

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND FIFTEENTH LEGISLATURE

FIRST REGULAR SESSION

December 5, 1990 to July 10, 1991

Chapters 1 - 590

THE GENERAL EFFECTIVE DATE FOR
NON-EMERGENCY LAWS IS
OCTOBER 9, 1991

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
1991

PUBLIC LAWS
OF THE
STATE OF MAINE

AS PASSED AT THE
FIRST REGULAR SESSION

of the
ONE HUNDRED AND FIFTEENTH LEGISLATURE

1991

D. The additional license fee for dealers or mechanics who have more than one business location may not exceed ~~\$40~~ \$50 annually per additional location.

Sec. 4. 10 MRSA §9021, sub-§§3 and 4, as repealed and replaced by PL 1981, c. 152, §13, are amended to read:

3. License term. Licenses ~~shall~~ expire February 28th or at such other times as the Commissioner of ~~Business Professional and Financial~~ Regulation may designate and ~~shall be~~ are issued on a biennial basis upon payment of a license fee.

4. Renewals. The board shall notify each licensee of the expiration date of ~~his~~ that licensee's license and indicate the amount of fee required for biennial renewal. Notice ~~shall~~ must be mailed to each ~~person's~~ licensee's last known address at least 30 days in advance of the expiration date of the license. A license may be renewed up to 90 days after the date of its expiration upon payment of a late fee of \$50 in addition to the renewal fee. If any licensee fails to renew within ~~90~~ 90 days after expiration, ~~he shall be~~ that licensee is required to make a new application.

Sec. 5. 10 MRSA §9045, sub-§1, as amended by PL 1983, c. 553, §16, is further amended to read:

1. Fee for new units. A fee not exceeding \$100 for each new dwelling unit ~~which~~ that is installed in this State; and

Sec. 6. 10 MRSA §9045, sub-§2, as amended by PL 1983, c. 553, §16, is repealed and the following enacted in its place:

2. Fee for inspection. A fee, not to exceed the cost of inspection, for inspection of manufactured housing that must be paid by the manufacturer, dealer, distributor, broker or mechanic whose actions or failure to act gave rise to the necessity of the inspection.

Sec. 7. 10 MRSA §9081, sub-§2, as amended by PL 1985, c. 600, §1, is further amended to read:

2. Mobile home park. "Mobile home park" means a parcel or adjoining parcel of land, under single ownership, ~~which~~ that has been planned and improved for the placement of 3 or more mobile homes ~~per parcel~~, but ~~shall~~ does not include a construction camp.

Sec. 8. 10 MRSA §9081, sub-§3, as enacted by PL 1983, c. 553, §17, is repealed.

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

Effective June 20, 1991.

CHAPTER 392

H.P. 1089 - L.D. 1589

An Act to Conform Chiropractic Licensing Laws to Other State Regulatory Board Laws

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

Whereas, it is vital that the funds provided in this legislation are available for the beginning of fiscal year 1991-92; and

Whereas, that fiscal year will begin before the expiration of the 90-day period; 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 §454 is amended to read:

§454. Practicing without license; fraudulent licenses

Any person who ~~shall practice~~ practices or ~~attempt~~ attempts to practice or use the science or system of chiropractic in treating diseases of the human body, or any person who ~~shall buy~~ buys, ~~sell~~ sells or fraudulently ~~obtain~~ obtains any diploma, license, record or registration to practice chiropractic, or who ~~shall aid~~ aids or ~~abet~~ abets in ~~such~~ that selling or fraudulent obtaining; or who ~~shall practice~~ practices chiropractic, under cover of any diploma, license, record or registration to practice chiropractic, illegally obtained, or signed or issued unlawfully or under fraudulent representations; or who after conviction of felony ~~shall practice~~ practices chiropractic, or who ~~shall use~~ uses any of the forms of letters, "Chiropractic," "Chiropractor," "Chiropractic Practitioner," "Doctor of Chiropractic," "D.C." or any other titles or letters, either alone or with qualifying words or phrases, under such circumstances as to induce the belief that the person who uses ~~such~~ those terms is engaged in the practice of chiropractic, without having complied with this chapter, ~~shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than \$50 nor more than \$500, or by imprisonment for not less than 30 days nor for more than 11 months, or by both~~ commits a Class E crime. Nothing in this section ~~shall~~ may be construed to prohibit any lawfully qualified chiropractor in any other state meeting a registered chiropractic practitioner in this State for consultation.

Sec. 2. 32 MRSA §501, as amended by PL 1989, c. 503, Pt. B, §124, is further amended to read:

§501. Membership; qualifications; term; removal

The Board of Chiropractic Examination and Registration, as established by Title 5, section 12004-A, subsection 8, and in this chapter called the "board," ~~shall consist~~ consists of ~~6~~ 7 persons, ~~who shall be~~ appointed by the Governor. ~~Said~~ These persons ~~shall must~~ must be residents of this State, ~~5~~ shall must be graduates of a legally chartered chiropractic school, college or university having the power to confer degrees in chiropractic and ~~shall have been~~ must be at the time of their appointment actively engaged in the practice of their profession for a period of at least 3 years in this State ~~and one shall~~. Two members must be a representative ~~representatives~~ of the public. Each appointment ~~shall be~~ is for the period of ~~5~~ 3 years as the terms of the present members expire. A member may not serve more than 3 consecutive terms, exclusive of the minority portion of an unexpired term. Any vacancy in ~~said~~ the board caused by death, resignation or for any other cause, except completion of a full term of service, ~~shall must~~ must be filled by the like appointment of a person qualified ~~as aforesaid~~ to hold office during the unexpired term of the member whose place that person fills. Any member of ~~said~~ the board may be removed from office for cause by the Governor. Compensation of members of the board is in accordance with the provisions of Title 5, chapter 379.

Sec. 3. 32 MRSA §502, first ¶, as amended by PL 1981, c. 456, Pt. A, §105, is repealed and the following enacted in its place:

The board shall meet at least twice each year at such times and places as its chair may designate to consider applications, examine applicants and consider such other business as may properly come before the board. At its first meeting in each calendar year, the board shall elect one of its members as chair for a term of one year and one of its members as secretary to hold office at the pleasure of the board. Special meetings may be called at the pleasure of the chair and, in case of the death or inability of the chair, the secretary may call special meetings. The board shall keep correct records of all proceedings. The chair and secretary are empowered to administer oaths in matters connected with the duties of the board. The records, or duplicates of the records, must be open to inspection and are prima facie evidence of all matters recorded in the records. Four members of the board constitute a quorum for the transaction of business, but a license to practice chiropractic may not be granted except on an affirmative vote of at least 4 members of the board. The board has the power to make and adopt rules and a code of ethics consistent with law necessary for the enforcement of its authority, the performance of its duties and the governing of the practice of chiropractic, but a rule or code of ethics may not be made that is unreasonable or contravenes this chapter. In establish-

ing the rules and code of ethics, the board must, in addition to the standards set forth in this chapter, be guided by the following standards setting forth conduct deemed unprofessional:

Sec. 4. 32 MRSA §503-A, sub-§1, as enacted by PL 1983, c. 378, §4, is amended by amending the first 2 paragraphs to read:

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

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

Sec. 5. 32 MRSA §506, last ¶, as enacted by PL 1989, c. 450, §9, is amended to read:

All licenses ~~shall expire on June 1st annually biennially, beginning on December 31, 1992~~ or at such other time as the commissioner designates.

Sec. 6. 32 MRSA c. 9, sub-c. III, first 2 lines are repealed and the following enacted in their place:

SUBCHAPTER III

LICENSURE

Sec. 7. 32 MRSA §551, as amended by PL 1987, c. 74, §1, is further amended to read:

§551. Examination and licensure

Any person, before engaging in the practice of chiropractic in this State, shall make application for a ~~certificate~~ license to practice chiropractic to the board on a form prescribed by the board. The application ~~shall must~~ must be filed with the ~~secretary~~ clerk of the board at least ~~7~~ 30 days before the date of examination, together with a deposit of up to \$100, which deposit shall be returned to applicant in case the application is rejected ~~an application and examination fee.~~ The application fee is not refundable if an application is denied. Each applicant must be at least 18 years of age and shall present proof of 2 years' satisfactory attendance at a college of liberal arts. ~~Candidates~~ A candidate for licensure ~~shall be~~ is required to present ~~transcripts~~ a transcript from an accredited college or university certifying that ~~they have~~ the candidate has completed 2 years of preprofessional work, 2 subjects of which must be English and biology,

or otherwise satisfy the members of the board ~~of that~~ the candidate has acquired sufficient prior academic education. The applicant shall present a diploma granted by a legally chartered chiropractic college, school or university in good standing and having the power to confer degrees in chiropractic, which diploma ~~shall~~ must show that it was granted on personal attendance of the applicant and completion of a course of 4 school years of not less than 8 months each and of a total of 4,400 60-minute school hours. If an applicant matriculated in a chiropractic college on or after January 1, 1984, ~~his~~ the diploma shall must show that it was granted by a chiropractic college accredited by a chiropractic educational accrediting agency approved by the United States Department of Education or its successor agency or, in the event no such agency exists, approved by the board, or the applicant must have evidence of having successfully passed a licensing procedure from another state having similar requirements. If an applicant matriculated in a chiropractic college before January 1, 1984, ~~his~~ the diploma shall must show that it was granted by a chiropractic college accredited as set out in this section, or the applicant must present evidence of having become a diplomat of the National Board of Chiropractic Examiners, or the applicant must have evidence of having successfully passed a licensing procedure from another state having similar requirements. ~~All applicants~~ Each applicant must present a certificate of good moral character signed by ~~some~~ reputable resident of this State a reputable person and such other reasonable and proper facts as the board ~~in~~ its blank application may require in its application form.

Sec. 8. 32 MRSA §552, as amended by PL 1987, c. 74, §2, is further amended to read:

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

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

Any person, licensed by a chiropractic board of any other state or territory having a standard equal to that of the State, ~~shall~~ may be licensed without examination; upon the payment of ~~\$40 up to \$100~~ production to the board of his diploma and the license obtained a fee of \$225, submission of a chiropractic diploma and proof of licensure in such other state. The board may, in its discretion, require an examination of any such applicant.

Sec. 9. 32 MRSA §553, as amended by PL 1987, c. 74, §3, is repealed.

Sec. 10. 32 MRSA §553-A is enacted to read:

§553-A. Licenses renewal procedure; continuing education and fees

1. Renewal procedure. The board shall notify every licensed chiropractor of the expiration date of the chiropractic license and indicate the amount of the fee required for biennial renewal. Notice must be mailed to each licensee's last known address at least 30 days in advance of the expiration date of that license. An expired license may be reissued 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 license expiration date is 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. The board may assess penalty fees for late renewals.

2. Continuing education. The board shall require applicants for license renewal to submit evidence of satisfactory completion of continuing education in accordance with rules adopted by the board.

3. Fees. Fees are established as follows:

A. For the application, \$50;

B. For the examination, \$50;

C. For the initial license, \$225; and

D. For the license renewal, biennially, \$225.

All fees received by the board must be paid to the Treasurer of State and used to carry out this chapter. Any balance of these fees may not lapse but must be carried forward as a continuing account to be expended for the same purposes in the following years.

Sec. 11. 32 MRSA §554, as repealed and replaced by PL 1983, c. 113, §2, is amended to read:

§554. Display of license; rights

When the board grants to a person the ~~certificate~~ license mentioned in section 552, the ~~certificate shall~~ license must designate the holder as a doctor of chiropractic or a chiropractor and ~~shall~~ must be publicly displayed at the person's principal place of business so long as that person ~~shall continue~~ continues to practice chiropractic for gain or hire. The ~~certificate shall~~ license entitles the person to whom it is granted to practice chiropractic

in any county in this State, in all of its branches, but it ~~shall~~ does not authorize its holder to practice obstetrics so far as the same relates to parturition, nor to administer drugs nor perform surgical operations with the use of instruments, except as now allowed by statute. Nothing in this section may be construed to prohibit any legally registered licensed doctor of chiropractic in this State from practicing surgery after having passed a satisfactory examination therein before the State Board of Registration in Medicine.

Sec. 12. Board terms; transition. Any new appointment to the Board of Chiropractic Examination and Registration after the effective date of this Act is for a term of 3 years.

Sec. 13. Allocation. The following funds are allocated from Other Special Revenue to carry out the purposes of this Act.

1991-92

PROFESSIONAL AND FINANCIAL REGULATION, DEPARTMENT OF

Board of Chiropractic Examination and Registration

All Other \$3,000

Provides funds for the costs associated with printing and rulemaking.

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

Effective June 20, 1991.

CHAPTER 393

S.P. 440 - L.D. 1184

An Act to Amend Certain Provisions of the Maine Bail Code

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

Sec. 1. 15 MRSA §1051, sub-§7, as enacted by PL 1987, c. 758, §20, is repealed.

Sec. 2. 15 MRSA §1051, sub-§7-A is enacted to read:

7-A. Revocation of post-conviction bail. The attorney for the State, or the court on its own motion, may initiate a proceeding for the revocation of a defendant's post-conviction bail by complying with this subsection.

A. A law enforcement officer may arrest with a warrant or without a warrant pursuant to Title 17-A, section 15 any defendant who the law enforcement officer has probable cause to believe has failed to appear as required, violated a condition of post-conviction bail or been charged with a crime allegedly committed while released on post-conviction bail. If the defendant is charged with new criminal conduct, a bail commissioner is authorized only to set bail for the new crimes in accordance with this chapter. A defendant under arrest pursuant to this subsection must be brought before a judge or justice of the appropriate court. The judge or justice shall determine whether the existing post-conviction bail order should be modified or the defendant should be committed without bail pending the bail revocation hearing.

B. An order of post-conviction bail entered by a judge or justice may be revoked by that judge or justice or, if that judge or justice is not available, by another judge or justice of the same court, upon a determination made after notice and opportunity for hearing that:

- (1) The defendant has violated a condition of bail as shown by a preponderance of the evidence;
- (2) The defendant has been charged with a crime allegedly committed while the defendant was released under this section; or
- (3) The defendant's appeal has been taken for purposes of delay as shown by a preponderance of the evidence.

C. If bail is revoked, the defendant may appeal to a single Justice of the Supreme Judicial Court who shall review the revocation pursuant to subsection 5.

Sec. 3. 15 MRSA §1093, sub-§2, as amended by PL 1989, c. 147, §6, is further amended to read:

2. Arrest. A law enforcement officer may arrest with a warrant or without a warrant pursuant to Title 17-A, section 15, any defendant who the law enforcement officer has probable cause to believe has failed to appear as required, has violated a condition of preconviction bail or has been charged with a crime allegedly committed while released on preconviction bail. If the defendant is charged with new criminal conduct, a bail commissioner is authorized only to set bail for the new crimes in accordance with this chapter. A defendant under arrest pursuant to this subsection ~~shall~~ must be brought before any judge or justice of the appropriate court. The judge or justice shall ~~make a determination as to whether or not the setting of bail upon the violation is appropriate pending the bail revocation proceeding~~ determine whether the existing preconviction bail order should be