec. 79. 32 MRSA §1658-M, as amended by PL 1981, c. 703, Pt. A, §67, is repealed and the following enacted in its place:

§1658-M. Annual renewal of license; fees; effect of failure to renew

Licenses issued pursuant to section 1658-A, subsection 1, may be renewed annually upon application by the licensee accompanied by a fee in such amount as the board may establish up to \$100. The board shall notify every such licensee of the date of expiration of his license and the amount of the fee required for renewal for a 12-month period. The notice shall be mailed to the licensee's last known address at least 30 days in advance of the expiration of the license. The license may be renewed up to 90 days after the date of its expiration upon payment of a late fee of \$10 in addition to the renewal fee. Any person who submits an application for renewal more than 90 days after the license expiration date shall be subject to all requirements governing new applicants under this chapter, except that the board may in its discretion, giving due consideration to

the protection of the public, waive examination if the renewal application is made within 2 years from the date of the expiration.

Notwithstanding this section, no annual renewal certificate may be issued by the board until such time as the applicant submits proof satisfactory to the board that during the year preceding his application for renewal, he has participated in not fewer than 8 clock hours for courses of continuing education in fitting and dealing in hearing aids offered by an institution approved by the board.

Sec. 80. 32 MRSA §1658-N, as amended by PL 1981, c. 703, Pt. A, §§68 and 69, is repealed and the following enacted in its place:

§1658-N. Investigation; grounds for suspension of license

The board shall investigate or cause to be investigated all complaints made to it and all cases of noncompliance with or violation of this chapter. Any person may register a complaint of fraud, deceit, gross negligence, incompetency or misconduct against any licensee under this chapter. These complaints shall be in writing, and shall be sworn to by the person making them, and filed with the secretary-treasurer of the board.

The board may suspend or revoke a license pursuant to Title 5, section 10004. The board may refuse to issue or renew a license or the Administrative Court may revoke, suspend or refuse to renew a license for any one of the following causes:

1. Fraud or deceit. Procuring of license by fraud or deceit practiced upon the board or a purchaser;

2. Unethical conduct. Violation of such rules as the board may promulgate to define unethical conduct for the purposes of this chapter in order to protect the public from unfair or deceptive practices and to effectively promote a high standard of ethics in the hearing aid industry;

3. Falsity. Engaging in the fitting and sale of hearing aids under a false name or alias with fraudulent intent;

4. Without testing. Selling or causing to be sold a hearing aid to any person who has not been given tests, including at least pure tone, air and bone audiometry. The results of these tests shall be permanently filed according to section 1658-E;

5. Negligence. Incompetence, negligence or neglect in the conduct of the practice of fitting and dealing in hearing aids, including, but not limited to, the improper fitting of a hearing aid, the sale of a hearing aid to a person with normal hearing, making an ear mold impression or fitting an ear mold without prior inspection of the external ear canal, making ear mold impression or fitting an ear mold after prior inspection revealed the presence of debris or fluid, or impacted cerumen in the ear canal, failure to indicate the need for medical or audiological evaluation when the prospective purchaser's history reveals a probable risk of disease or progressive hearing impairment, the failure to make the required medical referrals, the incorrect reporting of hearing test results to any person, the failure to be present to fit the final hearing aid on the ear of the purchaser, and the tampering with a satisfactorily performing hearing aid owned by a purchaser or potential purchaser so as to cause that hearing aid to no longer perform correctly;

6. Violations. For any violation of this chapter or the rules ; or

7. Conviction of a criminal offense. Conviction of a crime, subject to the limitations of Title 5, chapter 341.

The board, for reasons it may deem sufficient, may reissue a license to any former licensee whose license has been revoked.

Sec. 81. 32 MRSA §1659, as amended by PL 1981, c. 703, Pt. A, §70, is repealed and the following enacted in its place:

§1659. Hearings

Hearings may be conducted by the board to assist with investigations, to determine whether grounds exist for suspension, revocation or denial of a license, or as otherwise deemed necessary to the fulfillment of its responsibilities under this chapter.

The board shall not refuse to renew a license for any reason other than failure to pay a required fee, unless it has afforded the licensee an opportunity for an adjudicatory hearing. The board shall hold an adjudicatory hearing at the written request of any person who is denied a license without a hearing for any reason other than failure to pay a required fee, provided that the request for hearing is received by the board within 30 days of the applicant's receipt of written notice of the denial of his application, the reasons for the denial and his right to request a

hearing. Hearings shall be conducted in conformity with the Maine Administrative Procedure Act, Title 5, chapter 375, subchapter IV, to the extent applicable. The board may subpoena witnesses, records and documents in any hearing it conducts.

Sec. 82. 32 MRSA §1660-A, sub-§2, as enacted by PL 1975, c. 465, §3, is amended to read:

2. Membership. Members of the board shall be residents of the State. The board shall consist of 5 licensed hearing aid dealers and fitters, one licensed physician, an one audiologist, a one member of the Maine Committee on Aging, and one citizen consumer representative of the public. Each hearing aid dealer and fitter on the board shall have had not less than 5 years of experience and shall hold a valid license as a hearing aid dealer and fitter, as provided under this chapter. Exception shall be the hearing aid dealers and fitters of the first board appointed, who shall have had not less than 5 years of experience and shall have fulfilled all qualifications for license by experience as provided under this chapter.

Sec. 83. 32 MRSA §1660-A, sub-§3, as enacted by PL 1975, c. 465, §3, is repealed and the following enacted in its place:

3. Appointment; term of office, chairman. All members of the board shall be appointed by the Governor. The term of office of each member shall be for 3 years, except that the terms of 3 members shall expire each calendar year and appointments for terms of less than 3 years may be made in order to comply with this limitation. No person may be eligible to serve more than 3 full consecutive terms, provided that for this purpose only a period actually served which exceeds 1/2 of the 3-year term shall be deemed a full term. Upon expiration of a member's term, he shall serve until his successor is qualified and appointed. The successor's term shall be 3 years from the date of the expiration, regardless of the date of his appointment. A vacancy in the office of a member shall be filled by appointment by the Governor for the unexpired term. A board member may be removed by the Governor for cause. At the first meeting in each calendar year, the members of the board shall designate one such member to serve as chairman and another to serve as secretary-treasurer.

Sec. 84. 32 MRSA §1660-B, as repealed and replaced by PL 1981, c. 703, Pt. A, §73, is amended to read:

§1660-B. Powers and duties of the board

The powers and duties of the board, in addition to those otherwise set forth in this chapter, are as follows:

1. Authorize disbursements. To authorize all disbursements necessary to carry out this chapter;

2. Supervise issuance of licenses. To supervise issuance of licenses by experience and to administer qualifying examinations to test the knowledge and proficiency of applicants licensed by examination;

3. Registration. To register persons who apply to the board and who are qualified to engage in the fitting and sale of hearing aids;

4. Audiometric equipment. To purchase and maintain or rent audiometric equipment and other facilities necessary to carry out the examination of applicants in section 1658-I;

5. Issue and renew licenses. To issue and renew licenses;

6. Suspension or revocation of licenses. To take action before the Administrative Court in conformity with the Maine Administrative Procedure Act, Title 5, chapter 375, for the suspension or revocation of licenses when there is indication that suspension or revocation is proper;

6-A. Contracts. To enter into contracts to carry out its responsibilities under this chapter;

7. Designation of examination. To designate the time and place for examining applicants;

8. Conduct or supervise examinations. To appoint representatives to conduct or supervise the examination;

9. Adopt rules. Following a public hearing, in accordance with the Maine Administrative Procedure Act, Title 5, chapter 375, subchapter II, to promulgate, adopt, amend and publish rules not inconsistent with the laws of this State, which are necessary to carry out this chapter. The rules shall serve to protect the consumer from unethical practices, shall serve to explain or define terms and words contained within this chapter and shall add to the general understanding of both consumer and practitioner of this chapter; The board shall promulgate rules where specifically authorized in this chapter;

10. Appoint employees. To appoint or employ subordinate employees, subject to the Personnel Law; and

11. Redistribute expiration dates. To, during a 2-year period beginning in January, 1982, redistribute the expiration dates of the existing licenses so that an equal number expire in each month of even-numbered years, so that all license renewals will occur in the same year; and

12. Educational programs. To provide or make available opportunity for lectures, courses or workshops which will be useful and educational to licensees or trainees and may to use its funds to sponsor those educational programs.

Sec. 85. 32 MRSA §1660-C, as amended by PL 1981, c. 703, Pt. A, §74, is further amended to read:

§1660-C. Meetings of board

The board shall meet not less than twice each year at a place, day and hour determined by the board. Additional meetings shall be held as necessary to conduct the business of the board, and may be convened at the call of the chairman or 5 of the board members. A quorum of the board shall consist of not less than 5 members. The board shall keep correct records of all of its proceedings.

Sec. 86. 32 MRSA §1660-E, as amended by PL 1981, c. 703, Pt. A, §76, is repealed and the following enacted in its place:

§1660-E. Violations

Any person who violates this chapter or any of the rules of the board is guilty of a Class E crime.

The State may bring an action in Superior Court to enjoin any person from violating this chapter, regardless of whether proceedings have been or may be instituted in the Administrative Court or whether criminal proceedings have been or may be instituted.

Sec. 87. 32 MRSA §1665, sub-§1, as enacted by PL 1967, c. 423, §1, is amended to read:

1. Limited practice by nonresident. A person not a resident of and having no established place of business in this State, practicing or offering to practice herein land surveying when such practice does not exceed in the aggregate more than 30 days in any calendar year, provided such person is legally qualified by registration to practice the said

profession in his state of residence or business in which the requirements and qualifications for obtaining a certificate of registration are ~~not lower than~~ equivalent to those specified in this chapter.

Sec. 88. 32 MRSA §1665, sub-§1-A, as enacted by PL 1981, c. 5, §3, is amended to read:

1-A. Nonresident becoming resident. A person not a resident of and having no established place of business in this State, or who has recently become a resident thereof, practicing or offering to practice herein for more than 30 days in any calendar year the profession of land surveying, if he has filed with the board an application for a certificate of registration and has paid the fee required by this chapter. This exemption shall continue only for such time as the board requires for the consideration of the application for registration, provided the person is legally qualified to practice the profession in his own state or county in which the requirements and qualifications for obtaining a certificate of registration are ~~not lower than~~ equivalent to those specified in this chapter.

Sec. 89. 32 MRSA §1666, as amended by PL 1981, c. 5, §4, is further amended to read:

§1666. Violations

Any person who shall practice or offer to practice land surveying in this State without being registered or exempted in accordance with this chapter, or any person presenting or attempting to use as his own the certificate of registration or the seal of another, or any person who shall give any false or forged evidence of any kind to the board or to any member thereof in obtaining a certificate of registration, or any person who shall falsely impersonate any other registrant of like or different name, or any person who shall attempt to use an expired or revoked certificate ~~or~~ of registration or any person who shall violate any of the provisions of this chapter as they relate to the practice of land surveying shall be ~~referred to the Attorney General for action in Administrative Court in accordance with section 16887~~ as amended guilty of a Class E crime.

The State may bring an action in Superior Court to enjoin any person from violating this chapter, regardless of whether proceedings have been or may be instituted in the Administrative Court or whether criminal proceedings have been or may be instituted.

It shall be the duty of all duly constituted law enforcement officers of the State or any political

subdivision thereof to enforce this chapter and to prosecute any persons violating the same. The Attorney General or his assistant shall act as legal advisor of the board and render such legal assistance as may be necessary in carrying out this chapter.

Sec. 90. 32 MRSA §1671, as amended by PL 1975, c. 771, §348, is repealed and the following enacted in its place:

§1671. Appointment; terms

The State Board of Registration for Land Surveyors, as established, shall administer this chapter. The board shall consist of 6 members appointed by the Governor, of which 5 shall be land surveyors who have the qualifications required by section 1672 and one shall be a representative of the public.

Appointments shall be for 5-year terms, except that no more than one land surveyor member's term may expire in any one calendar year and appointments for terms of less than 5 years may be made in order to comply with this limitation. No person may be eligible to serve more than 2 full consecutive terms, provided that for this purpose only a period actually served which exceeds 1/2 of the 5-year term shall be deemed a full term. Upon expiration of a member's term, he shall serve until his successor is qualified and appointed. The successor's term shall be 5 years from the date of that expiration, regardless of the date of his appointment.

Sec. 91. 32 MRSA §1674, as amended by PL 1975, c. 771, §349, is further amended to read:

§1674. Removal; vacancies

The Governor may remove any member of the board for misconduct, incompetency, neglect of duty or for any other sufficient cause. Vacancies in the membership of the board shall be filled for the unexpired term by appointment by the Governor as provided in accordance with section 1671.

Sec. 92. 32 MRSA §1675, as amended by PL 1975, c. 575, §25, is further amended to read:

§1675. Organization and meetings

The board shall hold at least 2 regular meetings each year. Special meetings shall be held at such time as the bylaws of the board may provide. Notice of all meetings shall be given in such manner as the bylaws may provide. The board shall meet at least once a year to conduct its business and to elect its

officers. Additional meetings shall be held as necessary to conduct the business of the board, and may be convened at the call of the chairman or a majority of the board members.

The board shall elect or appoint annually a chairman, a vice-chairman and a secretary. A quorum of the board shall consist of not less than 4 members. The board may adopt and have an official seal.

Sec. 93. 32 MRSA §1676, as amended by PL 1981, c. 5, §5, is repealed and the following enacted in its place:

§1676. Powers

The board shall have the following duties and powers, in addition to those otherwise set forth in this chapter.

1. Licenses; enforcement. The board shall evaluate the qualifications and supervise the examination of applicants for licensure under this chapter, and shall investigate or cause to be investigated all complaints made to it and all cases of non-compliance with this chapter.

2. Rules. The board may, in accordance with procedures established by the Maine Administrative Procedure Act, Title 5, chapter 375, subchapter II, adopt such rules as may be reasonably necessary for the proper performance of its duties and the administration of this chapter.

3. Hearings. Hearings may be conducted by the board to assist with investigations, to determine whether grounds exist for suspension, revocation or denial of a license, or as otherwise deemed necessary to the fulfillment of its responsibilities under this chapter.

The board shall not refuse to renew a license for any reason other than failure to pay a required fee, unless it has afforded the licensee an opportunity for an adjudicatory hearing. The board shall hold an adjudicatory hearing at the written request of any person who is denied a license without a hearing for any reason other than failure to pay a required fee, provided that the request for hearing is received by the board within 30 days of the applicant's receipt of written notice of the denial of his application, the reasons therefor and his right to request a hearing. Hearings shall be conducted in conformity with the Maine Administrative Procedure Act, Title 5, chapter 375, subchapter IV, to the extent applicable. The board may subpoena witnesses, records and documents in any hearing it conducts.

4. Contracts. The board may enter into contracts to carry out its responsibilities under this chapter.

Sec. 94. 32 MRSA §1678, as amended by PL 1981, c. 456, Pt. A, §§10 and 11, is repealed and the following enacted in its place:

§1678. Records and reports

The board shall keep such records and minutes as are necessary to the ordinary dispatch of its functions.

On or before August 1st of each year, the board shall submit to the Commissioner of Business Regulation, for the preceding fiscal year ending June 30th, its annual report of its operations and financial position, together with such comments and recommendations as the board deems essential.

The commissioner shall act as a liaison between the board and the Governor.

The commissioner shall not have the authority to exercise or interfere with the exercise of discretionary, regulatory or licensing authority granted by statute to the board.

The board shall submit to the Commissioner of Business Regulation its budgetary requirements in the same manner as is provided in Title 5, section 1665, and the commissioner shall in turn transmit these requirements to the Bureau of the Budget without any revision, alteration or change.

Sec. 95. 32 MRSA §1681, first ¶, as enacted by PL 1967, c. 423, §1, is amended to read:

To be eligible for registration as a land surveyor, an applicant must show, to the satisfaction of the board, that he is ~~a person of good character and reputation~~ trustworthy and competent to practice land surveying in such manner as to safeguard the interests of the public; and shall submit, with his application for registration as a land surveyor, references furnished from 5 persons having personal knowledge of work done by the applicant, at least 2 of whom shall have professional knowledge of his work.

Sec. 96. 32 MRSA §1681, sub-§1, as enacted by PL 1967, c. 423, §1, is amended to read:

1. Registration by endorsement. A person holding a certificate of registration to engage in the prac-

tice of land surveying issued to him on the basis of a written examination by proper authority of a state, territory, possession of the United States, the District of Columbia or of any foreign country, based on requirements and qualifications, as shown by his application which, in the opinion of the board, are equal to or higher than equivalent to the requirements of this chapter, may be registered at the discretion of the board.

Sec. 97. 32 MRSA §1685, first ¶, as enacted by PL 1967, c. 423, §1, is amended to read:

Application for registration or certification shall be on forms prescribed and furnished by the board, to be signed and sworn to by the applicant. They shall contain statements made under oath, showing the applicant's education, a detailed summary of his technical experience and other pertinent information, and shall contain references as set forth in section 1681, none of whom may be members of the board. Applications shall be filed with the secretary of the board. An application fee and an examination fee may be established by the board in amounts which are reasonable and necessary for their respective purposes.

Sec. 98. 32 MRSA §1685, last ¶, as enacted by PL 1967, c. 423, §1, is repealed.

Sec. 99. 32 MRSA §1688, as amended by PL 1977, c. 698, §§577 and 578, is repealed and the following enacted in its place:

§1688. Revocation and reissuance

The board may suspend or revoke the certificate of a land surveyor or land surveyor-in-training pursuant to Title 5, section 10004. The board may refuse to issue or renew or the Administrative Court, pursuant to Title 4, chapter 25, may revoke, suspend or refuse to renew the certificate of a registered land surveyor or of a land surveyor-in-training who is found guilty of:

1. Fraud or deceit. The practice of any fraud or deceit in obtaining a certificate of registration as land surveyor or a certificate as a land surveyor-in-training;

2. Negligence, misconduct, etc. Any gross negligence, incompetency or misconduct in the practice of land surveying as a registered land surveyor or as a land surveyor-in-training; or

3. Violations. Violating any provision of this chapter, or any rule of the board.

Any person may register a complaint of fraud, deceit, gross negligence, incompetency or misconduct against any registered land surveyor or any land surveyor-in-training. These complaints shall be in writing, and shall be sworn to by the person making them and shall be filed with the secretary of the board.

The board, for reasons it may deem sufficient, may reissue a certificate of registration as a land surveyor or a certificate of registration as a land surveyor-in-training to any person whose certificate has been revoked, provided that 4 or more members of the board vote in favor of that reissuance. A new certificate of registration as a land surveyor or a certificate as a land surveyor-in-training to replace any certificate revoked, lost, destroyed or mutilated may be issued, subject to the rules of the board, and a charge set by the board shall be made for that issuance.

Sec. 100. 32 MRSA §1689, as amended by PL 1979, c. 4, §2, is repealed and the following enacted in its place:

§1689. Expiration and renewals

Certificates of registration for land surveyors shall expire on the last day of December of odd-numbered years following their issuance or renewal and shall become invalid on that date unless renewed. The secretary of the board shall notify every person registered under this chapter of the date of the expiration of his certificate and the amount of the fee that shall be required for its renewal for 2 years. The notice shall be mailed at least one month in advance of the date of the expiration of the certificate. Renewal may be effected at any time during the month of December by the payment of the fee designated by the board, not to exceed \$20 per biennium.

Certificates may be renewed up to 90 days after the date of expiration upon payment of a late fee of \$10 in addition to the renewal fee. Any person who submits an application for renewal more than 90 days after the registration renewal date shall be subject to all requirements governing new applicants under this chapter, except that the board may in its discretion, giving due consideration to the protection of the public, waive examination if that renewal application is made within 2 years from the date of that expiration.

**[DUE TO ITS SIZE, THIS LAW HAS BEEN DIVIDED INTO TWO
ELECTRONIC FILES. FOR THE REMAINDER OF THE
CHAPTER, SEE THE SECOND FILE.]**