

# MAINE STATE LEGISLATURE

The following document is provided by the  
**LAW AND LEGISLATIVE DIGITAL LIBRARY**  
at the Maine State Law and Legislative Reference Library  
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied  
(searchable text may contain some errors and/or omissions)

**LAWS**  
OF THE  
**STATE OF MAINE**

AS PASSED BY THE  
ONE HUNDRED AND FOURTEENTH LEGISLATURE  
**FIRST REGULAR SESSION**

December 7, 1988 to July 1, 1989

Chapters 1 - 502

THE GENERAL EFFECTIVE DATE FOR  
NON-EMERGENCY LAWS IS  
SEPTEMBER 30, 1989

PUBLISHED BY THE REVISOR OF STATUTES  
IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,  
TITLE 3, SECTION 163-A, SUBSECTION 4.

---

J.S. McCarthy Company  
Augusta, Maine  
1989

---

**PUBLIC LAWS**  
**OF THE**  
**STATE OF MAINE**

**AS PASSED AT THE**  
**FIRST REGULAR SESSION**

**of the**  
**ONE HUNDRED AND FOURTEENTH LEGISLATURE**

**1989**

---

**Sec. 3. 22 MRSA §2382, sub-§1**, as enacted by PL 1987, c. 747, §3, is amended to read:

**1. Marijuana.** Possession of a usable amount of marijuana is a civil violation for which a forfeiture of not more less than \$200 may nor more than \$400 shall be adjudged for the first offense. A forfeiture of \$400 shall be adjudged for the 2nd and subsequent offenses within a 6-year period.

See title page for effective date.

---

## CHAPTER 345

H.P. 205 - L.D. 285

### An Act to Improve Regulatory Oversight of Health Maintenance Organizations

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

**Sec. 1. 24-A MRSA §4204, sub-§2-A, ¶1D**, as amended by PL 1985, c. 704, §6, is repealed and the following enacted in its place:

D. The health maintenance organization is financially responsible and, among other factors, shall reasonably be expected to meet its obligations to enrollees and prospective enrollees.

(1) The health maintenance organization possesses and maintains minimum surplus as follows:

(a) As of December 31, 1989, \$200,000;

(b) As of December 31, 1990, \$300,000; and

(c) As of December 31, 1991, \$400,000.

(2) A health maintenance organization which reports incurred, but not reported, claims liability in its financial statements as long-term debt shall establish and maintain a liquid cash reserve represented by assets consisting of cash, prime commercial paper, marketable securities with maturities not exceeding 2 years' duration and certificates of deposit issued by banks and thrift institutions located within the United States and which are fully insured by the Federal Deposit Insurance Corporation. The value of the cash reserves shall at least equal the health maintenance organization's claims incurred, but not reported, as determined monthly by methods of claims valuation found acceptable by the superintendent. Any nonprofit

health maintenance organization employing fund accounts shall maintain restricted assets in a like manner. These funds shall be in addition to and shall not be included as a part of working capital funds required by rule of the Bureau of Insurance.

(3) In making the determination whether the health maintenance organization is financially responsible, the superintendent may also consider:

(a) The financial soundness of the health maintenance organization's arrangements for health care services and the schedule of charges used;

(b) The adequacy of working capital;

(c) Any agreement with an insurer, a nonprofit hospital or medical service corporation, a government or any other organization for insuring or providing the payment of the cost of health care services or the provision for automatic applicability of an alternative coverage in the event of discontinuance of the plan;

(d) Any agreement with providers for the provision of health care services; and

(e) Any arrangements for insurance coverage or an adequate plan for self-insurance to respond to claims for injuries arising out of the furnishing of health care services.

**Sec. 2. 24-A MRSA §4230** is enacted to read:

### **§4230. Trade practices and frauds**

Chapter 23 and any rules adopted pursuant to it, to the extent not inconsistent with this chapter and the reasonable implications of this chapter, shall apply to health maintenance organizations.

See title page for effective date.

---

## CHAPTER 346

H.P. 513 - L.D. 693

### An Act to Reform the Maine Board of Professional Surveyors Law

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

**Sec. 1. 5 MRSA §12004-A, sub-§21**, as enacted by PL 1987, c. 786, §5, is amended to read:

<del>21. State Board of Registration</del>	<del>Expenses—Only</del>	32 MRSA §1674
<del>Board of Licensure</del>	<del>\$35/Day</del>	§13902
for Professional Land Surveyors		

**Sec. 2. 32 MRSA, c. 24**, as amended, is repealed.

**Sec. 3. 32 MRSA c. 121** is enacted to read:

## CHAPTER 121

### PROFESSIONAL LAND SURVEYORS

#### §13901. Definitions

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

1. Board. "Board" means the Board of Licensure for Professional Land Surveyors.

2. Commissioner. "Commissioner" means the Commissioner of Professional and Financial Regulation.

3. Department. "Department" means the Department of Professional and Financial Regulation.

4. Professional land surveyor. "Professional land surveyor" means any person who has been licensed as a professional land surveyor by the board.

5. Professional land surveyor-in-training. "Professional land surveyor-in-training" means any person who has been licensed as a professional land surveyor-in-training by the board.

6. Practice of land surveying. "Practice of land surveying" means any service or work involving the application of special knowledge of the rules of evidence and boundary laws, principles of mathematics and the related physical and applied sciences for measuring and locating lines, angles, elevations, natural and man-made features in the air, on the surface of the earth, within underground workings and on the beds of bodies of water. This service or work shall be for the purposes of determining areas and volumes, for the monumenting of property boundaries and for the platting and layout of lands and subdivisions of land, including topography, alignment and grades of streets and for the preparation and perpetuation of maps, record plats, field note records and property descriptions that represent these surveys.

A person shall be deemed to practice or offer to practice land surveying within the meaning and intent of this chapter if that person engages in land surveying or by verbal claim, sign, advertisement, letterhead, card or in any other way makes a representation that the person is a professional land surveyor or makes a representation that the person is able to perform or does perform any land surveying service or

work or any other service designated by the practitioner that is recognized as land surveying.

7. Responsible charge. "Responsible charge" means direct control and personal supervision of land surveying.

#### §13902. Board of Licensure for Professional Land Surveyors; establishment; compensation

1. Establishment and membership. As established in Title 5, section 12004-A, the Board of Licensure for Professional Land Surveyors shall exist within the Department of Professional and Financial Regulation. The board shall consist of 7 members appointed by the Governor, of which 5 shall be professional land surveyors and 2 shall be public members. Each member of the board shall be a citizen of the United States and a resident of this State, and all land surveyor members shall be licensed professional land surveyors and shall have been licensed as professional land surveyors for not less than 10 years. A public member may not be or have been a professional land surveyor.

2. Terms of appointment; removal. 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, the member shall serve until that member's successor is qualified and appointed. The successor's term shall be 5 years from the date of that expiration, regardless of the date of the appointment.

The Governor may remove any member of the board for cause. Vacancies in the membership of the board shall be filled for the unexpired term by appointment by the Governor.

3. Compensation. Members of the board shall be compensated as provided in Title 5, chapter 379.

4. Meetings; officers; quorum; seal. 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 chair or a majority of the board members.

The board shall elect or appoint annually a chair, a vice-chair 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.

#### §13903. Board of Licensure of Professional Land Surveyors; powers and duties

1. Powers. The board shall administer and enforce this chapter and evaluate the qualifications of applicants for licensing. The board may examine witnesses and administer oaths and shall investigate or cause to be investigated any complaints made to it of any cases of noncompliance with or violations of this chapter.

2. Rules. The board may, in accordance with procedures established by the Maine Administrative Procedure Act, Title 5, chapter 375, adopt 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 nonrenewal, suspension, revocation or denial of a license, or other disciplinary action as necessary to the fulfillment of its responsibilities under this chapter.

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

5. Employees. With the advice of the board, the commissioner may appoint, subject to the Civil Service Law, such employees as may be necessary to carry out this chapter. Any person so employed shall be located in the department and under the administrative and supervisory direction of the commissioner.

6. Records; report. The board shall keep 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, for the preceding year ending June 30th, its annual report of its operations and financial position, together with comments and recommendations as the board deems essential.

7. Budget. The board shall submit to the commissioner its budgetary requirements in the same manner as is provided in Title 5, section 1665.

#### §13904. Licensing

1. License required. No person may practice land surveying or profess to be a professional land surveyor or professional land surveyor-in-training unless the person is licensed in accordance with this chapter.

2. Individual licenses. Only an individual may be licensed under this chapter.

3. Penalty. A person who violates this section is guilty of a Class E crime.

#### §13905. Requirements for licensing

1. Professional land surveyor-in-training licensing. An applicant for licensing as a professional land surveyor-in-training shall file a written application on forms provided by the board, showing to the satisfaction of the board that the applicant meets the following requirements.

A. A college graduate with a baccalaureate degree, which shall include a minimum surveying core curriculum approved by the board, who has passed a written examination in the fundamentals of land surveying shall be licensed as a professional land surveyor-in-training, if the applicant is otherwise qualified.

B. A college graduate with an associate degree, which shall include a minimum surveying core curriculum approved by the board, who has had 2 years of surveying experience acceptable to the board and has passed a written examination in the fundamentals of land surveying shall be licensed as a professional land surveyor-in-training, if the applicant is otherwise qualified.

C. A person who has completed a minimum surveying core curriculum approved by the board, has had 6 years of surveying experience acceptable to the board, and has passed a written examination in the fundamentals of land surveying shall be licensed as a professional land surveyor-in-training, if the applicant is otherwise qualified.

D. A person who has had 7 years of surveying experience acceptable to the board and has passed a written examination in the fundamentals of land surveying shall be licensed as a professional land surveyor-in-training, if the applicant is otherwise qualified.

E. A person holding a license as a surveyor-in-training issued on comparable qualifications from a state, territory or possession of the United States with experience satisfactory to the board shall be given comity consideration. The applicant may be required to take examinations as the board determines necessary to determine the applicant's qualifications.

F. Any person certified as a land surveyor-in-training on the effective date of this section shall be allowed to continue in that capacity until the certification is due for renewal. At that time and upon payment of the appropriate fee, the person shall be granted a license as a professional land surveyor-in-training, notwithstanding any other requirement of this section.

G. Any person whose application for certification as a land surveyor-in-training has been received by the board before the effective date of this legislation shall come under the licensure provisions of the law then in effect. This provision shall also include any person who had submitted and had approved by the board in writing a minimum course of study to satisfy the licensing requirements then in effect.

2. Professional land surveyor's licensing. An applicant for licensing as a professional land surveyor shall file a written application on forms provided by the board, showing to the satisfaction of the board that the applicant meets the following requirements.

A. A professional land surveyor-in-training with a specific record of 2 additional years of progressive combined office and field experience satisfactory to the board which shall have been under the supervision of a professional land surveyor shall be admitted to a written examination in the principles and practice of land surveying. Upon passing the examina-

tion, the applicant shall be granted a license to practice land surveying in this State, provided the applicant is otherwise qualified.

B. A person holding a license as a professional land surveyor issued on comparable qualifications from a state, territory or possession of the United States with experience satisfactory to the board shall be given comity consideration. The applicant may be required to take examinations as the board determines necessary to determine the applicant's qualifications.

C. Persons registered on the effective date of this section shall be allowed to continue to practice land surveying until their registration is due for renewal. At that time, they shall be granted a license to practice, notwithstanding any other requirement of this section.

D. Any person whose application for registered land surveyor has been received by the department before the change in law becomes effective shall come under the licensure provisions of the law then in effect. This provision shall also include any person who had submitted and had approved by the board in writing a minimum course of study to satisfy the licensing requirements then in effect.

#### §13906. Examinations

Written examinations shall be held at times and places as the board determines.

The passing grade on any examination shall be established by the board. A candidate failing one examination may apply for reexamination, which may be granted upon payment of a fee established by the board.

#### §13907. License; seals; stamps

The board shall issue a license, upon payment of a license fee as provided in this chapter, to any applicant who, in the opinion of the board, has satisfactorily met the requirements of this chapter. The license shall authorize the practice of land surveying.

The issuance of a license by the board shall be evidence that the person named in the license is entitled to all the rights and privileges of a licensed professional land surveyor or professional land surveyor-in-training while the license remains unrevoked or unexpired.

Each applicant upon licensing shall obtain a seal of the design authorized by the board, bearing the licensee's name and the legend "licensed professional land surveyor" or "professional land surveyor-in-training."

All plans, descriptions, reports, maps, plats or other drawings issued by a licensed professional land surveyor or professional land surveyor-in-training shall be stamped with the respective seal and signature, as prescribed in the rules of the board, during the life of the licensee's license. If an

item bearing the seal of a professional land surveyor or professional land surveyor-in-training is altered, the altering professional land surveyor or professional land surveyor-in-training shall affix to the item that altering surveyor's seal, the notation "altered by" followed by the signature of that altering surveyor, the date of the alteration and a specific description of the alteration. No official of this State, or of any city, county, town or village in the State, charged with the enforcement of laws, rules, ordinances or regulations may accept or approve any plans or other documents, prepared within the meaning and intent of this chapter, that are not stamped and sealed by the licensed professional land surveyor or professional land surveyor-in-training under whose direct supervision they were completed.

#### §13908. Term of license

1. Biennial renewal. Licenses shall expire on the last day of December or such other time as the commissioner designates. The department shall mail renewal notices to all licensees at least one month in advance of the date of expiration.

Licenses 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 licensure renewal date shall be subject to all requirements governing new applicants under this chapter, except that the board may waive examination, giving due consideration to the protection of the public.

2. Refusal to renew license. 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 the request for hearing is received by the board within 30 days of the applicant's receipt of written notice of the denial and the right of the applicant to request a hearing. Hearings shall be conducted in conformity with the Maine Administrative Procedure Act, Title 5, chapter 375. To the extent applicable, the board may subpoena witnesses, records and documents in any hearing it conducts.

3. Exemptions from expiration and renewal fees. Any person holding a valid license under this chapter on the date of entering employment in the Armed Forces of the United States during a period of war or employment in any wartime service outside the continental United States or any of its allied nations shall be exempt, for the duration of that employment, from the payment of all renewal fees and that person's license shall remain in effect until the next regular expiration date following the termination of that employment.

#### §13909. Disciplinary actions

1. Complaints. The board shall, upon receipt of a written, signed complaint within its jurisdiction or upon its own motion, investigate and conduct a hearing on the violation by any person of any provision of this chapter or any rule adopted by the board.

**2. Enforcement powers.** The board may take one or more of the actions stipulated under Title 10, section 8003, subsection 5.

**3. Disciplinary actions; grounds.** The following are grounds for disciplinary action:

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

B. Engaging in unprofessional conduct. A licensee engages in unprofessional conduct if the licensee violates any standard of professional behavior that reflects negligence, incompetency or misconduct in the practice of land surveying;

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

D. Any violation of this chapter or rules adopted by the board.

**4. Reinstatement.** An application for reinstatement may be made to the board after one year from the date of revocation of a license. The board may reissue a license provided that 4 or more members of the board vote in favor of reinstatement.

**5. Conduct of proceedings.** The board shall conduct its disciplinary proceedings in accordance with the Maine Administrative Procedure Act, Title 5, chapter 375.

#### **§13910. Fees**

**1. Amount.** Application for licensure shall be on forms prescribed and furnished by the board, to be signed and sworn to by the applicant. The application shall contain statements made under oath, showing the applicant's education, a detailed summary of the applicant's technical experience and other pertinent information. 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.

A. The licensure and renewal fees for professional land surveyors shall be established by the board in an amount not to exceed \$200 biennially.

B. The license and renewal fees for professional land surveyors-in-training shall be established by the board in an amount not to exceed \$100 biennially.

**2. Deposit of fees.** All fees received by the board shall be paid to the Treasurer of State to be used for carrying out this chapter. Any balance of fees shall not lapse, but shall

be carried forward as a continuing account to be expended for the same purposes in the following years.

#### **§13911. Firms; partnerships; corporations; joint stock associations**

A firm, partnership, corporation or joint stock association may practice, or offer to practice, land surveying in this State provided that the practice of land surveying is performed by the professional land surveyors licensed in this State.

#### **§13912. Exemptions**

This chapter may not be construed to prevent the practice by:

**1. Other professions.** Any person licensed in this State under any other provision of law from engaging in the practice for which the person is licensed;

**2. Federal Government employees.** Officers and employees of the Federal Government while engaged within this State in the practice of land surveying for the Federal Government; or

**3. Interstate commerce corporation employees.** An officer or employee of a corporation engaged in interstate commerce as defined in the Act of Congress entitled "An Act to Regulate Commerce" approved February 4, 1887, as amended, or in interstate communication as defined in the Act of Congress entitled "Communications Act of 1934" approved June 9, 1934, while working solely as an employee of that corporation, provided an officer or employee of that corporation customarily in responsible charge of the surveying work of that corporation within this State shall be licensed under this chapter.

**Sec. 4. Transition provisions.** The following provisions shall apply to the transition required by this Act.

1. All liabilities and assets shall transfer from the State Board of Registration for Land Surveyors to the Board of Licensure for Professional Land Surveyors and the Department of Professional and Financial Regulation.

2. All rules and procedures currently in effect and operations pertaining to any unit and which are in compliance with the provisions of this Act shall remain in effect until rescinded or amended as provided by state law.

3. Members of the State Board of Registration for Land Surveyors who have been appointed to terms extending beyond the effective date of this Act shall continue to serve in their appointed terms of office under the Board of Licensure for Professional Land Surveyors.

**Sec. 5. Allocation.** The following funds are allocated from Other Special Revenue to carry out the purposes of this Act.



1989-90 1990-91

PROFESSIONAL AND FINANCIAL  
REGULATION, DEPARTMENT OFBoard of Licensure for  
Professional Land Surveyors

Positions	(1)	(1)
Personal Services	\$23,500	\$25,000

See title page for effective date.

## CHAPTER 347

## S.P. 110 - L.D. 165

## An Act to Provide Adult Day Care Through Long-term Care Facilities and Other Community Sites

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

Sec. 1. 22 MRSA §6201, as enacted by PL 1983, c. 545, §1, is amended to read:

## §6201. Legislative intent

## 1. Findings. The Legislature finds that:

A. Many adults with long-term care needs who are at risk of institutionalization are in need of the range of health and related services that can be provided more efficiently in an adult day care program within a long-term health care facility or at another community site;

B. Many spouses and families ~~attempting to care, who are caring~~ for adults with long-term care needs who are at risk of placement in an institutional setting, are in need of assistance for extended hours on a regular or respite basis;

C. For many adults with long-term care needs, it may be less costly for the State to provide adult day care to supplement the care provided by the family than to provide 24-hour long-term care in institutional settings; and

~~D. The involvement of intermediate and skilled nursing homes in the provision of adult day care and other home care services has never been available as a state program in Maine as an option to institutionalization; and~~

E. Long-term health related care facilities and other community-based programs located in several communities throughout the State ~~have staff and facilities trained and uniquely suited to could~~ respond to the adult day care needs of long-term care clients receiving at home care individuals and their families.

2. Policy. The Legislature declares that it is the policy of this State:

~~A. To study the utilization and cost effectiveness of adult day care in long-term health care settings;~~

B. To ~~determine whether~~ enhance the systems of in-home services ~~can be enhanced~~ by utilizing the resources available through long-term care facilities and community-based programs;

C. To assure that the recipients of adult day care ~~and in-home services~~ from long-term ~~health related~~ care facilities and other community-based programs, pursuant to this chapter, are the elderly and disabled adults who are at the greatest risk of being placed, ~~or who have already been placed,~~ in a long-term care institutional setting;

~~D. To conduct a limited number of demonstrations under this chapter, with no less than one in each of the 5 department regions in the State; and~~

E. To develop payment policies for long-term care facilities and community-based programs that will allow fair and equitable payments for services provided pursuant to this chapter; and

F. To establish a permanent program of adult day care, to be provided through both long-term care facilities and in community-based programs.

Sec. 2. 22 MRSA §6202, sub-§1, as enacted by PL 1983, c. 545, §1, is amended to read:

1. Adult day care. "Adult day care" means an ongoing program of health, social, maintenance and rehabilitative services available ~~for at least 6 hours for 5 days a week~~ to persons needing this level of service, as determined by an assessment of their functional abilities; and need for health and medical needs and need for social services.

Sec. 3. 22 MRSA §6202, sub-§4, as enacted by PL 1983, c. 545, §1, is repealed.

Sec. 4. 22 MRSA §6202, sub-§4-A is enacted to read:

4-A. Community-based program. "Community-based program" means a program of adult day care offered outside of a long-term health care facility and which meets the licensing and program standards of the Department of Human Services.

Sec. 5. 22 MRSA §6202, sub-§5, as enacted by PL 1983, c. 545, §1, is amended to read:

5. Department. "Department" means the Department of Human Services through its Bureau of Maine's Elderly.

Sec. 6. 22 MRSA §6202, sub-§6, as enacted by PL 1983, c. 545, §1, is repealed.