

# 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 SPECIAL SESSION**

August 21, 1989 to August 22, 1989

and

**SECOND REGULAR SESSION**

January 3, 1990 to April 14, 1990

THE GENERAL EFFECTIVE DATE FOR  
NON-EMERGENCY LAWS IS  
July 14, 1990

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  
1990

---

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

**AS PASSED AT THE**  
**SECOND REGULAR SESSION**

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

**January 3, 1990 to April 14, 1990**

---

**§5-714. Effect of previous declaration**

An instrument executed before the effective date of this Part which substantially complies with section 5-702, subsection (a) is effective under this Part.

**Sec. 2. 22 MRSA c. 710-A**, as amended, is repealed.

See title page for effective date.

---



---

**CHAPTER 831**

**S.P. 699 - L.D. 1837**

**An Act Related to the State Board of Substance Abuse Counselors**

**Emergency preamble.** Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, the State is experiencing a shortage of licensed substance abuse counselors; and

Whereas, the current examination practices of the State Board of Substance Abuse Counselors are not clearly defined; and

Whereas, the laws governing the design and delivery of the examinations for licensing substance abuse counselors do not specify measurement and evaluation criteria; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

**Sec. 1. 32 MRSA §6208-A, sub-§1**, as amended by PL 1989, c. 503, Pt. B, §149, is further amended to read:

**1. Membership.** The State Board of Substance Abuse Counselors, as established by Title 5, section 12004-A, subsection 41, shall consist of 9 ~~11~~ members. Nine members shall be appointed by the Governor. One member shall be the Director of the Office of Alcoholism and Drug Abuse Prevention or a designee. One member, appointed by the Chancellor of the University of Maine System, shall be a member of the university faculty involved in the training of substance abuse counselors. Seven ~~Of these 11 members, 5~~ members shall be licensed, ~~certified or registered~~ substance abuse counselors. Two members shall be nonproviders, one of whom shall be a consumer of substance abuse services. One member shall be a public member. One member shall be a represent-

ative of a regional alcohol and drug abuse council. Members must represent a broad geographic distribution of the State.

**Sec. 2. 32 MRSA §6210**, as repealed and replaced by PL 1983, c. 413, §213, is amended to read:

**§6210. Meetings; elections; quorum**

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 ~~the~~ business of the board, and may be convened at the call of the ~~chairman~~ chair or a majority of the board members. Five members of the board shall constitute a quorum for all purposes.

The board ~~may shall~~ elect a ~~chairman, chair and secretary and treasurer.~~ chairman, chair and secretary. The board shall keep such records and minutes as are necessary to the ordinary dispatch of its functions.

**Sec. 3. 32 MRSA §6212, sub-§1**, as amended by PL 1987, c. 395, Pt. A, §201, is further amended to read:

**1. Set standards.** In addition to those standards set forth in section 6213, the board in consultation with the Office of Alcoholism and Drug Abuse Prevention may set additional standards of eligibility for persons desiring to become substance abuse counselors. Any standards of eligibility set by the board must be clearly defined, measurable, written, in accordance with accepted standards, and available to the public upon request.

**Sec. 4. 32 MRSA §6212, sub-§2**, as enacted by PL 1977, c. 466, §2, is amended to read:

**2. Adopt criteria.** The board, in cooperation with the Office of Alcoholism and Drug Abuse Prevention, may design and adopt an examination or other suitable criteria for establishing a candidate's knowledge, skill and experience in substance abuse counseling. Any criteria adopted by the board for establishing a candidate's knowledge, skill and experience in substance abuse counseling must be clearly defined, have an established baseline scoring procedure that is objectively measured, be in writing and available to the public upon request.

**Sec. 5. 32 MRSA §6212, sub-§3**, as amended by PL 1987, c. 395, Pt. A, §201, is further amended to read:

**3. Registration and standards.** The board may register and set standards of practice for licensed, certified and registered substance abuse counselors working in Maine. Any standards set by the board for practice for licensed, certified and registered substance abuse counselors working in Maine must be clearly defined, measurable, written, in accordance with accepted standards, and available to the public upon request. Educational background must be a consideration in any licensing or registration standards adopted by the board.

**Sec. 6. 32 MRSA §6212, sub-§4-A** is enacted to read:

4-A. Advisory committee. Within 60 days of the effective date of this subsection, the board shall establish an advisory committee composed of representatives from the University of Maine System substance abuse training program, the Maine association of substance abuse programs, the regional alcoholism and drug abuse councils, the Office of Alcoholism and Drug Abuse Prevention and any other representatives the board considers appropriate. The committee shall review current licensing standards, examine educational requirements, continue to study reciprocity with other states, determine the quorum desired for administering oral examinations and review criteria for licensure. By February 1, 1991, this committee shall present recommendations and recommended statutory modifications to the Legislature concerning any need for updating and revising the licensing procedure or standards and practices of the board. The Department of Professional and Financial Regulation shall provide any necessary staff assistance. Members of the committee are not entitled to receive compensation.

**Sec. 7. 32 MRSA §6212, sub-§7,** as enacted by PL 1983, c. 413, §216, is amended to read:

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

The board shall not refuse to renew registration 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 registration 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 of his application and his the applicant's 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. 8. 32 MRSA §6215,** as repealed and replaced by PL 1987, c. 395, Pt. A, §207, is amended to read:

**§6215. Application; membership fees**

Application for registration as a registered substance abuse counselor, licensure as a licensed substance abuse counselor or certification as an associate substance abuse counselor shall must be on forms prescribed and furnished by the board. Application and examination fees may be established by the board in amounts which that are reasonable and necessary for their respective purposes. A biennial registration fee for registered substance abuse counselors shall must be established by the

board in an amount not to exceed \$50 biennially. A biennial registration fee for licensed substance abuse counselors and associate substance abuse counselors shall must be established by the board in an amount not to exceed \$100 biennially. The payment of fees shall-be is suspended during the term of inactive status.

**Sec. 9. 32 MRSA §6216,** as enacted by PL 1977, c. 466, §2, is repealed and the following enacted in its place:

**§6216. Examinations**

The board shall make reasonable arrangements for written and oral examinations to be held at such times and places as necessary to accommodate those persons applying to take the examinations. The examinations must be graded using established written base-line scores for failure or passage, be based on accepted substance abuse counseling criteria and include measurable and clearly defined procedures for grading the results and issuing a pass or fail decision. Decisions on all examinations, oral and written, must be in writing and include a grade, a summary of the criteria for the grade and an explanation of the procedure for reexamination or appeal. Notice of the examination results must be forwarded to the applicants within 15 days of the date on which the examination was conducted. The notice must include a written explanation of the appeal process.

The appeal process must include an outside review as established by rules promulgated by the board under the procedures established by the Maine Administrative Procedure Act, Title 5, chapter 375, subchapter II. All applicants have the right to review their test results and any scoring comments.

**Sec. 10. 32 MRSA §6219, first ¶,** as amended by PL 1987, c. 395, Pt. A, §211, is further amended to read:

The license and certificate of registration shall expire biennially on August 31st or at such other time as the Commissioner of Professional and Financial Regulation may designate. Licensure or registration may be renewed for the succeeding 2-year period upon written application of the registrant, the approval of the board and the payment of the fee provided. A fee for renewal of license or certificate of registration shall be set by the board in an amount not to exceed \$25 and shall be is \$100 biennially for licensing and \$50 biennially for registration, due and payable on or before the expiration date. Before a license or certificate of registration may be renewed, the applicant shall must present evidence of continued professional learning and training of a type which-is acceptable to the board.

**Sec. 11. Allocation.** The following funds are allocated from Other Special Revenue funds to carry out the purposes of this Act.

1990-91

**PROFESSIONAL AND FINANCIAL  
REGULATION, DEPARTMENT OF****State Board of Substance Abuse Counselors**

All Other \$8,000

Authorizes expenditure of additional funds for increased general operating costs.

**Sec. 12. Sunset.** Section 6 of this Act is repealed July 1, 1991.

**Emergency clause.** In view of the emergency cited in the preamble, this Act shall take effect when approved.

Effective April 17, 1990.

**CHAPTER 832****S.P. 801 - L.D. 2049****An Act to Make Revisions in the Drug  
Testing Laws**

**Emergency preamble.** Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

**Whereas,** the laws governing an employer's use of substance abuse tests require certain revisions to ensure effective implementation; and

**Whereas,** these revisions need to take effect as soon as possible to enable employers to continue their substance abuse testing programs with a minimum of interruption; and

**Whereas,** in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

**Sec. 1. 26 MRSA §681, sub-§1,** as enacted by PL 1989, c. 536, §§1 and 2, and as amended by c. 604, §§2 and 3, is further amended to read:

1. **Purpose.** This subchapter is intended to:

A. Protect the privacy rights of individual employees in the State from undue invasion by employers through the use of substance abuse tests while allowing the use of tests when the employer has a compelling reason to administer a test;

B. Ensure that, when substance abuse tests are used, proper test procedures are employed to protect the privacy rights of employees and applicants and to achieve reliable and accurate results; and

C. Ensure that an employee with a substance abuse problem receives an opportunity for rehabilitation and treatment of the disease and returns to work as quickly as possible; and

D. Eliminate drug use in the workplace.

**Sec. 2. 26 MRSA §681, sub-§8,** as enacted by PL 1989, c. 536, §§1 and 2, and as amended by c. 604, §§2 and 3, is repealed and the following enacted in its place:

**8. Nuclear power plants; federal law.** The following limitations apply to the application of this subchapter.

A. This subchapter does not apply to nuclear electrical generating facilities and their employees, including independent contractors and employees of independent contractors who are working at nuclear electrical generating facilities.

B. This subchapter, except for section 685, subsection 2 and section 689, subsections 1 and 4, does not apply to employees subject to substance abuse testing under any federal law or regulation or under rules adopted by this State's Department of Public Safety that incorporate any federal laws or regulations related to substance abuse testing for motor carriers.

(1) For the purposes of applying section 685, subsection 2 to an employee under this paragraph, the employee is deemed to have previously worked in an employment position subject to random or arbitrary testing under an employer's written policy.

**Sec. 3. 26 MRSA §681, sub-§9** is enacted to read:

**9. Board of Licensure of Railroad Personnel; testing restricted.** The Board of Licensure of Railroad Personnel, as established by Title 5, chapter 379, may not require, request or suggest that any person subject to licensure by the board submit to a substance abuse test as a condition of the issuance or renewal of a license under Title 32, chapter 60.

The Board of Licensure of Railroad Personnel may require a person to submit to a substance abuse test as a condition of continued licensure or restoration of a license only if the license holder acknowledges to the board that the license holder has a substance abuse problem.

**Sec. 4. 26 MRSA §682, sub-§3-A** is enacted to read: