

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND SIXTEENTH LEGISLATURE

SECOND REGULAR SESSION

January 5, 1994 to April 14, 1994

THE GENERAL EFFECTIVE DATE FOR
SECOND REGULAR SESSION
NON-EMERGENCY LAWS IS
JULY 14, 1994

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
1993

Bureau of Census. A disposal district may alter the number of its directors by submitting the proposed alteration to the voters in the same manner as provided in section 1721, subsection 7. No municipality within any disposal district may have less than one director. A quorum of the directors may conduct the affairs of the district even if there is a vacancy on the board of directors. A quorum is defined as a simple majority of eligible and appointed directors, provided that a majority of the member municipalities are represented. A simple majority of directors ~~present~~ and voting, either in person or by written consent, may conduct the affairs of the district.

See title page for effective date.

CHAPTER 598

S.P. 712 - L.D. 1927

An Act to Remove the Sunset Provision from the Limitation on Liability for Recycling Activities by Municipalities and Regional Associations

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

Whereas, the Legislature has adopted goals for the recycling of municipal solid waste; and

Whereas, the First Regular Session of the 115th Legislature enacted a law limiting liability for recycling activities by municipalities and regional associations to enable the efficient and convenient location of recycling containers to help municipalities and regional associations to attain these goals; and

Whereas, that law is repealed on July 15, 1994; and

Whereas, the law remains necessary in order to help municipalities and regional associations to attain the State's recycling goals; and

Whereas, there has been no harm to the public interest through the law's limitation of liability; 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. 14 MRSA §159-B, sub-§7, as enacted by PL 1991, c. 487, §1, is repealed.

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

Effective April 5, 1994.

CHAPTER 599

H.P. 1417 - L.D. 1931

An Act to Promote Integrity in the Citizens Petition Process

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

Sec. 1. 21-A MRSA §904-A is enacted to read:

§904-A. Payment per signature; prohibition

A circulator of an initiative or a referendum petition or a person who causes the circulation of an initiative or referendum petition may not receive payment for the collection of signatures if that payment is based on the number of signatures collected. Nothing in this section prohibits a circulator of an initiative or a referendum petition or a person who causes the circulation of an initiative or referendum petition from being paid a salary that is not based on the number of signatures collected.

Sec. 2. 21-A MRSA §904-B is enacted to read:

§904-B. Payment for signature; prohibition

A circulator of an initiative or a referendum petition or a person who causes the circulation of an initiative or referendum petition may not pay or offer to pay any compensation to a person for the person's signature on the initiative or referendum petition.

See title page for effective date.

CHAPTER 600

H.P. 1368 - L.D. 1851

An Act Related to Periodic Justification of Departments and Agencies of State Government under the Maine Sunset Act

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

Whereas, certain obligations and expenses incident to the operation of departments and agencies will become due and payable on or immediately after July 1, 1994; and

Whereas, these provisions are intended to improve management, performance, organization, program delivery and fiscal accountability of agencies and independent agencies reviewed; and

Whereas, certain independent agencies will terminate unless continued by act of the Legislature prior to June 30, 1994; 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:

PART A

Sec. A-1. 3 MRSA §927, sub-§3, ¶B, as amended by PL 1991, c. 837, Pt. A, §4 and amended by PL 1993, c. 410, Pt. R, §1 and affected by §4, is repealed and the following enacted in its place:

B. Independent agencies:

- (1) Maine State Pilotage Commission;
- (2) State Board of Registration for Professional Engineers;
- (3) Board of Licensure for Professional Land Surveyors;
- (4) Local Government Records Board;
- (5) Maine High-Risk Insurance Organization. This subparagraph is repealed January 1, 1997;
- (6) Driver Education and Evaluation Programs; and
- (7) State Soil and Water Conservation Commission.

Sec. A-2. 3 MRSA §927, sub-§5, as amended by PL 1993, c. 92, §3, is further amended to read:

5. 2005.

A. Agencies:

- (1) ~~Department of Mental Health and Mental Retardation;~~
- (2) Maine Indian Tribal-State Commission; and
- (3) Department of Corrections.

B. Independent agencies:

- (1) Board of Chiropractic ~~Examination and Registration~~ Licensure;
- (2) Board of Dental Examiners;
- (3) Nursing Home Administrators Licensing Board;
- (4) Board of ~~Registration~~ Licensure in Medicine;
- (5) State Board of Nursing;
- (6) ~~State Board of Optometry;~~
- (7) Board of Osteopathic ~~Examination and Registration~~ Licensure;
- (8) ~~Board of the~~ Maine Children's Trust ~~Fund~~ Incorporated;
- (9) ~~Examiners of Podiatrists~~ Board of Licensure of Podiatric Medicine;
- (10) ~~Maine Medical Laboratory Commission;~~
- (11) Maine Developmental Disabilities Council;
- (12) Maine Advisory Committee on Mental Retardation;
- (13) Governor's Committee on Employment of People with Disabilities; and
- (14) Capitol Planning Commission; and
- (15) ~~Maine Turnpike Authority.~~

Sec. A-3. 3 MRSA §927, sub-§6, ¶A, as enacted by PL 1989, c. 483, Pt. A, §§4 and 62, is amended to read:

A. Agencies:

- (1) Department of Conservation;
- (2) Department of Inland Fisheries and Wildlife; and
- (3) Baxter State Park Authority; and

(4) Department of Mental Health and Mental Retardation.

Sec. A-4. 3 MRSA §927, sub-§6, ¶C is enacted to read:

C. Independent agencies:

- (1) Saco River Corridor Commission;
- (2) Acupuncture Licensing Board;
- (3) Board of Licensing of Auctioneers;
- (4) Board of Licensing of Dietetic Practice;
- (5) Board of Commercial Driver Education;
- (6) Advisory Board for the Licensing of Taxidermists;
- (7) Maine Turnpike Authority; and
- (8) State Board of Optometry.

Sec. A-5. 5 MRSA §12004-I, sub-§66, as enacted by PL 1987, c. 786, §5, is amended to read:

66.	<u>State Planning and Advisory Council on Maine Developmental Disabilities Council</u>	Expenses only	34-B MRSA §1211
Mental Health and Mental Retardation			

Sec. A-6. 10 MRSA §8001, sub-§22-A is enacted to read:

22-A. Board of Licensure of Podiatric Medicine. Podiatric Medicine, Board of Licensure of;

Sec. A-7. 10 MRSA §8001, sub-§33, as repealed and replaced by PL 1991, c. 548, Pt. B, §1, is amended to read:

33. Board of Chiropractic Licensure. Chiropractic ~~Examination and Registration Licensure,~~ Board of;

Sec. A-8. 10 MRSA §8001-A, sub-§4, as enacted by PL 1989, c. 450, §5, is amended to read:

4. Board of Licensure in Medicine. Medicine, Board of ~~Registration Licensure~~ in;

Sec. A-9. 10 MRSA §8001-A, sub-§7, as enacted by PL 1989, c. 450, §5, is amended to read:

7. Board of Osteopathic Licensure. Osteopathic ~~Examination and Registration Licensure,~~ Board of;

Sec. A-10. 10 MRSA §8001-A, sub-§8, as enacted by PL 1989, c. 450, §5, is repealed.

Sec. A-11. 10 MRSA §8003, sub-§10 is enacted to read:

10. National disciplinary record system. Within the limits of available revenues, all boards or commissions internal or affiliated with the department shall join or subscribe to a national disciplinary record system used to track interstate movement of regulated professionals who have been the subject of discipline by state boards, commissions or agencies.

Sec. A-12. 10 MRSA §§8007 to 8008 are enacted to read:

§8007. Board member candidate information

The Commissioner of Professional and Financial Regulation or the chief staff administrator for an occupational and professional regulatory board shall work with the Executive Department to prepare general information regarding the purpose of an occupational and professional regulatory board and the role, responsibility and perspective of a member of an occupational and professional regulatory board, including a public member. The material must also include information specific to the board for which the individual is a prospective member, including but not limited to the time commitment, remuneration and any other pertinent details.

This information must be provided to all new candidates for membership on an occupational and professional regulatory board and to members seeking reappointment in order to fully inform the candidate or member about the nature of the position. Prior to gubernatorial appointment or reappointment, the candidate or member shall sign a statement indicating that the candidate or member has read the material and is prepared to properly discharge the duties of a member of an occupational and professional regulatory board. Failure to sign this statement disqualifies the candidate or member for appointment or reappointment on a board.

§8008. Purpose of occupational and professional regulatory boards

The sole purpose of an occupational and professional regulatory board is to protect the public health and welfare. A board carries out this purpose by ensuring that the public is served by competent and honest practitioners and by establishing minimum standards of proficiency in the regulated professions by examining, licensing, regulating and disciplining

practitioners of those regulated professions. Other goals or objectives may not supersede this purpose.

Sec. A-13. 10 MRSA §9003, sub-§2, as repealed and replaced by PL 1989, c. 271, §2, is amended to read:

2. Composition and terms of members. The members of the board shall include:

A. A representative who is a manufactured housing owner, and whose home is not located in a mobile home park or similar rental community;

B. Two representatives who are manufactured housing owners, and the manufactured housing units in which the owners live are located on lots within mobile home parks or similar rental communities which the manufactured housing owners do not own;

C. A representative who is a professional engineer with demonstrated experience in construction and building technology;

D. A representative who is a dealer;

E. A representative who is an owner or operator of a mobile home park with 15 or fewer lots;

F. A representative who is an owner or operator of a mobile home park with more than 15 lots;

G. A representative who is a builder of manufactured housing; and

H. A representative with a minimum of 2 years of practical experience in building code administration and enforcement and ~~is currently employed with current employment~~ as a code enforcement officer.

The term of office of the members is 4 years. ~~Members may be appointed to successive terms. Members shall serve for their appointed terms and until their successors are appointed and duly qualified, except that any Appointment of a member must comply with Title 32, section 60. A member of the board may be removed for cause by the Governor. No board member may serve more than 2 consecutive terms.~~

Sec. A-14. 10 MRSA §9003, sub-§3, as enacted by PL 1977, c. 550, §1, is repealed.

Sec. A-15. 22 MRSA c. 1052, as amended, is repealed.

Sec. A-16. 22 MRSA c. 1058 is enacted to read:

CHAPTER 1058

MAINE CHILDREN'S TRUST INCORPORATED

§3881. 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 the Maine Children's Trust Incorporated.

2. Eligible organization. "Eligible organization" means a nonprofit organization, local government or public school system.

3. Fund. "Fund" means the Maine Children's Trust Incorporated.

4. Income. "Income" means annual contributions made to the fund through the income tax checkoff and any other sources.

5. Prevention policies. "Prevention policies" means laws, rules, policies, procedures and practices, whether in the public or private sector, that have an actual or potential impact on the nature and incidence of child abuse and neglect.

6. Prevention programs. "Prevention programs" means programs, plans or training associated with the primary prevention of child abuse and neglect.

§3882. Establishment; purpose; nonprofit organization

The Maine Children's Trust Incorporated, referred to in this chapter as the "fund," is established to provide a mechanism for voluntary contributions by individuals and groups for annual and long-term funding of prevention programs. The fund is the repository for funds donated by taxpayers of the State through an income tax checkoff pursuant to Title 36, section 5285 as well as federal grants and contracts, privately donated funds and in-kind donations for prevention programs.

The fund is a private nonprofit corporation with a broad public purpose pursuant to this chapter. The exercise by the fund of the powers conferred by this chapter is held to be an essential governmental function.

§3883. Board; establishment

1. Establishment. The Board of the Maine Children's Trust Incorporated, referred to in this chapter as the "board," is established.

2. Membership. The board consists of 17 members, appointed as follows:

A. One Senator, appointed by the President of the Senate for a 2-year term served concurrently with the legislative term;

B. One Representative, appointed by the Speaker of the House of Representatives for a 2-year term served concurrently with the legislative term;

C. Four members of the Maine Association of Child Abuse and Neglect Councils, selected by that association. Of the initial appointees, one is appointed for a one-year term, one is appointed for a 2-year term and 2 are appointed for 3-year terms. After the initial appointments, appointees are appointed for 3-year terms;

D. Two representatives of the Department of Human Services appointed by the Commissioner of Human Services. One member must be a senior policy-making official and the other must be a line manager with several years of experience in child abuse and neglect. Of the initial appointees, one is appointed for a 2-year term and the other is appointed for a 3-year term. After the initial appointments, appointees are appointed for 3-year terms; and

E. Nine members of the public and the business community.

(1) Three members must be appointed by the Governor. Of the initial appointees, one is appointed for a one-year term, one is appointed for a 2-year term and one is appointed for a 3-year term. After the initial appointments, appointees are appointed for 3-year terms.

(2) Three leaders from the business community must be appointed by the Maine Chamber of Commerce and Industry. Of the initial appointees, one is appointed for a one-year term, one is appointed for a 2-year term and one is appointed for a 3-year term. After the initial appointments, appointees are appointed for 3-year terms.

(3) Three members must be elected by majority vote of the board. Of the initial appointees, one is appointed for a one-year term, one is appointed for a 2-year term and one is appointed for a 3-year term. After the initial appointments, appointees are appointed for 3-year terms.

The public members may include representatives of the following groups: parents; persons under the age of 21; the business and labor communities; the legal community; the religious community; and providers of child abuse and neglect prevention services.

3. Board officers. The board shall elect annually a chair from among its members to serve for one year. The chair may be reelected. The board shall elect annually a member to serve as a secretary, who shall maintain the minutes of board meetings, and another member to serve as treasurer, who shall maintain and oversee financial records and issue an annual financial report at the end of each fiscal year. The secretary and treasurer may be reelected. The board may elect from among its members other officers it determines necessary to carry out the board's purposes.

4. Compensation. The members are ineligible for per diem compensation, but may be reimbursed for travel expenses and other out-of-pocket expenses associated with board business pursuant to board policy.

5. Meetings. The board shall meet at least 4 times annually. A simple majority constitutes a quorum.

6. Advice and consultation. The Commissioner of Human Services, the Commissioner of Mental Health and Mental Retardation, the Commissioner of Education, the Commissioner of Corrections and the Commissioner of Public Safety, upon request, shall provide the board with technical information, assistance and advice.

§3884. Powers

The board may:

1. Plan. Develop a biennial working plan for fund activities that sets overall statewide goals and objectives for child abuse prevention activities, establishes priorities for distribution of money in the fund and provides a working plan for the fund for the biennium. In developing the plan, the board may:

A. Review and evaluate existing prevention programs;

B. Ensure that equal opportunity exists for the establishment of prevention programs and receipt of money from the fund among all geographic areas in the State;

C. Review and evaluate public and private funding sources; and

D. Submit the plan to the Legislature biennially;

2. Application for and receipt of funds. Apply for and receive funds from any private source or governmental entity, whether by way of grant, donation, loan or other means;

3. Public and private partnerships. Create partnerships between the public and private sectors to facilitate the purposes of this chapter and to:

A. Bridge the gap in knowledge and communication between the public and private sectors regarding prevention programs and prevention policies;

B. Build the leadership capacity of public and private sector individuals and institutions regarding prevention programs and prevention policies; and

C. Encourage active financial and in-kind participation from the public and private sectors in carrying out the purposes of this chapter;

4. Recommendations and information. Develop, initiate, propose or recommend ideas or innovations in rules, laws, policies and programs concerning child abuse and neglect to the Governor, the Legislature, state executive agencies, the business community and other entities. The board may also assist in the coordination and exchange of information and the maintenance of prevention programs;

5. Criteria for awarding grants. Publicize criteria and review applications for grants and award those grants to recipients that best address the purposes of this chapter;

6. Review. Establish a process for monitoring and review of grants awarded pursuant to this chapter;

7. Education. As a primary prevention activity of the fund, develop and implement a campaign to provide statewide education and public information to enhance public awareness concerning child abuse and neglect;

8. Contracts; grants or gifts. Enter into contracts with public or private agencies and accept gifts or grants from federal, state or private sources to carry out this chapter;

9. Bylaws. Adopt bylaws, have the general powers accorded corporations under Title 13, chapter 81 and perform other acts as necessary or convenient to carry out the lawful purposes of the fund;

10. Staff. Employ staff as the board determines necessary to implement its responsibilities;

11. Suit. Sue or be sued in the board's own name;

12. Real and personal property. Purchase, receive, hold, lease or acquire by foreclosure, operate, manage, license and sell, convey, transfer, grant or lease real and personal property, together with those rights and privileges that may be incidental and appurtenant to the property and the use of the property, including, but not limited to, real or personal property acquired by the board from time to time in the satisfaction of debts or enforcement of obligations;

13. Expenditures and obligations regarding real and personal property. Make expenditures and incur obligations reasonably required in the exercise of sound business principles to secure possession of, preserve, maintain, insure and improve real and personal property interests acquired by the board;

14. Securities. Acquire, subscribe for, own, hold, sell, assign, transfer, mortgage or pledge the stock, shares, bonds, debentures, notes or other securities and evidences of interest in or indebtedness of a person, firm, corporation, joint stock company, partnership, association or trust, and, while the owner or holder of stock, shares, bonds, debentures, notes or other securities, exercise the rights, powers and privileges of ownership, including the right to vote on the stock, shares, bonds, debentures, notes or other securities;

15. Encumbrance of property. Mortgage, pledge or otherwise encumber any property right or thing of value acquired pursuant to the powers contained in subsection 12, 13 or 14 as security for the payment of any part of the purchase price of the property right or thing of value;

16. Cooperation with agencies and organizations. Cooperate with and avail itself of the services of governmental agencies and the University of Maine System; and cooperate with, assist and otherwise encourage local or regional, private or public organizations in the various communities of the State in the prevention of abuse and neglect among children in the community and the State; and

17. Endowment fund. Expend principal from the endowment fund as established in section 3885, subsection 5, only under emergency circumstances by 2/3 vote of the board.

§3885. Funds

1. Control. The board may accept funds from a public or private source. Revenue to the fund must be managed, deposited, invested and disbursed by the board in a manner that is independent of control by the Department of Administrative and Financial Services.

2. Grants disbursement. The board shall establish a procedure and form for applications for grants of fund resources under this chapter. Upon board approval of an application, the board may disburse money from the fund to eligible recipients for the development, operation or awareness of prevention programs and prevention policies under this chapter.

3. Administrative expenses. Income must be allocated for the support of administrative expenses as follows.

A. The board may expend, for administrative expenses, no more than 45% in calendar year 1994, 40% in calendar year 1995, 35% in calendar year 1996, 30% in calendar year 1997 and 25% in calendar year 1998 of annual revenues from the state income tax checkoff contributed by individuals. After 1998, the board may expend, for administrative expenses, no more than 20% of annual revenues from the state income tax checkoff contributed by individuals.

B. Income from federal grants may only be allocated to support prevention programs.

4. Discretion. The board has sole discretion in the use of resources from sources other than the income tax checkoff by individuals and federal grants pursuant to subsection 3.

5. Endowment fund. An endowment fund is established pursuant to this subsection. A minimum of 10% of tax checkoff revenue received each year from individuals must be set aside for allocation to the segregated endowment fund. Up to 90% of the checkoff revenue and other income received by the endowment fund may be expended annually by the board in accordance with this chapter.

6. Income greater than \$200,000. At least 1/3 of the total annual revenue that exceeds \$200,000 must be allocated to the endowment fund established under subsection 5.

§3886. Limitation of powers

The board, notwithstanding section 3884, subsection 8, may not enter into contracts, obligations or commitments of any kind on behalf of the State or its agencies, nor does it have the power of eminent domain or other powers not provided to business corporations generally. Bonds, notes and other evidences of indebtedness of the board are not debts or liabilities of the State and do not constitute a pledge of the faith and credit of the State.

§3887. Liability of officers, directors and employees

Officers, directors, employees and other agents of the board entrusted with the custody of the securities of the fund or authorized to disburse the money of the fund must be bonded, either by a blanket bond or individual bonds, with a surety bond or bonds with a minimum limitation of \$100,000 coverage for each person covered by the bond, conditioned upon the faithful performance of their duties, the premiums for which must be paid out of the assets of the fund.

§3888. Prohibited interests of officers, directors and employees

An officer, director or employee of the fund or a spouse or dependent child of an officer, director or employee of the fund may not receive direct personal benefit from the activities of the fund in assisting a private entity. This provision does not prohibit corporations or other entities with which an officer, director or employee is associated by reason of ownership or employment from participating in prevention programs of the fund, if that ownership or employment is made known to the board and the officer, director or employee abstains from voting on matters relating to that participation. This prohibition does not extend to corporators who are not officers, directors or employees of the fund.

§3889. Donations to the State

The State, through the Governor, may accept donations, bequests, devises, grants or other interests of any nature on behalf of the fund and shall transfer those funds, that property or other interests to the fund.

§3890. Annual report; audit

By February 15th, the board shall provide an annual report and an annual independent audit of its activities to the Governor, the joint standing committee of the Legislature having jurisdiction over human resources matters and the public. The annual report must provide a summary of the fund for the previous fiscal year according to generally accepted accounting principles.

§3890-A. General conditions; dissolution

The following conditions apply to the operation or dissolution of the fund.

1. Net earnings of the fund. A member, officer, director or employee may not benefit from any part of the net earnings of the fund. Net earnings of the fund may be used to pay reasonable compensation for services rendered and to hold, manage and dispose

of its property in furtherance of the purposes of the fund.

2. Dissolution of fund. Upon dissolution of the fund, the members shall transfer any unexpended General Fund appropriations to the State and pay or make provisions for the payment of all other liabilities of the fund.

All other principal and accrued interest in the fund must be transferred to the Maine Association of Child Abuse and Neglect Councils and restricted to the support of primary prevention of child abuse and neglect in the State.

§3890-B. Liberal construction

This chapter must be construed liberally to effect the interests and purposes of the fund for the prevention of child abuse and neglect in the State and must be broadly interpreted to effect the intent and purposes and may not be interpreted as a limitation of powers.

Sec. A-17. 24 MRSA §2502, sub-§4-A, as amended by PL 1993, c. 39, §1, is further amended to read:

4-A. Professional review committee. "Professional review committee" means a committee of physicians formed by a professional society for the purpose of identifying and working with physicians and physician assistants who are disabled or impaired by virtue of physical or mental infirmity or by the misuse of alcohol or drugs, as long as the committee operates pursuant to protocols approved by the Board of ~~Registration~~ Licensure in Medicine or the Board of Osteopathic Licensure.

Sec. A-18. 24 MRSA §2505, 2nd ¶, as amended by PL 1985, c. 185, §2, is further amended to read:

Except for specific protocols developed by ~~the~~ a board pursuant to Title 32, section ~~2596-A or~~ 3298, ~~no~~ a physician or committee is not responsible for reporting misuse of alcohol or drugs or professional incompetence or malpractice as a result of physical or mental infirmity or by the misuse of alcohol or drugs discovered by the physician or committee as a result of participation or membership in a professional review committee or with respect to any information acquired concerning misuse of alcohol or drugs or professional incompetence or malpractice as a result of physical or mental infirmity or by the misuse of alcohol or drugs, as long as that information is reported to the professional review committee. Nothing in this section may prohibit an impaired physician from seeking alternative forms of treatment.

Sec. A-19. 24 MRSA §2511, first ¶, as repealed and replaced by PL 1987, c. 646, §5, is amended to read:

Any person acting without malice, physician, podiatrist, health care provider, professional society or member of a professional competence committee, professional review committee or any board or appropriate authority is immune from civil liability:

Sec. A-20. 26 MRSA §800, as amended by PL 1983, c. 819, Pt. A, §57, is further amended to read:

§800. Membership

Members of the committee ~~shall~~ must be citizens of the State who have an unselfish and demonstrated interest in equal opportunity for disabled ~~people~~ individuals. No more than 5 members may be individuals employed, retained or otherwise compensated by or representative of the executive branch of State Government. The committee shall include representatives of health, educational, labor, business, public, private, voluntary and advocacy organizations.

Members ~~shall be~~ are appointed for terms of 3 years, except that, of the members first appointed, 6 ~~shall be~~ are appointed for terms of one year, 6 ~~shall be~~ are appointed for terms of 2 years and 6 ~~shall be~~ are appointed for terms of 3 years, as designated by the Governor at the time of appointment; and except that ~~any~~ a member appointed to fill a vacancy occurring prior to the expiration of the term for which ~~his~~ the member's predecessor was appointed ~~shall be~~ is appointed only for the remainder of that term.

~~Members shall be~~ A member is not eligible for reappointment for ~~not~~ more than 2 consecutive full terms of 3 years ~~each and~~ but may serve after the expiration of ~~their terms that period~~ until their successors have a successor has been appointed, qualified and taken office. The Governor may terminate the appointment of ~~any~~ a member of the committee for good and just cause and the reason for the termination of each appointment ~~shall~~ must be communicated to each member so terminated. The appointment of ~~any~~ a member of the committee ~~shall~~ must be terminated if a member is absent from 3 consecutive meetings without good and just cause that is communicated to the ~~chairman~~ chair.

~~Any~~ A vacancy in the committee ~~shall~~ does not affect its powers, but ~~shall~~ must be filled in the same manner by which the original appointment was made.

The Governor shall designate the ~~chairman~~ chair from among the members appointed to the committee. ~~The chairman may not be an individual employed, retained or otherwise compensated by or representative of the executive branch of State~~

Government. Members shall elect a ~~vice-chairman~~ vice-chair from among the membership. The committee shall meet at the call of the ~~chairman~~ chair, but not less often than 4 times a year. Meetings ~~shall~~ must be publicly announced.

The committee may appoint subcommittees consisting of its own members and such other ~~persons~~ individuals as are ~~deemed~~ determined necessary.

Sec. A-21. 26 MRSA §801, sub-§1, as enacted by PL 1983, c. 176, Pt. A, §9, is amended to read:

1. Advise, consult and assist. Advise, consult and assist the executive and legislative branches of State Government on activities of State Government ~~which that~~ which affect the employment of disabled ~~people~~ individuals. The committee ~~shall be~~ is solely advisory in nature. The committee may advise regarding state and federal plans; and proposed budgetary, legislative or policy actions affecting disabled ~~persons~~ individuals als;

Sec. A-22. 26 MRSA §801, sub-§5, as amended by PL 1989, c. 49, §5, is further amended to read:

5. Architectural barriers. Inform the public of the benefits of making buildings accessible to and usable by ~~persons~~ individuals with disabilities; monitor the enforcement of state and federal laws regarding architectural accessibility; and advise and assist building owners by disseminating information about accessibility and by making technical assistance available when appropriate.

A. A wheelchair symbol ~~shall~~ must be appropriately displayed to identify buildings with facilities ~~which that~~ which are accessible to disabled and elderly ~~persons~~ individuals, accessibility to be determined by the Governor's Committee on Employment of People with Disabilities.

B. The symbol ~~shall~~ must be that adopted by the Rehabilitation International's World Congress in 1969.

C. Application for display of the wheelchair symbol ~~shall~~ must be made by the Governor's Committee on Employment of People with Disabilities, ~~who~~ which shall obtain and keep on file a supply of symbols.

Sec. A-23. 26 MRSA §803 is enacted to read:

§803. Authorization

The committee may receive and accept, from any source, allocations, appropriations, loans, grants

and contributions of money or other things of value to be held, used or applied to carry out this chapter, subject to the conditions upon which the loans, grants and contributions may be made, including, but not limited to, appropriations, allocations, loans, grants or gifts from a private source, federal agency or governmental subdivision of the State or its agencies.

Sec. A-24. 30 MRSA §6212, as amended by PL 1985, c. 295, §§46 and 47, is further amended to read:

§6212. Maine Indian Tribal-State Commission

1. Commission created. The Maine Indian Tribal-State Commission is established. The commission ~~shall consist~~ consists of 9 members, 4 to be appointed by the Governor ~~of the State,~~ subject to review by the Joint Standing Committee on Judiciary and to confirmation by the Legislature, 2 ~~each~~ to be appointed by the Passamaquoddy Tribe ~~and~~ , 2 to be appointed by the Penobscot Nation and a chairman chair, to be selected in accordance with subsection 2. The members of the commission, other than the ~~chairman~~ chair, each serve for a term of 3 years and may be reappointed. In the event of the death, resignation or disability of ~~any a~~ member, the appointing authority may fill the vacancy for the unexpired term.

2. Chair. The commission, by a majority vote of its 8 members, shall select ~~a person~~ an individual who is a resident of the State to act as ~~chairman~~ chair. ~~In the event that~~ When 8 members of the commission by majority vote are unable to select a ~~chairman~~ chair within 120 days of the first meeting of the commission, the Governor ~~shall,~~ after consulting with the governors of the Penobscot Nation and the Passamaquoddy Tribe, shall appoint an interim ~~chairman~~ chair for a period of one year or for the period until such time as the commission selects a ~~chairman~~ chair in accordance with this section, whichever is shorter. In the event of the death, resignation or disability of the ~~chairman~~ chair, the commission may select, by a majority vote of its 8 remaining members, a new ~~chairman~~ chair. ~~In the event that~~ When the commission is unable to select a ~~chairman~~ chair within 120 days of the death, resignation or disability, the Governor ~~shall,~~ after consulting with the governors of the Penobscot Nation and the Passamaquoddy Tribe, shall appoint an interim ~~chairman~~ chair for a period of one year or for the period until such time as the commission selects a ~~chairman~~ chair in accordance with this section, whichever is shorter. The ~~chairman~~ chair ~~shall be~~ is a full-voting member of the commission and, except when appointed for an interim term, shall serve for 4 years.

3. Responsibilities. In addition to the responsibilities set forth in this Act, the commission shall

continually review the effectiveness of this Act and the social, economic and legal relationship between the Passamaquoddy Tribe and the Penobscot Nation and the State and shall make such reports and recommendations to the Legislature, the Passamaquoddy Tribe and the Penobscot Nation as it ~~deems~~ determines appropriate.

Seven members ~~shall~~ constitute a quorum of the commission and ~~no~~ a decision or action of the commission ~~shall be~~ is not valid unless 5 members vote in favor of ~~such~~ the action or decision.

4. Personnel, fees, expenses of commissioners.

The commission ~~shall have authority to may~~ employ ~~such~~ personnel as it ~~deems~~ considers necessary and desirable in order to effectively discharge its duties and responsibilities. ~~Such~~ These employees ~~shall~~ are not ~~be~~ subject to state personnel laws or rules.

The commission members ~~shall be paid~~ are entitled to receive \$75 per day for their services and ~~shall be reimbursed to reimbursement~~ for reasonable expenses, including travel.

5. Interagency cooperation. In order to facilitate the work of the commission, all other agencies of the State ~~are directed to~~ shall cooperate with the commission and ~~shall~~ make available to it without charge information and data relevant to the responsibilities of the commission.

6. Funding. The commission may receive and accept, from any source, allocations, appropriations, loans, grants and contributions of money or other things of value to be held, used or applied to carry out this chapter, subject to the conditions upon which the loans, grants and contributions may be made, including, but not limited to, appropriations, allocations, loans, grants or gifts from a private source, federal agency or governmental subdivision of the State or its agencies. Notwithstanding Title 5, chapter 149, upon receipt of a written request from the commission, the State Controller shall pay the commission's full state allotment for each fiscal year to meet the estimated annual disbursement requirements of the commission.

Sec. A-25. Effective date; certification.

That section of this Act that amends the Maine Revised Statutes, Title 30, section 6212, is not effective unless, within 60 days of the adjournment of the Legislature, the Secretary of State receives written certification by the governor and council of the Penobscot Nation and the Joint Tribal Council of the Passamaquoddy Tribe that the nation and tribe have agreed to the provisions of that section of this Act pursuant to 25 United States Code, Section 1725(e), copies of which must be submitted by the Secretary of State to the Secretary of the Senate and the Clerk of the House of Representatives; except that in no event

may that section of this Act become effective until 90 days after the adjournment of the Legislature.

Sec. A-26. 32 MRSA §§59-A, 60 and 60-A are enacted to read:

§59-A. Consumer information

The occupational and professional regulatory boards listed in Title 10, sections 8001 and 8001-A shall develop a publication that contains the information necessary to educate consumers of the regulated products and services. The publication must inform the consumer of the consumer's right to bring complaints to the attention of the board. The publication must contain the board's office location, mailing address and telephone number. The publication must inform citizens of the procedure by which complaints may be submitted.

Consumer information must be made available by the board to all practicing licensees in reasonable quantities at no charge. The publication must be placed in a conspicuous location in the public area of every office where the practice of the regulated profession is conducted and copies made readily available to consumers.

The occupational and professional regulatory boards shall adopt rules to address a violation of this provision, including establishing appropriate enforcement action.

The Commissioner of Professional and Financial Regulation shall notify all internal and affiliated boards about the requirements of this section.

§60. Standardized terms

Notwithstanding any other provision of law, by December 1996 the Governor shall adjust terms of appointment for members of all boards and commissions internal and affiliated with the Department of Professional and Financial Regulation to ensure that no more than 1/3 of the terms expire in the same year. An adjusted term is a full term.

Notwithstanding any other provision of law, upon expiration of a member's term, that member serves until a successor is appointed. The successor's term commences at the expiration of the preceding term, regardless of the date of appointment. A vacancy occurring prior to the expiration of a specified term must be filled by appointment of a similarly qualified individual as a replacement. The replacement member serves for the remainder of the unexpired term, regardless of the date of appointment.

§60-A. Consumer complaints of board procedure

Complaints received by an occupational and professional regulatory board regarding that board's administrative procedure must be filed by the board with the Department of the Attorney General.

Sec. A-27. 32 MRSA §61, as amended by PL 1991, c. 341, §§1 and 2, is further amended to read:

§61. Requirement for license

~~No~~ A medical care facility other than a hospital may not operate except under the supervision of a licensed administrator and ~~no person an individual~~ may not be an administrator of a medical care facility other than a hospital unless that ~~person individual~~ is the holder of a current administrator's license or a temporary permit issued pursuant to this chapter.

Sec. A-28. 32 MRSA §63-A, as amended by PL 1991, c. 341, §3, is further amended to read:

§63-A. Board established; membership and organization

1. Membership. The Nursing Home Administrators Licensing Board, as established by Title 5, section 12004-A, subsection 23, and referred to in this section as the "board," consists of ~~8~~ 7 members appointed by the Governor. The members must be citizens of the United States and residents of this State. ~~One member must be a hospital administrator with not less than 5 years of active practice in the State as a hospital administrator.~~ One member must be a registered nurse with not less than 5 years of active practice in nursing homes in the State. Two members must be representatives of the public. Three members must be administrators of nursing homes with not less than 5 years of active experience in the State. One member must be an administrator of an intermediate care facility for the mentally retarded with not less than 5 years of active practice in that capacity.

2. Terms. Appointments are for 3-year terms; ~~except that the terms of no more than 3 members may expire in any 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 consecutive full terms, provided that for this purpose only a period actually served which exceeds 1/2 of the 3 year term is considered a full term. Upon expiration of a member's term, that member shall serve until a successor is appointed and qualified. The successor's term is for 3 years from the date of expiration, regardless of the date of appointment. Any vacancy occurring prior to the expiration of the specified term must be filled by appointment for the unexpired term. Appointments of~~

members must comply with section 60. A member may be removed by the Governor for cause.

3. Meetings; chair; quorum. The board shall meet at least once a year to conduct its business and to elect a chair. Additional meetings must be held as necessary to conduct the business of the board; and may be convened at the call of the chair or ~~of~~ a majority of the board members. ~~Five members~~ A majority of the board constitute constitutes a quorum for all purposes.

4. Compensation. Members of the board are ~~compensated according~~ entitled to compensation in accordance with the provisions of Title 5, chapter 379.

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

6. Fees. All fees received by the board must be paid to the Treasurer of State to be used for carrying 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 fiscal years.

7. Reports; budget. ~~Not~~ No later than August 1st of each year, the board shall submit to the commissioner a report of its transactions of the preceding fiscal year ending June 30th; and shall transmit to the commissioner a complete statement of all receipts and expenditures of the board, attested by affidavit of its chair. The board shall submit to the commissioner its budgetary requirements in the same manner as provided in Title 5, section 1665.

Sec. A-29. 32 MRSA §63-B, sub-§§3 and 5, as enacted by PL 1985, c. 233, §6, are amended to read:

3. Temporary licenses. The board may by rule determine conditions and procedures by ~~which~~ that it may issue temporary licenses. Temporary licenses may be issued for periods of up to one year. ~~In no event may the~~ The total length of multiple temporary licenses may not extend beyond one year.

5. Application, examination and license fees. An application and an examination fee may be established by the board in amounts ~~which~~ that are reasonable and necessary for ~~their~~ the board's respective purposes. The board shall establish a license fee, temporary license fee and annual license renewal fee. The board may, by rule, provide for the waiver of part

of the fee for an initial license if it is issued for less than 1/2 year.

Sec. A-30. 32 MRSA §63-B, sub-§6, as amended by PL 1991, c. 341, §4, is further amended to read:

6. 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 determined necessary to the fulfillment of its responsibilities under this chapter. The board may 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~~ an individual 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 the application, the reason for the denial and the applicant's right to request a hearing. Hearings must 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. A-31. 32 MRSA §63-B, sub-§8, as enacted by PL 1985, c. 233, §6, is amended to read:

8. Exception. ~~Nothing in this~~ This chapter or the rules under this chapter may not be construed to require an applicant for a license as a nursing home administrator who is certified by a recognized church or religious denomination ~~which that~~ teaches reliance on spiritual means alone for healing as having been approved to administer institutions certified by that church or denomination for the care and treatment of the sick in accordance with its teachings to demonstrate proficiency in ~~any~~ medical techniques or to meet ~~any~~ medical educational qualifications or medical standards not in accord with the remedial care and treatment provided in those institutions. ~~Any person~~ An individual licensed under this exception may act as an administrator only in those institutions described in this subsection.

Sec. A-32. 32 MRSA §64-A, as amended by PL 1991, c. 341, §5, is further amended to read:

§64-A. Disciplinary actions

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

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

If, in the opinion of the board, the factual basis of the complaint is or may be true; and ~~it~~ the complaint is of sufficient gravity to warrant further action, the board may request an informal conference with the licensee. The board shall provide the licensee with adequate notice of the conference and of the issues to be discussed. The conference ~~shall~~ must be conducted in executive session of the board, pursuant to Title 1, section 405, unless otherwise requested by the licensee. Statements made at the conference may not be introduced at a subsequent formal hearing unless all parties consent.

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

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

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

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

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

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

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

B. Habitual ~~intemperance in the use of alcohol or the habitual use of narcotic or hypnotic or other substances the use of which substance~~ abuse that has resulted or ~~may be~~ may be ~~foreseeably likely to result in the licensee performing assigned duties services in a manner which that~~ endangers the health or safety of patients;

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

D. Aiding or abetting the practice of administration of a medical care facility by a ~~person~~ an individual who is not duly licensed under this chapter and who ~~purports himself claims~~ claims to be ~~so~~ legally licensed;

E. Incompetence in the practice for which that ~~person~~ individual is licensed. A licensee is considered incompetent in the practice if the licensee has:

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

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

F. Unprofessional conduct. A licensee is considered to have engaged in unprofessional conduct if that ~~person~~ licensee violates ~~any~~ a standard of professional behavior ~~which that~~ has been established in the practice for which the licensee is licensed;

G. Subject to the limitations of Title 5, chapter 341, conviction of a crime ~~which that~~ involves dishonesty or false statement or ~~which~~ relates directly to the practice for which the licensee is licensed, or conviction of ~~any~~ a crime for which

incarceration for one year or more may be imposed;

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

I. Engaging in false, misleading or deceptive advertising.

Sec. A-33. 32 MRSA §65, as enacted by PL 1985, c. 233, §6, is amended to read:

§65. License renewal

All licenses issued under this chapter, except temporary licenses, expire annually on a date established by the commissioner and become invalid if not renewed. Every ~~person~~ individual licensed under this chapter shall ~~pay~~, on or before the expiration date, ~~pay~~ a fee for renewal of license to the board. The board shall notify ~~every person each individual~~ licensed under this chapter of the date of expiration of ~~his~~ that individual's license and the amount of fee required for its renewal for a one-year period. The notice shall ~~must~~ be mailed to the ~~person's individual's~~ last known address at least 30 days ~~in advance of~~ before the expiration of the license. Renewals are contingent upon evidence of participation in continuing professional education. 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~~ An individual who submits an application for renewal more than 90 days after the license expiration date ~~shall be~~ is subject to all requirements governing new applicants under this chapter, except that the board may, in its discretion, ~~and~~ giving due consideration to the protection of the public, waive examination if that renewal application is made within 2 years from the date of the expiration.

Sec. A-34. 32 MRSA §66, as repealed and replaced by PL 1991, c. 341, §6, is amended to read:

§66. Enforcement

1. Injunction. The State may bring an action in Superior Court to enjoin ~~any person~~ an individual 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.

2. Criminal penalty. ~~Any person~~ An individual who operates a medical care facility other than a hospital without holding a current license as an administrator or a temporary permit issued pursuant to this chapter commits a Class E crime.

Sec. A-35. 32 MRSA §90-A, sub-§3, as amended by PL 1991, c. 588, §19, is further amended to read:

3. Informal conference. If, in the opinion of the board, the factual basis of the complaint is or may be true and the complaint is of sufficient gravity to warrant further action, the board or staff may request an informal conference with the licensee. The board shall provide the licensee with adequate notice of the conference and of the issues to be discussed. The conference must be conducted in executive session of the board, subcommittee or staff, pursuant to Title 1, section 405, unless otherwise requested by the licensee. Statements made at the conference may not be introduced at ~~any~~ a subsequent formal administrative or judicial hearing unless all parties consent. The licensee may, without prejudice, refuse to participate in an informal conference if the licensee prefers to immediately hold a formal hearing. If the licensee participates in the informal conference, the licensee waives the right to object to ~~any~~ a participant at the hearing who participated at the informal conference.

Sec. A-36. 32 MRSA §90-A, sub-§5, ¶B, as amended by PL 1991, c. 588, §19, is further amended to read:

B. ~~Habitual intemperance in the use of alcohol or narcotic, hypnotic or other substances substance abuse that has impaired resulted or is foreseeably likely to impair the licensee's performance and endanger result in the licensee performing services in a manner that endangers the health or safety of the licensee's patients;~~

Sec. A-37. 32 MRSA §211, last ¶, as amended by PL 1991, c. 396, §4, is further amended to read:

~~Appointments are 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. A person is not eligible to serve more than 3 full consecutive terms. A period actually served that exceeds 1/2 of the 3 year term is deemed a full term. Upon expiration of a member's term, the member serves until the member's successor is qualified and appointed. The successor's term is for 3 years from the date of the expiration, regardless of the date of the successor's appointment. Any vacancy must be filled by appointment for the unexpired term. Appointments of members must comply with section 60. A member may be removed by the Governor for cause.~~

Sec. A-38. 32 MRSA §271, 2nd ¶, as repealed and replaced by PL 1985, c. 748, §30, is amended to read:

~~Appointments shall must be made by the Governor 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. Appointments of members must comply with section 60. A board member may be removed by the Governor for cause.~~

Sec. A-39. 32 MRSA §452 is amended to read:

§452. Application of laws regarding reporting contagious diseases and deaths

~~All laws, and rules and regulations now in force in this State or which shall hereafter be enacted for the purpose of regulating the reporting of contagious diseases and deaths to the proper authorities, and to which the registered licensed practitioner of medicine is subject, shall apply equally to the practitioner of chiropractic.~~

Sec. A-40. 32 MRSA §453, as amended by PL 1991, c. 178, §1, is further amended to read:

§453. Legally licensed practitioners of other schools or professions not affected

~~Nothing in this This chapter may not be construed to; restrain or restrict legally licensed physicians, surgeons, dentists, osteopaths, physical therapists or nurses in the practice of their professions; nor does this chapter apply to masseurs in their particular sphere of labor who publicly represent themselves as such masseurs; nor apply to any a commissioned medical officer in the United States Army or Public Health Service in the performance of their duties as such; nor to or prohibit gratuitous service or the rendering of assistance to emergency cases.~~

Sec. A-41. 32 MRSA §454, as amended by PL 1991, c. 392, §1, is further amended to read:

§454. Practicing without license; fraudulent licenses

~~Any person An individual who practices or attempts to practice or use the science or system of chiropractic in treating diseases of the human body; or any person; an individual who buys, sells or fraudulently obtains any a diploma, license, or record or registration to practice chiropractic, or who aids or abets in that selling or fraudulent obtaining; or ; an individual who practices chiropractic, under cover of any a diploma, license, or record or registration to practice chiropractic, illegally obtained, or signed or issued unlawfully or under fraudulent representations;~~

or an individual who, after conviction of felony, practices chiropractic, or who 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 that~~ induce the belief that the ~~person~~ individual who uses those terms is engaged in the practice of chiropractic, without having complied with this chapter, commits a Class E crime. ~~Nothing in this~~ This section may ~~not~~ be construed to prohibit ~~any~~ a lawfully qualified chiropractor in any other state meeting with a ~~registered~~ licensed chiropractic practitioner in this State for consultation.

Sec. A-42. 32 MRSA c. 9, sub-c. II, first 3 lines are repealed and the following enacted in their place:

SUBCHAPTER II

BOARD OF CHIROPRACTIC LICENSURE

Sec. A-43. 32 MRSA §501, as amended by PL 1991, c. 392, §2, is further amended to read:

§501. Membership; qualifications; term; removal

The Board of Chiropractic ~~Examination and Registration~~ Licensure, as established by Title 5, section 12004-A, subsection 8, and in this chapter called the "board," consists of 7 ~~persons~~ individuals appointed by the Governor. These ~~persons~~ individuals must be residents of this State, 5 must be graduates of a legally chartered chiropractic school, college or university having the power to confer degrees in chiropractic and 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. Two members must be representatives of the public. Each appointment is for ~~the a~~ a period of 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 the board caused by death, resignation or for any other cause, except completion of a full term of service, must be filled by the like appointment of a person qualified to hold office during the unexpired term of the member whose place that person fills. Appointments of members must comply with section 60. Any~~ A member of the board may be removed from office for cause by the Governor. ~~Compensation of members~~ Members of the board ~~is~~ are entitled to compensation in accordance with the provisions of Title 5, chapter 379.

Sec. A-44. 32 MRSA §502, sub-§4, as repealed and replaced by PL 1977, c. 458, §2, is amended to read:

4. Advertising. Advertising in a false, misleading or deceptive manner. ~~Any regulations promulgated~~ A rule adopted pursuant to this section on advertising ~~shall~~ may not be inconsistent with ~~any regulations promulgated~~ a rule adopted pursuant to Title 5, section 207, subsection 2; or

Sec. A-45. 32 MRSA §502, sub-§5, as enacted by PL 1973, c. 405, §3, is amended to read:

5. Fee splitting. The splitting or dividing of ~~any~~ a fee with ~~any person~~ an individual who is not an associate licensed as a chiropractor.

Sec. A-46. 32 MRSA §503-A, as amended by PL 1991, c. 392, §4, is further amended to read:

§503-A. Disciplinary actions

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

The board shall notify the licensee of the content of a complaint filed against the licensee as soon as possible. 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.

If, in the opinion of the board, the factual basis of the complaint is or may be true, and ~~it~~ the complaint is of sufficient gravity to warrant further action, the board may request an informal conference with the licensee. The board shall provide the licensee with adequate notice of the conference and of the issues to be discussed. The conference ~~shall~~ must be conducted in executive session of the board, pursuant to Title 1, section 405, unless otherwise requested by the licensee. Statements made at the conference may not be introduced at a subsequent formal hearing unless all parties consent.

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

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

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

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

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

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

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

B. ~~Habitual intemperance in the use of alcohol or the habitual use of narcotic or hypnotic or other substances the use of which substance~~ abuse that has resulted or ~~may is~~ foreseeably likely to result in the licensee performing ~~his~~ duties services in a manner ~~which that~~ endangers the health or safety of ~~his~~ patients;

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

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

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

(1) Engaged in conduct ~~which that~~ evidences a lack of ability or fitness to dis-

charge the duty owed by the licensee to a client or patient or the general public; or

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

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

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

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

I. Engaging in false, misleading or deceptive advertising.

Sec. A-47. 32 MRSA §506, as amended by PL 1991, c. 392, §5, is further amended to read:

§506. Budget

The board shall submit to the Commissioner of Professional and Financial 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.

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~~ Employees must be located in the department and ~~shall act~~ shall act under the administrative and supervisory direction of the commissioner.

All licenses expire biennially, beginning on December 31, 1992 or at ~~such~~ any other time as the commissioner designates.

Sec. A-48. 32 MRSA §551, as amended by PL 1991, c. 392, §7, is further amended to read:

§551. Examination and licensure

~~Any person~~ An individual, before engaging in the practice of chiropractic in this State, shall make application for a license to practice chiropractic to the

board on a form prescribed by the board. The application must be filed with the clerk of the board at least 30 days before the date of examination, together with 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. A candidate for licensure ~~is required to~~ shall present a transcript from an accredited college or university certifying that 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 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 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, the diploma 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 if no such accrediting 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, the diploma 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.~~ Each applicant must present a certificate of good moral character signed by a reputable ~~person~~ individual and ~~such any~~ other reasonable and proper facts as the board may require in its application form.

Sec. A-49. 32 MRSA §552, as amended by PL 1991, c. 392, §8, 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 that demonstrates~~ qualifications for the practice of chiropractic. The examination 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 any~~ other subjects as the board determines necessary. If the examination is passed in a manner satisfactory to the board, ~~then~~ the board shall issue to the applicant a license granting that ~~person~~ individual the right to practice chiropractic in this State.

~~Any person,~~ An individual licensed by a chiropractic board of any other state or territory having a standard equal to that of ~~the this~~ State, may be licensed without examination upon the payment of a fee of \$225, and submission of a chiropractic diploma and proof of licensure in ~~such that~~ other state. The board may, in its discretion, require an examination of ~~any such~~ the applicant.

Sec. A-50. 32 MRSA §553-A, sub-§1, as enacted by PL 1991, c. 392, §10, is amended to read:

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~~ before 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~~ An individual 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, and 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.

Sec. A-51. 32 MRSA §554, as amended by PL 1991, c. 392, §11, is further amended to read:

§554. Display of license; rights

When the board grants to ~~a person~~ an individual the license mentioned in section 552, the license must designate the holder as a doctor of chiropractic or a chiropractor and must be publicly displayed at the ~~person's individual's~~ principal place of business so long as that ~~person individual~~ continues to practice chiropractic for gain or hire. The license entitles the ~~person individual~~ to whom it is granted to practice chiropractic ~~in any county~~ in this State, in all of its branches, ~~but it does not authorize its holder to practice of discipline, except obstetrics,~~ so far as the same relates to parturition, ~~nor to administer, the administering of drugs nor perform and the performance of~~ surgical operations with the use of instruments, except as ~~now~~ allowed by statute law. ~~Nothing in this~~ This section may not be construed to prohibit ~~any a~~

legally licensed doctor of chiropractic in this State from practicing surgery after having passed a satisfactory examination ~~therein~~ before the State Board of Registration Licensure in Medicine.

Sec. A-52. 32 MRSA §§555, 556 and 558, as enacted by PL 1991, c. 884, §1, are amended to read:

§555. Assistants

This chapter does not prohibit an individual from rendering ancillary diagnostic or therapeutic services as used in chiropractic practice, other than the adjustive or manipulative techniques, if those services are rendered under the supervision and control of a licensed chiropractor as long as that ~~person~~ individual has successfully completed a training program recognized by the board. "Supervision and control" may not be construed as requiring the personal presence of the supervising and controlling chiropractor at the place where those services are rendered, unless physical presence is necessary to provide patient care of the same quality as provided by the chiropractor. This chapter does not prohibit a chiropractor from delegating to an employee certain activities relating to the care and treatment being performed by custom and usage when those activities are under the direct control of and in the ~~person~~ presence of the chiropractor. The chiropractor delegating those activities, ~~either~~ to an employee, to a program graduate or to a participant in an approved training program, is legally liable for those activities performed by such ~~a person~~ an individual and that ~~person~~ individual is ~~deemed~~ considered to be the chiropractor's agent.

§556. Certificates

An individual may not render ~~any~~ ancillary services under section 555 until that ~~person~~ individual has applied for and obtained a certificate of qualification or a temporary certificate issued by the board ~~and a certificate of registration that, which~~ must be renewed biennially. The board shall adopt rules regarding the training and certification of individuals permitted to render ~~any~~ ancillary services under section 555.

§558. Fees

The board shall establish by rule an application fee not to exceed \$25 and a biennial ~~registration~~ certification renewal fee not to exceed \$50.

Sec. A-53. 32 MRSA §1061, sub-§2, as enacted by PL 1981, c. 440, §1, is amended to read:

2. Failure; fee. For failure to comply with this section, a ~~person~~ licensee is subject to a fee imposed

by the board of not more than \$25, ~~to be imposed by the board.~~

Sec. A-54. 32 MRSA §1062, as amended by PL 1973, c. 303, §3, is repealed.

Sec. A-55. 32 MRSA §1062-A is enacted to read:

§1062-A. Penalties; injunction

1. Penalties. A person who practices or falsely claims legal authority to practice dentistry, dental hygiene, denture technology (denturism) or dental radiography in this State without first obtaining a license as required by this chapter, or after the license has expired, has been suspended or revoked or has been temporarily suspended or revoked, commits a Class E crime.

2. Injunction. The State may bring an action in Superior Court to enjoin a person for 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. A-56. 32 MRSA §1071, as amended by PL 1989, c. 152, §2, is further amended to read:

§1071. Membership; appointment; vacancies; removal; nominations; compensation

The Board of Dental Examiners, established by Title 5, section 12004-A, subsection 10, and in this chapter called the "board," ~~shall consist~~ consists of 7 members, appointed by the Governor as follows: five members of the dental profession, one dental hygienist and one representative of the public.

1. Membership. ~~No~~ A person is ~~not~~ not eligible for appointment to the board who has been convicted of a violation of ~~any~~ of the provisions of this or any other prior dental practice act, or who has been convicted of a crime punishable by more than one year's imprisonment. ~~No~~ A person is ~~not~~ not eligible for appointment to the board who has served 10 years or more on a dental examining board in this State. ~~Any vacancy on the board shall be filled by the appointment of a person qualified under this section to hold office during the unexpired term of the member whose place is to be filled or, in the case of a public member, by appointment of another public member~~ Appointment of members must comply with section 60. The Governor may remove ~~any~~ a member of the board on proven charges of inefficiency, incompetence, immorality or unprofessional conduct.

2. Dentists. The Governor may accept nominations from the Maine Dental Association and from other organizations and individuals.

Members of the dental profession must hold a valid dental license and must have been in the actual practice of dentistry in this State for at least 10 years immediately preceding the appointment. ~~One dentist shall be appointed annually, as the terms of present members expire, to hold office for 5 years from the first day of January and until a successor is appointed. The term for a member who is a dentist is 5 years. No A dentist is not eligible to serve as a member of the board while employing a dental hygienist whom the dentist employs is serving as who is a member of the board.~~

3. Dental hygienist. The dental hygienist must be qualified pursuant to subchapter IV, ~~must be a legal resident of the State and must have been in practice practiced in the State for at least 3 6 years immediately preceding appointment. The dental hygienist member of the board shall be is a full voting full-voting member of the board. The term of the dental hygienist is 4 5 years, except that the member shall serve until a successor is appointed. The Governor shall consult with may accept nominations from the Maine Dental Hygienists Association and from other organizations and individuals prior to before the appointment of a hygienist to the board. No A dental hygienist is not eligible to serve as a member of the board while employed by a dentist who is a member of the board.~~

4. Public member. The public member ~~shall be is~~ appointed to a 5-year term ~~and shall serve until a successor is appointed.~~

5. Compensation. The members of the board ~~shall each be compensated~~ are entitled to compensation according to the provisions of Title 5, chapter 379. Expenses of the board ~~shall members must~~ be certified by the secretary of the board.

Sec. A-57. 32 MRSA §1072, as amended by PL 1989, c. 152, §3, is repealed and the following enacted in its place:

§1072. Elections; quorum; reports; records; treasurer; expenses

At its annual meeting, the board shall elect from among its members a president, a vice-president and a secretary-treasurer. Five members constitute a quorum. The board shall have a common seal. At a time and place to be fixed by the board, the board shall hold at least one regular meeting each year and special meetings as necessary. The board may recognize nationally or regionally administered examinations given at least annually for applicants to practice dentistry in the State. The board may make rules, not contrary to law, necessary for the performance of its duties. On or before August 1st, the board shall annually make a report of its proceedings to the

Commissioner of Professional and Financial Regulation. The secretary-treasurer of the board shall keep records of all proceedings of the board and be the custodian of these records. Records that constitute and are recognized as the official records of the board must be open for public inspection at reasonable times.

The secretary-treasurer of the board shall collect all fees, charges and assessments payable to the board and account for and pay them according to law. The secretary-treasurer is entitled to receive an annual salary, to be fixed by the board, in lieu of per diem compensation. The secretary-treasurer is entitled to necessary expenses incurred in the discharge of official duties, including clerical and stenographic assistance, printing and postage. The allowance for expenses must be certified by the president of the board.

Sec. A-58. 32 MRSA §1073, sub-§1, as repealed and replaced by PL 1983, c. 378, §6, is amended to read:

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

Sec. A-59. 32 MRSA §1073, sub-§2, as repealed and replaced by PL 1989, c. 90, §1, is amended to read:

2. Rules. Adopt rules in accordance with the Maine Administrative Procedure Act, ~~Title 5, chapter 375, which that~~ are necessary for the implementation of this chapter. The rules may include, but need not be limited to, requirements for licensure, interviews for licensing and renewal, continuing education, inactive licensure status, ~~and~~ use of general anesthesia and fees for providing a list of addresses of licensed professionals upon request; ~~and~~

Sec. A-60. 32 MRSA §1074, as enacted by PL 1967, c. 544, §80, is amended to read:

§1074. Affiliation with American Association of Dental Examiners

The board may affiliate with the American Association of Dental Examiners as an active member and pay regular dues to ~~said that~~ association and may send one or more delegates to the meetings of the ~~said~~ American Association of Dental Examiners. ~~Such~~ These delegates shall are entitled to receive compensation provided for in section 1071.

Sec. A-61. 32 MRSA §1075, as amended by PL 1985, c. 748, §42, is further amended to read:

§1075. Liaison; limitations

On or before August 1st of each year, the board shall submit to the Commissioner of Professional and Financial 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~~ considers essential.

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

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

Sec. A-62. 32 MRSA §1077, as enacted by PL 1983, c. 378, §7, is amended to read:

§1077. Disciplinary actions

1. Disciplinary proceedings and sanctions. ~~The~~ Regarding noncompliance with or violation of this chapter or of rules adopted by the board, 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 from~~ receipt of this information. The licensee shall respond within 30 days. If the licensee's response to the complaint satisfies the board that the complaint does not merit further investigation or action, the matter may be dismissed, with notice of the dismissal to the complainant, if any.

If, in the opinion of the board, the factual basis of the complaint is or may be true, and ~~if the complaint~~ is of sufficient gravity to warrant further action, the board may request an informal conference with the licensee. The board shall provide the licensee with adequate notice of the conference and of the issues to be discussed. The conference ~~shall~~ must be conducted in executive session of the board, pursuant to Title 1, section 405, unless otherwise requested by the licensee. Statements made at the conference may not be introduced at a subsequent formal hearing unless all parties consent.

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

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

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

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

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

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

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

B. Habitual ~~intemperance in the use of alcohol or the habitual use of narcotic or hypnotic or other substances the use of which~~ substance abuse that has resulted or may be foreseeably likely to result in the licensee performing his duties services in a manner which that endangers the health or safety of his patients;

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

D. Aiding or abetting the practice of a dental profession by ~~a person~~ an individual who is not

duly licensed under this chapter and who ~~represents himself~~ claims to be ~~so~~ legally licensed;

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

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

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

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

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

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

I. Engaging in false, misleading or deceptive advertising.

Sec. A-63. 32 MRSA §1081, as amended by PL 1987, c. 402, Pt. A, §167, is further amended to read:

§1081. Definitions; persons excepted

1. Practicing dentistry. ~~Any A person shall be deemed is considered~~ Any A person shall be deemed is considered to be practicing dentistry ~~who~~ when that person performs, or attempts or professes to perform, ~~any a~~ a dental operation or oral surgery or dental service of any kind, gratuitously or for a salary, fee, money or other remuneration paid, or to be paid, directly or indirectly, to ~~himself the person~~ himself the person or to any other person or agency who is a proprietor of a place where dental operations, oral surgery or dental services are performed; ~~or.~~ A person who directly or indirectly, by any means or method, takes impressions of ~~the a~~ a human tooth, teeth, jaws or performs ~~any a~~ a phase of ~~any an~~ an operation incident to the replacement of a part of a tooth; or supplies artificial substitutes

for the natural teeth, or who furnishes, supplies, constructs, reproduces or repairs ~~any a~~ a prosthetic denture, bridge, appliance or any other structure to be worn in the human mouth, except on the written prescription of a duly licensed ~~and registered~~ dentist; or who places ~~such appliance or structure~~ dental appliances or structures in the human mouth, or adjusts or attempts or professes to adjust the same, or delivers the same to ~~any a~~ a person other than the dentist upon whose prescription the work was performed; or who professes to the public by any method to furnish, supply, construct, reproduce or repair ~~any a~~ a prosthetic denture, bridge, appliance or other structure to be worn in the human mouth, or who diagnoses or professes to diagnose, prescribes for or professes to prescribe for, treats or professes to treat, disease, pain, deformity, deficiency, injury or physical condition of the human teeth or jaws or adjacent structure, or who extracts or attempts to extract human teeth, or corrects or attempts to correct malformations of teeth or of the jaws; ~~or is also considered to be practicing dentistry.~~ A person who repairs or fills cavities in the human teeth; or who diagnoses, makes and adjusts appliances to artificial casts or malposed teeth for treatment of the malposed teeth in the human mouth, with or without instruction; or who uses ~~a roentgen or an~~ a x-ray machine for the purpose of taking dental x rays ~~or roentgenograms~~, or who gives or professes to give interpretations or readings of dental x rays ~~or roentgenograms~~; or who administers an anaesthetic of any nature in connection with a dental operation; or who uses the words dentist, dental surgeon, oral surgeon or the letters D.D.S., D.M.D. or any other words, letters, title or descriptive matter ~~which that~~ which that in any way represents ~~him that~~ him that person as being able to diagnose, treat, prescribe or operate for ~~any a~~ a disease, pain, deformity, deficiency, injury or physical condition of the teeth or jaws or adjacent structures; or who states, or professes or permits to be stated or professed by any means or method whatsoever that ~~he or she the person~~ the person can perform or will attempt to perform dental operations or render a diagnosis connected ~~therewith~~ with dental operations is also considered to be practicing dentistry.

2. Exemptions. Nothing in this chapter ~~shall apply applies~~ applies to the following practices, acts and operations:

A. The practice of ~~his the~~ the profession by a licensed physician or surgeon ~~licensed as such~~ licensed as such under the laws of this State, unless ~~he that person~~ that person practices dentistry as a specialty;

B. The giving by a qualified ~~anaesthetist anes-~~ anaesthetist anes- ~~thetist or registered nurse anesthetist~~ thetist or registered nurse anesthetist of an ~~an-~~ an- ~~aesthetic anesthetic~~ aesthetic anesthetic for a dental operation; the giving by a certified registered nurse of an anes-

thetic for a dental operation under the direct supervision of either a licensed dentist who holds a valid anesthesia permit or a licensed physician; and the removing of sutures, the dressing of wounds, the application of dressings and bandages and the injection of drugs subcutaneously or intravenously by a certified registered nurse under the direct supervision of a licensed dentist or physician;

C. The practice of dentistry in the discharge of their official duties by graduate dentists or dental surgeons in the United States Army, Navy, Public Health Service, Coast Guard or Veterans Bureau;

D. The practice of dentistry by a licensed dentist of other states or countries at meetings of the Maine State Dental Association or ~~components thereof~~ its affiliates or other like dental organizations approved by the board, while appearing as clinicians;

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

G. ~~Impressions taken~~ The taking of impressions by dental hygienists or dental assistants for study purposes only.

3. Proprietor. The term proprietor, as used in this chapter, ~~shall be deemed to include any~~ includes a person who:

A. Employs dentists or dental hygienists or other dental auxiliaries in the operation of a dental office; ~~or~~

B. Places in possession of a dentist or a dental hygienist or other dental ~~auxiliaries~~ auxiliary or other agent ~~such~~ dental material or equipment as that may be necessary for the management of a dental office on the basis of a lease or any other agreement for compensation for the use of such that material, equipment or offices office; or

C. Retains the ownership or control of dental equipment or material or a dental office and makes the same available in any manner for the

use by dentists or dental hygienists or other agents, ~~provided except~~ that nothing in this subsection ~~may apply~~ applies to bona fide sales of dental equipment or material secured by a chattel mortgage or retain title agreement. A person licensed to practice dentistry ~~shall may~~ not enter into ~~any of these~~ arrangements with a person who is not licensed to practice dentistry.

4. Corporations; names. ~~No~~ A corporation ~~shall may not~~ practice, offer or undertake to practice or hold itself out as practicing dentistry. Every person practicing dentistry as an employee of another shall cause ~~his~~ that person's name to be conspicuously displayed and kept in a conspicuous place at the entrance of the place where ~~such the~~ practice is conducted. This subsection ~~shall does~~ not prohibit a licensed dentist from practicing dentistry as an employee of another licensed dentist in this State, as an employee of a nonprofit corporation, as an employee of ~~any~~ a state hospital or state institution where ~~his~~ the only remuneration is from the State or from ~~any~~ a corporation ~~which that~~ provides dental service for its employees at no profit to the corporation. This subsection ~~shall does~~ not prohibit the practice of dentists who have incorporated their practices as permitted by Title 13, chapter 22.

5. Dentist of record; office manager. Each patient ~~shall in a multidentist practice must~~ be provided with a dentist of record. The patient entering a ~~multi-dentist multidentist~~ practice, at the onset of treatment, ~~shall must~~ be informed as to the identity of the patient's dentist of record. The identity ~~shall must~~ at least consist of the name and telephone number.

Each office established or maintained in this State for the practice of dentistry by a person or persons subject to this chapter ~~shall be registered and shall must~~ be under the direct general supervision of a ~~resident manager, who may be either a principal or staff employee holding a permit under section 1084 or 1085 which is in full force and effect~~ licensed dentist.

Sec. A-64. 32 MRSA §1082, as amended by PL 1983, c. 378, §11, is further amended to read:

§1082. Qualifications

Before receiving a ~~certificate~~ license to practice dentistry in this State, a person ~~shall must~~ be at least 18 years of age and ~~shall must~~ be a graduate of or have a diploma from ~~an acceptable~~ a dental college, school or dental department of a university accredited by an agency approved by the board.

Sec. A-65. 32 MRSA §1083, as amended by PL 1981, c. 440, §§4 and 5, is further amended to read:

§1083. Application for examination; subjects; reexamination

~~Not less than 10 days prior to the date upon which an examination is held, each applicant for a certificate to practice dentistry shall file an application for examination, pay to the secretary of the board a fee of \$100 and present himself for examination at the first regular meeting of the board after such application is filed. Such fee may be refunded to the applicant by the board for good cause shown. The examination may be clinical or theoretical, or both. The theoretical examination may be written or oral, or both, at the option of said board, and may include such subjects as the board may deem appropriate. The board may at its discretion recognize the results of any an examination given by the National Board of Dental Examiners or any an accredited clinical testing agency approved by the board in lieu of or in addition to such the examination or examinations as that it may require. The board may require as part of the examination a clinical demonstration of the candidate's skill in dentistry. An applicant who fails to pass the first examination to the satisfaction of the board shall be is entitled to one reexamination with a charge of \$50 and the fee for any subsequent examination shall be \$100. Applicants for licensure shall pay a fee set by the board for the examination.~~

Sec. A-66. 32 MRSA §1084, as amended by PL 1981, c. 440, §§6 and 7, is further amended to read:

§1084. Licenses; fees

The board shall issue under its seal, to ~~all persons~~ any person who ~~shall successfully pass said examination, its certificate of ability meets all licensure requirements a license to practice dentistry in this State, signed by its president and secretary the members of the board. Whenever requested by a member or authorized agent of the board, a~~ A dentist shall publicly exhibit his certificate the dentist's license. The certificate shall be license is prima facie evidence of authority to practice dentistry in this State, except that it shall be is unlawful for any a person to practice dentistry in this State in any year after the year in which said certificate is issued to that person, after the expiration date that appears on the license unless; the practitioner shall pay pays to the secretary of the board on or before January 1st of even-numbered years a fee of not more than \$100 \$200 to be determined by the board, for which the practitioner shall receive a registration card, which card shall be placed beside or attached to the certificate and meets other conditions that the board may require. Upon receipt of the required fee, the board shall issue a renewal of the practitioner's license, which the practitioner shall place beside or attach to the practitioner's initial license. Practitioners who

~~have not paid as provided shall and who otherwise qualify for renewal may be reinstated upon payment of a fee to be determined by the board of not more than \$50 \$100 if paid before February 1st. A license to practice is automatically suspended on February 1st for nonpayment of registration the license renewal fee and may be reinstated, if approved by the board, on payment of a fee to be determined by the board, of not more than \$100 \$200. New applicants A new applicant having paid the examination application fee shall pay either the biennial registration licensure fee, if they register the applicant applies on an even-numbered year, or half the biennial registration licensure fee if they register the applicant applies in an odd-numbered year.~~

Sec. A-67. 32 MRSA §1084-A, as enacted by PL 1989, c. 90, §2, is amended to read:

§1084-A. Continuing education

As a condition of renewal of a ~~certificate license~~ license to practice, a practitioner shall dentist must provide evidence of having successfully completed 40 hours of continuing education during the 2 years prior to application for renewal. To ~~qualify as meeting meet~~ meet this requirement, the education must relate to professional competency and relate to those aspects of the profession in which the practitioner is currently engaged. The board shall specify the desired content of the program of continuing education, establish criteria for approving providers of continuing education and approve those providers. The board shall specify the criteria for successful completion of a continuing education requirement. All actions by the board in the implementation of this program ~~shall must be by rule and shall follow the provisions of the Maine Administrative Procedure Act, Title 5, chapter 375.~~

The board may indicate to an individual practitioner specific subject areas on which that practitioner's continuing education is to focus in the future. Providers ~~shall be are~~ are required to obtain and retain for 3 years a written course assessment from each student, which ~~shall must~~ must be reviewed periodically by the board.

Sec. A-68. 32 MRSA §1085, as amended by PL 1981, c. 440, §8, is further amended to read:

§1085. Endorsement; fees

The board is authorized, at its discretion, without the examination as provided, to issue ~~its certificate a license to any an applicant therefor who shall furnish furnishes~~ proof, satisfactory to the board, that he the applicant has been duly licensed to practice dentistry in another state after full compliance with the requirements of its dental laws. If an applicant is

licensed to practice dentistry in ~~said other another~~ state ~~after the first day of January, 1913, his that~~ applicant's professional education ~~shall may~~ not be less than is required in this State; and ~~such the~~ applicant ~~shall must~~ have been at least 5 years in actual practice in the state in which ~~said the~~ license was granted. Every license ~~so given shall of this type~~ issued by the board ~~must~~ state upon its face the grounds upon which it is ~~granted, issued~~ and the applicant may be required to furnish ~~his~~ proof upon affidavit. The fee for ~~such the~~ license ~~shall be~~ is determined by the board, but ~~may not be~~ more than ~~\$150~~ \$300.

Sec. A-69. 32 MRSA §1086, as repealed and replaced by PL 1977, c. 694, §560, is amended to read:

§1086. Permits for internship

The board ~~shall have~~ has the authority, upon presentation of satisfactory credentials under the rules ~~and regulations~~ as the board may prescribe, to issue permits to a graduate of an approved dental school or college who has not been licensed ~~or registered~~ to practice dentistry in this State, who has ~~not failed to pass~~ passed an examination for licensure in this State and who, in the board's judgment, has not violated ~~any a~~ provision of this chapter or rules ~~promulgated adopted~~ by the board; to serve as a dental intern in a licensed hospital, providing the hospital maintains a dental staff ~~or of~~ at least one licensed dentist. Permits ~~shall~~ expire at the end of one month and may be renewed by the board. The intern ~~shall function~~ functions under the supervision and direction of the dental staff of the hospital, and ~~his the intern's~~ work ~~shall be~~ is limited to patients admitted to the hospital. The intern ~~shall is not eligible to~~ receive ~~no a~~ fee or compensation in addition to the salary or other remuneration ~~he receives~~ received from the hospital.

~~Special permits shall~~ A special permit may be issued by the board to ~~dentists of good standing and morality a licensed dentist~~ practicing outside this State when the request for the ~~dentists dentist~~ comes from a charitable or social organization within the State and when the purpose for that permit is to provide free dental care for the public when no resident dental service is ~~not~~ available. The board may provide an expiration date for ~~any a~~ permit issued ~~provided no, except that a permit shall be good may not be valid~~ for more than one year.

The board ~~shall have~~ has the authority, upon presentation of satisfactory proof of academic affiliation and good academic standing, and providing, in the board's ~~judgement~~ judgment, ~~no a~~ violation or ~~any~~ provision of this chapter or of the board's rules has ~~not~~ occurred, to issue a permit to a bona fide dental student of a school or university acceptable to the

board, after the completion of satisfactory training to perform limited dental service in institutional and public health service programs within the State, commensurate with ~~his the student's~~ level of training under the supervision and control of a licensed dentist or a teaching school ~~in institutional and public health service programs within the State~~. The board ~~shall must~~, prior to the issuance of this permit, determine that the supervision and control of the services to be performed by the student are adequate and that the performance of these services by the student ~~will~~ add to the student's knowledge and skill in dentistry. Permits ~~shall~~ expire at the end of each month and may be renewed by the board.

Specialists in particular fields of dentistry practicing outside ~~of~~ the State; may be issued a permit to practice within the State for a period not to exceed 6 months.

The board may charge a fee up to \$50 for licenses issued pursuant to this section.

Sec. A-70. 32 MRSA §1087, as amended by PL 1981, c. 440, §9, is further amended to read:

§1087. Fee for duplicate license

An applicant for a duplicate ~~certificate~~ license granted upon proof of loss of the original shall pay a fee of \$15.

Sec. A-71. 32 MRSA §1089, as amended by PL 1985, c. 748, §42, is further amended to read:

§1089. Drugs and dental procedure

A dentist ~~shall have~~ has the right to prescribe drugs or medicines, perform ~~such~~ surgical operations, administer general and local anesthetics and use ~~such~~ appliances as may be necessary for proper dental treatment. A dentist is authorized to take case histories and perform physical examinations to the extent ~~such the~~ activities are necessary in the exercise of due care in conjunction with the provision of dental treatment or the administration of general or local anesthetics. ~~Nothing contained herein shall permit a dentist~~ A dentist is not permitted to perform physical examinations within a hospital licensed by the Department of Professional and Financial Regulation, Human Services unless ~~such activities are~~ this activity is permitted by the hospital.

Sec. A-72. 32 MRSA §1090, as enacted by PL 1967, c. 544, §80, is amended to read:

§1090. Prescription required for dental laboratory

1. Prescription. ~~Any A~~ dentist who ~~shall use~~ uses the services of ~~any a~~ person, ~~which word when used in this section shall include all legal entities; not~~

licensed to practice dentistry in this State; to construct, alter, repair or duplicate ~~any a~~ denture, plate, partial plate, bridge, splint, orthodontic or prosthetic appliance; shall first furnish ~~such the~~ unlicensed person with a written prescription, ~~on forms prescribed by the board,~~ which shall must contain:

- A. The name and address of ~~such the~~ unlicensed person;
- B. The patient's name or number. In the event ~~such the~~ number is used, the name of the patient shall must be written upon the duplicate copy of ~~such the~~ prescription retained by the dentist;
- C. The date on which it was written;
- D. A prescription of the work to be done, with diagrams if necessary;
- E. A specification of the type and quality of materials to be used; and
- F. The signature of the dentist and the number of ~~his Maine~~ the dentist's state license.

~~Such~~ The unlicensed person shall retain the original prescription and the dentist shall retain for 2 years a duplicate copy ~~thereof~~ for inspection by the board or its agent for 2 years. For purposes of this subsection, "unlicensed person" includes all legal entities.

Sec. A-73. 32 MRSA §1092, as amended by PL 1975, c. 484, §10, is further amended to read:

§1092. Unlawful practice

Whoever practices dentistry without obtaining ~~the certificate and subsequently the registration card required by law a~~ license, or whoever practices dentistry under a false or assumed name, or under the license ~~or registration~~ of another person of the same name, or under the name of a corporation, company, association, parlor or trade name, or whoever, being manager, proprietor, operator or conductor of a place for performing dental operations, employs a person who is not a lawful practitioner of dentistry of this State to do dental operations as defined in section 1081, or permits ~~such~~ persons to practice dentistry under a false name, or assumes a title or appends or prefixes to ~~his that person's~~ name the letters ~~which that~~ falsely represent ~~him the person~~ as having a degree from a dental college, or who impersonates another at an examination held by the board, or who knowingly makes a false application or false representation in connection with ~~such the~~ examination, or whoever practices as a dental hygienist without having a ~~certificate as such~~ license, or whoever employs a person as a dental hygienist who is not licensed to practice ~~as such shall be punished by a fine of not less than \$200 nor more than \$500, or by imprisonment~~

~~for not more than 30 days, or by both commits a Class E crime. Each act constituting a violation of any of the provisions of this chapter shall be held to be a separate offense and on each day on which any such violation shall continue a separate offense within the meaning of this law shall be held to be committed. A subsequent conviction shall be punished by the maximum penalties prescribed in this section, and the offender be required to furnish a recognizance conditioned to refrain from further unlawful practice.~~

Sec. A-74. 32 MRSA §1092-A, sub-§§2 and 3, as enacted by PL 1981, c. 211, §2, are amended to read:

2. General rule of privilege. A patient has a privilege to refuse to disclose and to prevent ~~any other another~~ person from disclosing confidential communications made for the purpose of diagnosis or treatment of ~~his the patient's~~ physical, mental or emotional conditions, including alcohol or drug addiction, among ~~himself the patient, his the patient's~~ dentist and persons who are participating in the diagnosis or treatment under the direction of the dentist, including members of the patient's family.

3. Who may claim the privilege. The privilege may be claimed by the patient, by ~~his the patient's~~ guardian or conservator or by the personal representative of a deceased patient. ~~The person who was the~~ dentist or dental auxiliary at the time of the communication is presumed to have authority to claim the privilege, but only on behalf of the patient.

Sec. A-75. 32 MRSA §1092-A, sub-§4, as amended by PL 1985, c. 296, §2, is further amended to read:

4. Exceptions. Notwithstanding any other provisions of law, the following are exceptions.

A. If the court orders an examination of the physical, mental or emotional condition of a patient, whether a party or a witness, communications made in the course ~~thereof of the~~ examination are not privileged under this section with respect to the particular purpose for which the examination is ordered unless the court orders otherwise.

B. There is ~~no~~ not any privilege under this section as to communications relevant to an issue of the physical, mental or emotional condition of the patient in ~~any a~~ proceeding in which the condition of the patient is an element of the claim or defense of the patient, or of ~~any a~~ party claiming through or under the patient; or because of the patient's condition; or claiming as a beneficiary of the patient; through a contract to which the patient is or was a party, or after the

patient's death, in ~~any~~ a proceeding in which ~~any~~ a party puts the condition in issue.

C. There is ~~no~~ not any privilege under this section as to information regarding ~~any~~ a patient ~~which that~~ is sought by the Chief Medical Examiner or ~~his~~ the Chief Medical Examiner's designee in a medical examiner case, as defined by Title 22, section 3025, in which the Chief Medical Examiner or ~~his~~ the Chief Medical Examiner's designee has reason to believe that information relating to dental treatment may assist in determining the identity of a deceased person.

D. There is ~~no~~ not any privilege under this section as to disclosure of information concerning a patient when that disclosure is required by law and nothing in this section may modify or affect the provisions of Title 22, sections 4011 to 4015 and Title 29, section 1312-E.

Sec. A-76. 32 MRSA §1093, as amended by PL 1991, c. 797, §14, is further amended to read:

§1093. Fraudulent sale or alteration of diplomas

~~Whoever~~ A person who sells or offers to sell a diploma conferring a dental degree or a ~~certificate license~~ granted pursuant to the laws of this State, or who procures ~~such certificate~~ a license or diploma with intent that it be used as evidence of the right to practice dentistry by a person other than the one upon whom the diploma or ~~certificate license~~ was conferred, or who with fraudulent intent alters ~~such the~~ diploma or ~~certificate license~~, or uses or attempts to use the same when altered, or ~~whoever who~~ attempts to bribe a member of the board by the offer or use of money or other pecuniary reward or by other undue influence commits a Class E crime.

Sec. A-77. 32 MRSA §1094, as amended by PL 1991, c. 797, §14, is further amended to read:

§1094. Penalties

~~Whoever~~ A person who violates ~~any~~ a provision of this chapter, for the violation of which ~~no~~ a penalty has not been prescribed, commits a Class E crime. The several prosecuting officers of this State, on notice from ~~any~~ a member of the board, shall institute prosecutions for offenses under this chapter.

Sec. A-78. 32 MRSA §1094-B, as amended by PL 1985, c. 748, §42, is further amended to read:

§1094-B. Removable dental prostheses; owner identification

1. Identification required. Every complete upper and lower denture and removable dental pros-

thesis fabricated by a dentist licensed under this chapter, or fabricated pursuant to ~~his~~ the dentist's work order or under ~~his~~ the dentist's direction or supervision, ~~shall~~ must be marked with the name and social security number of the patient for whom the prosthesis is intended. The markings ~~shall~~ must be done during fabrication and ~~shall~~ must be permanent, legible and cosmetically acceptable. The exact location of the markings and the methods used to apply or implant ~~them~~ shall the markings must be determined by the dentist or dental laboratory fabricating the prosthesis. If, in the professional judgment of the dentist or dental laboratory, this identification is not practical, identification ~~shall~~ must be provided as follows:

A. The social security number of the patient may be omitted if the name of the patient is shown;

B. The initials of the patient may be shown alone, if use of the name of the patient is impracticable; or

C. The identification marks may be omitted in their entirety if none of the forms of identification specified in paragraphs A and B are practicable or clinically safe.

2. Dentures already in existence. ~~Any~~ A removable dental prosthesis in existence prior to the effective date of this section, ~~which that~~ was not marked in accordance with subsection 1 at the time of its fabrication, ~~shall~~ must be ~~so~~ marked in accordance with subsection 1 at the time of ~~any~~ a subsequent rebasing.

~~**3. Technical assistance.** The Commissioner of Professional and Financial Regulation shall provide technical assistance for marking methods and materials and other matters necessary to effectuate the provisions of this section.~~

4. Violations. Failure of ~~any~~ a dentist to comply with this section is a violation for which the dentist ~~may be~~ is subject to proceedings pursuant to section ~~1094~~ 1077, provided that ~~he~~ the dentist is charged with the violation within 2 years of initial insertion of the dental prosthetic device.

Sec. A-79. 32 MRSA §1095, as amended by PL 1981, c. 440, §10, is further amended to read:

§1095. Definition

The dental hygienist ~~may perform, who practices~~ under the supervision of a dentist of record, ~~such~~ may perform duties as ~~shall be~~ defined and set forth in the rules ~~and regulations~~ of the Board of Dental Examiners; ~~provided, except~~ that nothing in this subchapter ~~shall~~ may be construed to affect the practice of medi-

cine or dentistry or to prevent students of a dental college, university or school of dental hygiene from practicing dental hygiene under the supervision of their instructors.

Sec. A-80. 32 MRSA §1096, as amended by PL 1983, c. 378, §14, is further amended to read:

§1096. Qualifications

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

Sec. A-81. 32 MRSA §1097, as amended by PL 1981, c. 440, §11, is further amended to read:

§1097. Application; fee

Any An eligible person desiring to practice dental hygiene shall must make written application to the Board of Dental Examiners to take the examination. Such The application shall must be accompanied by an examination a fee of \$35 to be determined by the board not to exceed \$100. Any applicant failing to pass the examination shall be entitled to one additional examination for which the fee will be \$25. The fee for each reexamination after the first shall be \$35. All examinations may be given by the full board or by a subcommittee of said board which it may appoint. Applicants for licensure shall pay a fee set by the board for the examination. The board may recognize a nationally or regionally administered examination for applicants to practice dental hygiene in the State.

Sec. A-82. 32 MRSA §1098, as amended by PL 1981, c. 440, §12, is further amended to read:

§1098. License; biennial fee

The board shall issue certificates of ability a license to practice as a dental hygienists hygienist in this State to those an individual who have passed the examination, which certificate shall has met the licensure requirements. The license must be exhibited whenever requested by a member or authorized agent of the board publicly at the person's place of employment. The certificate shall be considered a license to authorizes practice as a dental hygienist in this State for the year in which it is issued and in subsequent years when properly renewed under this section until the expiration date that appears on the license. Thereafter, and on On or before January first 1st of each odd-numbered year, the dental hygienist shall must pay to the secretary of the board a registra-

tion license renewal fee of not more than \$35 \$100 to be determined by the board, except that all dental hygienists shall pay a registration fee to be determined by the board of not more than \$17.50 in 1982 or 1/2 of the biennial licensure fee if the applicant applies in an even-numbered year. A registration card will then be issued, which card is to be placed beside or attached to the certificate. Dental hygienists who have not paid as provided shall must be reinstated upon payment of a fee of not more than \$17.50 \$50 to be determined by the board if paid before February first 1st of the year in which license renewal is due. Failure to be properly registered licensed by February first will result 1st results in automatic suspension of a license to practice dental hygiene. Reinstatement may be made, if approved by the board, by payment to the secretary-treasurer of the board of a fee determined by the board of not more than \$35 to the secretary of the board \$100.

The board may issue temporary licenses to dental hygienists who present credentials satisfactory to the board. The board may charge a fee of up to \$25 for a temporary license.

Sec. A-83. 32 MRSA §1098-A, as enacted by PL 1981, c. 440, §13, is amended to read:

§1098-A. Fee for duplicate license

An applicant for a duplicate certificate license granted upon proof of loss of the original shall pay a fee of \$15.

Sec. A-84. 32 MRSA §1098-B, as enacted by PL 1989, c. 90, §3, is amended to read:

§1098-B. Continuing education

As a condition of renewal of a certificate license to practice, a practitioner shall dental hygienist must submit evidence of successful completion of 20 hours of continuing education consisting of board-approved courses in the 2 years preceding the application for renewal. The board and the practitioners dental hygienist shall follow and be are bound by the provisions of section 1084-A in the implementation of this section.

Sec. A-85. 32 MRSA §1099, as amended by PL 1983, c. 378, §15, is further amended to read:

§1099. Endorsement

The board may at its discretion, without examination, issue its certificate a license to any an applicant to practice dental hygiene who shall furnish furnishes proof satisfactory to the board that the dental hygienist has been duly licensed to practice in another state after full compliance with the requirements of its dental laws, provided except that the

professional education ~~shall~~ may not be less than is required in this State. The board may require letters of reference as to ability. Every ~~certificate license~~ so given ~~shall~~ must state upon its face that it was granted on the basis of ~~reciprocity endorsement~~. The fee for that ~~certificate shall~~ license must be determined by the board, but may not be more than \$50 ~~\$100~~.

Sec. A-86. 32 MRSA §1100, as repealed and replaced by PL 1983, c. 378, §16, is amended to read:

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

~~No~~ A dental hygienist may not use or attempt to use in any manner whatsoever any prophylactic lists, call lists, records, reprints or copies of those lists, records or reprints, or information gathered ~~therefrom~~ from these materials, of the names of patients whom ~~he the hygienist~~ might have served in the office of a prior employer, unless these names appear on the bona fide call or prophylactic list of ~~his the~~ present employer and were caused to so appear through the legitimate practice of dentistry as provided for in this chapter. ~~No~~ A dentist may not aid or abet or encourage a dental hygienist in ~~his the~~ dentist's employ to make use of a so-called prophylactic call list, or ~~the calling to call~~ by telephone or by to use of written letters transmitted through the mails to solicit patronage from patients; formerly served in the office of ~~any~~ a dentist formerly employing the hygienist.

~~No~~ A dentist may not permit ~~any a~~ dental hygienist operating under ~~his the dentist's~~ supervision to perform ~~any an~~ operation other than that permitted under section 1095.

Sec. A-87. 32 MRSA §1100-A, as amended by PL 1977, c. 484, §1, is further amended to read:

§1100-A. Definition

Duties of dental auxiliaries other than dental hygienists ~~shall~~ must be defined and governed by the rules ~~and regulations~~ of the State Board of Dental Examiners. Dental auxiliaries ~~shall~~ include, but ~~are~~ not be limited to, dental hygienists, dental assistants, dental laboratory technicians and denturists.

Sec. A-88. 32 MRSA §1100-B, sub-§3, ¶¶A to C, as enacted by PL 1977, c. 484, §2, are further amended to read:

A. The taking of denture impressions and bite registration for the purpose of or with a view to the making, producing, reproducing, construction, finishing, supplying, altering or repairing of ~~any a~~ complete upper or complete lower prosthetic denture, or both, to be fitted to an edentulous arch or arches;

B. The fitting of ~~any a~~ complete upper or lower prosthetic denture, or both, to an edentulous arch or arches, including the making, producing, reproducing, constructing, finishing, supplying, altering and repairing of ~~such~~ dentures; and

C. ~~Other~~ The procedures incidental to the procedures specified in paragraphs A and B, as defined by the board.

Sec. A-89. 32 MRSA §1100-D, as amended by PL 1981, c. 440, §§17 and 18, is further amended to read:

§1100-D. Examinations

1. Authority. The board is authorized to prepare and give examinations in the area of denture technology for the purpose of licensing denturists. All examinations prepared and given under this subchapter may be prepared and given by the full board or by ~~a an appointed~~ subcommittee of the board ~~appointed by the board~~. The board may also recognize a nationally or regionally administered examination given at least annually for applicants to practice denture technology in the State.

2. Eligibility for examination. A person ~~shall~~ is eligible to take the examination pursuant to subsection 1 who:

A. Is 18 years of age or older;

B. Is a high school graduate; and

C. Has successfully completed a minimum of 2 years of training in denture technology and related areas, as approved by the board, or has demonstrated equivalent training and experience, as determined by the board.

3. Application for examination; fee. ~~Any An~~ eligible person desiring to take the examination in order to become licensed as a denturist shall make a written application to the board to take the examination. This application ~~shall~~ must be accompanied by ~~an examination a fee of \$35~~ to be determined by the board but not to exceed \$100.

4. Additional examinations; fee. ~~Any An~~ applicant failing to pass the examination ~~shall be~~ is entitled to at least one additional examination, for which the and shall pay a fee shall be \$25 set by the board. The fee for each additional examination after the first additional examination shall be \$35.

5. Timing of examination. ~~The applicant for an examination in denture technology shall present himself for examination at the first regular meeting of the board after the application is filed.~~

Sec. A-90. 32 MRSA §1100-E, as amended by PL 1983, c. 378, §§18 and 19, is further amended to read:

§1100-E. Licenses; reciprocity

1. Authority. The board ~~shall have~~ has the authority to issue licenses to qualified persons to practice denture technology pursuant to this subchapter.

2. License issued. The board shall issue a license for the practice in this State to each person who has passed the examination under section 1100-D. This license ~~shall authorize~~ authorizes the licensee to practice as a dentist in the State for the year in which it is issued until the expiration date that appears on the license.

3. Fee. After a license has been issued under subsection 2, and on or before January 1st of odd-numbered years, ~~any a~~ dentist ~~shall must~~ pay to the ~~secretary of the board a registration license~~ fee of not more than ~~\$35~~ \$100 to be determined by the board in order to renew the license and to continue to be authorized to practice as a dentist in the State; ~~except that all denturists shall pay a registration fee to be determined by the board, of not more than \$17.50 in 1982 or 1/2 the biennial licensure fee if application is made in an even-numbered year.~~

~~A registration card~~ After the requirements for a license renewal have been met, a renewal card of the dentist's license for that year shall then must be issued, which card shall be placed beside or attached to the license the dentist shall place beside or attach to the dentist's initial license. Denturists who have not paid as provided by January 1st ~~shall must~~ be reinstated upon payment of a fee, to be determined by the board, of not more than ~~\$17.50~~ \$50 if paid by February 1st. A license to practice is automatically suspended on February 1st, and may be reinstated, if approved by the board, on payment of a fee to be determined by the board of not more than ~~\$35~~ \$100.

4. Endorsement. The board may, at its discretion, without examination, issue a license to ~~any an~~ applicant to practice as a dentist who ~~shall furnish~~ furnishes proof satisfactory to the board that the dentist has been ~~duly~~ licensed to practice and has actively practiced for a period of 5 years in another state or Canadian province after full compliance with the requirements of its dental laws, ~~provided that if~~ the licensure requirements are, in all essentials, at least equivalent to those of this State. The board may require letters of reference about the dentist. Every license so given ~~shall must~~ state upon its face that it was granted on the basis of reciprocity endorsement. The fee for ~~such certificate shall be~~ the license is \$50 \$100.

4-A. Duplicate license. An applicant for a duplicate ~~certificate~~ license granted upon proof of loss of the original shall pay a fee of \$15.

5. Additional prohibitions. ~~No~~ A dentist may not:

A. ~~Hold himself out or permit himself to be represented as~~ Falsely claim to be a licensed dentist or allow another to falsely represent the dentist as a licensed dentist;

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

C. Perform a task beyond ~~his~~ the dentist's competence; or

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

6. Mental or physical examination. For the purposes of this subsection, by the application for and acceptance of the license, a licensed dentist ~~shall be is~~ deemed by the application for and acceptance of the license to have given ~~his~~ consent to a mental or physical examination when directed by the board. The board may direct the examination whenever it determines a dentist may be suffering from a mental illness ~~which that~~ may be interfering with ~~his the~~ the competent practice of denture technology or from the use of intoxicants or drugs to an extent that they ~~may be are~~ preventing ~~him the~~ the dentist from practicing denture technology competently and with safety to ~~his the~~ the patients. A dentist examined pursuant to an order of the board ~~shall does not have no~~ the privilege to prevent the testimony of the examining individual or to prevent the acceptance into evidence of the report of ~~any an~~ examining individual. Failure to comply with an order of the board to submit to a mental or physical exam ~~shall require~~ requires the Administrative Court to immediately order the license of the dentist suspended until ~~such time as he shall submit~~ the dentist submits to the examination.

Sec. A-91. 32 MRSA §§1100-F and 1100-G, as enacted by PL 1977, c. 484, §2, are amended to read:

§1100-F. Persons and practices not affected

Nothing in this subchapter ~~shall may~~ be construed to prohibit a duly qualified dental surgeon, dental laboratory technician or dental hygienist from performing work or services performed by a dentist licensed under this subchapter to the extent those persons are authorized to perform the same services under existing ~~Maine~~ state law.

Nothing in this subchapter shall ~~may~~ be construed to prevent students of a dental college, university or school of dental hygiene from practicing dental hygiene under the supervision of their instructors.

§1100-G. Liability of dentist for denturist's actions

A dentist, who supervises the activities of a denturist pursuant to this subchapter, ~~shall be deemed~~ is legally liable for these activities and in ~~such a~~ this relationship, the denturist shall must be construed as the dentist's agent.

Sec. A-92. 32 MRSA §1100-H, as amended by PL 1981, c. 440, §23, is repealed.

Sec. A-93. 32 MRSA §1100-I, sub-§2, as enacted by PL 1983, c. 331, §2, is repealed.

Sec. A-94. 32 MRSA §1100-I, sub-§2-A is enacted to read:

2-A. General supervision. "General supervision" means the supervising dentist is not required to be physically present in the dental office while procedures are being performed on a patient of record.

Sec. A-95. 32 MRSA §1100-J, sub-§1, as amended by PL 1983, c. 712, §1, is further amended to read:

1. License required. ~~On or after January 1, 1985, it shall be~~ It is unlawful for any person, not otherwise authorized by law, to practice dental radiography without having a current license issued by the board.

Sec. A-96. 32 MRSA §1100-J, sub-§3, as enacted by PL 1983, c. 331, §2, is amended to read:

3. Exceptions. The requirement of a license shall does not apply to:

- A. Dental hygienists licensed pursuant to subchapter IV;
- B. A resident physician or a student enrolled in and attending a school or college of medicine, osteopathy, dentistry, dental hygiene and dental assisting or radiologic technology;
- C. ~~Any~~ A person serving in the United States Armed Forces or public health service or employed by the Veterans' Administration or other federal agency while performing his official duties, ~~provided that~~ if the duties are limited to that service or employment; or
- D. Those persons having a current license to perform radiologic technology pursuant to section 9854 and who are practicing dental radiog-

raphy under the ~~direct~~ general supervision of a dentist or physician.

Sec. A-97. 32 MRSA §1100-K, as enacted by PL 1983, c. 331, §2, is amended to read:

§1100-K. Supervision required

1. Supervision. A licensed dental radiographer shall may practice dental radiography only under the ~~direct~~ general supervision of a dentist.

~~**2. Prohibition.** It is unlawful for a dentist to allow a licensed dental radiographer in his employment to carry out radiographic procedures except under direct supervision.~~

Sec. A-98. 32 MRSA §1100-L, as amended by PL 1983, c. 712, §2, is further amended to read:

§1100-L. Employment of dental radiographers

1. Dental radiographers; license. ~~On or after January 1, 1985, it shall be~~ It is unlawful for a dentist to allow a person to practice dental radiography in ~~his~~ the dentist's employment or under ~~his~~ the dentist's supervision who does not hold a license to practice dental radiography issued by the board or who is otherwise authorized by law to practice dental radiography.

Sec. A-99. 32 MRSA §§1100-N, 1100-O and 1100-Q, as enacted by PL 1983, c. 331, §2, are amended to read:

§1100-N. Application

To apply for a license to practice dental radiography, an applicant shall submit a written application with supporting documents to the board, on forms provided by the board, and shall pay an application fee, which shall may not exceed ~~\$30~~ \$50.

§1100-O. Renewal

1. Term of license; renewal. All licenses to practice dental radiography issued by the board are valid for 5 years from the date of issuance and may be renewed upon application to the board and payment of a renewal fee, which shall may not exceed \$50.

§1100-Q. Disciplinary action

1. Suspension; revocation; refusal to issue or renew license. The board may suspend or revoke a license pursuant to Title 5, section 10004. In addition, the board may refuse to issue or renew a license or the Administrative Court may revoke, suspend or refuse to renew a license ~~of a person~~ issued under this subchapter for ~~any of~~ the following reasons:

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

B. ~~Habitual intemperance in the use of alcohol or the habitual use of narcotic or hypnotic or other drugs listed as controlled substances by the drug enforcement administration, which use substance abuse that has resulted or is foreseeably likely to result~~ in the licensed dental radiographer being unable to perform ~~his~~ the duties of the profession or perform those duties in a manner ~~which that~~ would endanger the health or safety of the patients to be served;

C. Incompetence in the practice of dental radiography. A licensed dental radiographer ~~shall be deemed~~ is considered incompetent in the practice if ~~he~~ the dental radiographer has:

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

(2) Engaged in conduct ~~which that~~ evidenced a lack ~~or of~~ knowledge, or inability to apply principles or skills to carry out the practice ~~for which he is certified~~ of dental radiography;

D. Unprofessional conduct. In this context, unprofessional conduct means the violation of ~~any~~ a standard of professional behavior ~~which that~~ through professional experience has been established in the practice of dental radiography;

E. Subject to the limitations of Title 5, chapter 341, conviction of a crime ~~which that~~ involves dishonesty or false statement or ~~which that~~ relates directly to the practice of dental radiography, or conviction of ~~any~~ a crime for which incarceration for one year or more may be imposed; or

F. ~~Any~~ A violation of this chapter or ~~any~~ a rule adopted by the board.

Sec. A-100. 32 MRSA §1100-R, as enacted by PL 1983, c. 331, §2, is repealed.

Sec. A-101. 32 MRSA §1151, 3rd ¶, as amended by PL 1991, c. 438, §1, is further amended to read:

Appointments are made for a 3-year term, ~~except that at least one appointive member's term expires each calendar year and appointments for terms of less than 3 years may be made in order to comply with this limitation.~~ A person is not eligible to serve

~~more than 3 full consecutive terms, provided that for this purpose only a period actually served that exceeds 1/2 of the 3 year term is determined a full term. Upon expiration of a member's term, the member shall serve until the member's successor is qualified and appointed. The successor's term is 3 years from the date of that expiration, regardless of the date of the successor's appointment. Appointments of members must comply with section 60.~~

Sec. A-102. 32 MRSA §1151, 4th ¶, as amended by PL 1991, c. 438, §1, is repealed.

Sec. A-103. 32 MRSA §1301, last ¶, as repealed and replaced by PL 1983, c. 413, §42, is amended to read:

Appointments ~~shall be~~ are 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. Appointments of members must comply with section 60.~~

Sec. A-104. 32 MRSA §1304, as amended by PL 1983, c. 413, §43, is further amended to read:

§1304. Removal

The Governor may remove ~~any~~ a 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 in accordance with section 1304.~~

Sec. A-105. 32 MRSA §1451, first ¶, as repealed and replaced by PL 1989, c. 878, Pt. B, §27, is amended to read:

The State Board of Funeral Service, as established by Title 5, section 12004-A, subsection 18, and in this chapter called the "board," ~~shall consist consists~~ of 8 members, 6 of whom ~~shall~~ must be persons licensed for the practice of funeral service for 10 consecutive years or who have had 10 consecutive years' experience as a practitioner of funeral service in this State immediately preceding their appointment and 2 of whom ~~shall~~ must be representatives of the public. Members ~~shall be~~ are 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, that member shall serve until a successor is qualified and appointed. The successor's term shall be 4 years from the date of the expiration, regardless of the date of the successor's 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 that exceeds 1/2 of the 4 year term shall be deemed a full term. Appointments of members must comply with section 60. A board member may be removed by the Governor for cause.

Sec. A-106. 32 MRSA §1660-A, sub-§3, as repealed and replaced by PL 1983, c. 413, §83, is amended to read:

3. Appointment; term of office; chair. All members of the board shall be are appointed by the Governor. The term of office of each member shall be for is 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. Appointments of members must comply with section 60. 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 chair and another to serve as secretary-treasurer.

Sec. A-107. 32 MRSA §2001, 2nd ¶, as amended by PL 1989, c. 502, Pt. B, §38, is further amended to read:

Appointments shall be are for 5-year terms, except that no more than one appointed 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 appointed member 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 a successor is qualified and appointed. The successor's term shall be 5 years from the date of

appointment. Any vacancy occurring prior to the expiration of the specified term shall be filled by appointment for the unexpired term. Appointments of members must comply with section 60. A board member may be removed by the Governor for cause.

Sec. A-108. 32 MRSA §2101, as amended by PL 1985, c. 724, §1, is further amended to read:

§2101. Purpose

The State Board of Nursing is the state regulatory agency charged with protection of the public health and welfare in the area of nursing service. In order to safeguard the life and health of the people in this State, any person an individual who for compensation practices or offers to practice professional nursing or practical nursing in this State shall hereafter be required to submit evidence that he or she the individual is qualified so to practice, and shall that individual must be licensed as provided. It shall be is unlawful for any person an individual not licensed under this chapter to practice or to offer to practice professional or practical nursing in this State; or to use any a sign, card or device to indicate that the individual is a professional registered nurse or a licensed practical nurse; or in any way to hold oneself out to the public to indicate that such person is as a professional registered nurse or a licensed practical nurse.

Sec. A-109. 32 MRSA §2102, first ¶, as enacted by PL 1977, c. 696, §244, is amended to read:

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

Sec. A-110. 32 MRSA §2102, sub-§2, as amended by PL 1991, c. 731, §1, is further amended to read:

2. Professional nursing. The practice of "professional nursing" means the performance, by a registered professional nurse, for compensation of professional services defined as follows:

A. Diagnosis and treatment of human responses to actual or potential physical and emotional health problems, through such services as case finding, health teaching, health counseling and provision of care supportive to or restorative of life and well-being and execution of the medical regimen as prescribed by a licensed physician, podiatrist or dentist or otherwise legally authorized person individual acting under the delegated authority of a physician, podiatrist or dentist:

(1) "Diagnosis" in the context of nursing practice means that identification of and

discrimination between physical and psychosocial signs and symptoms essential to effective execution and management of the nursing regimen. This diagnostic privilege is distinct from medical diagnosis;

(2) "Human responses" means those signs, symptoms and processes that denote the individual's health needs or reaction to an actual or potential health problem; and

(3) "Treatment" means selection and performance of those therapeutic measures essential to the effective management and execution of the nursing regimen;

B. Medical diagnosis or prescription of therapeutic or corrective measures when those services are delegated by a licensed physician to a registered nurse who has completed the necessary additional educational program required for the proper performance of those services and whose credentials must be approved by the board.

The board may adopt, pursuant to ~~the Maine Administrative Procedure Act~~, Title 5, chapter 375, subchapter II, rules defining the appropriate scope of practice for nurses practicing under this paragraph. The rules ~~shall~~ must also define the appropriate relationship with the physician. In adopting the rules, the board shall invite comment from the Board of ~~Registration~~ Licenses in Medicine;

C. Delegation of selected nursing services to licensed practical nurses when the services use standardized protocols and procedures leading to predictable outcomes in the observation and care of the ill, injured and infirm; in the maintenance of health; in action to safeguard life and health; and in the administration of medications and treatments prescribed by ~~any person~~ an individual authorized by state law to prescribe. The board shall issue such rules concerning delegation as it ~~deems~~ considers necessary to ensure quality health care to the patient;

D. Delegation of selected nursing services to assistants to nurses who have completed or are currently enrolled in a course sponsored by a state-approved facility or a facility licensed by the Department of Professional and Financial Regulation. This course ~~shall~~ must include a curriculum approved by the ~~State Board of Nursing~~ board. The board shall issue such rules concerning delegation as it ~~deems~~ considers necessary to ensure quality of health care to the patient;

E. Supervision and teaching of nursing personnel;

F. Administration of medications and treatment as prescribed by a legally authorized ~~person~~ individual. Nothing in this section may be construed as limiting the administration of medication by licensed or unlicensed personnel as provided in other laws; and

G. Teaching activities of daily living to care providers designated by the patient and family.

Sec. A-111. 32 MRSA §2102, sub-§§5 and 6, as amended by PL 1985, c. 724, §4, are further amended to read:

5. Professional nurse. The terms "professional nurse," "registered nurse" or "registered professional nurse" mean ~~a person~~ an individual who is currently licensed under this chapter and who practices professional nursing as defined in subsection 2. "R.N." is the abbreviation for the title of "registered professional nurse".

6. Licensed practical nurse. The term "licensed practical nurse" means ~~a person~~ an individual who is currently licensed under this chapter and who practices practical nursing as defined in subsection 3. "L.P.N." is the abbreviation for the title of "licensed practical nurse".

Sec. A-112. 32 MRSA §2102, sub-§8, as repealed and replaced by PL 1991, c. 421, §2, is amended to read:

8. Certified nursing assistant. "Certified nursing assistant" means ~~a person~~ an individual whose duties are assigned by a registered professional nurse and who:

A. Has successfully completed a training program or course with a curriculum prescribed by the ~~State Board of Nursing~~ board, holds a certificate of training from that program or course and is listed on the Maine Registry of Certified Nursing Assistants; or

B. Was certified before September 29, 1987 and is listed on the Maine Registry of Certified Nursing Assistants.

Sec. A-113. 32 MRSA §2103, as amended by PL 1985, c. 724, §§5 to 9, is further amended to read:

§2103. Exceptions

This chapter does not prohibit:

1. Emergency. The rendering of nursing assistance in the case of emergency;

2. Students. The practice of nursing that is an integral part of a program by students enrolled in board-approved nursing education programs leading to initial licensure; and the practice of nursing by graduates of board-approved programs pending the results of the first licensing examination for which they are eligible following graduation, ~~provided that~~ if they practice under on-site delegation and supervision of a registered professional nurse and only in the practice setting. The board may, by rule, define what constitutes supervision and practice setting;

4. Licensure in another state. The practice of:

A. Nursing by a registered nurse or a licensed practical nurse currently licensed in another state for a period of 90 days pending licensure in ~~Maine provided that the State~~ if the nurse, upon employment, has furnished the employer with satisfactory evidence of current licensure in another state and ~~provided that~~ the nurse furnishes a letter of authorization to the prospective employer of having submitted proper application and fees to the board for licensure prior to employment;

B. ~~Any~~ A currently licensed nurse of another United States jurisdiction or foreign country who is providing educational programs or consultative services within this State for a period not to exceed a total of 21 days per year;

C. ~~Any~~ A currently licensed nurse of another state who is transporting patients into, out of or through this State. The exemption ~~shall be~~ is limited to a period not to exceed 48 hours for each transport; or

D. Nursing in this State by ~~any~~ a currently licensed nurse whose employment was ~~made con-~~ tracted outside this State but ~~required~~ requires the nurse to accompany and care for the patient while in this State. This practice is limited to the particular patient; to 3 months within one year and is at the discretion of the board; or

6. Nursing services; practice of religious principles. This chapter does not prohibit nursing services ~~by anyone when done~~ performed in accordance with the practice of the religious principles or tenets of ~~any~~ a church or denomination ~~which that~~ relies upon prayer or spiritual means alone for healing.

Sec. A-114. 32 MRSA §2104, as amended by PL 1991, c. 421, §4, is further amended to read:

§2104. Education programs

1. Application for approval. An institution desiring to conduct a nursing education program to

prepare professional or practical nurses ~~shall~~ must apply to the board and submit evidence that:

A. It is prepared to carry out the prescribed professional nursing curriculum or the prescribed curriculum for practical nursing, as the case may be; and

B. It is prepared to meet ~~such~~ other standards as ~~shall be~~ established by this chapter and by the board.

2. Survey. A survey of the institution and its entire nursing education program ~~shall~~ must be made by either or both the executive director or other authorized appointee of the board, who shall submit a written report of the survey to the board. If, in the opinion of the board, the requirements for an approved nursing education program are met, ~~it shall~~ the institution must be approved as a nursing education program for professional or practical nurses.

From time to time as ~~deemed~~ determined necessary by the board, it ~~shall be~~ is the duty of the board, through its executive director or other authorized representative of the board, to survey all nursing education programs in the State. Written reports of ~~such~~ the surveys ~~shall~~ must be submitted to the board. If the board determines that ~~any~~ an approved nursing education program is not maintaining the standards required by statute and by the board, notice ~~thereof~~ in writing specifying the defect or defects ~~shall~~ must be immediately given to the institution conducting the program. ~~A~~ If a program ~~which~~ fails to correct these conditions to the satisfaction of the board within a reasonable time ~~shall be discontinued after a hearing, the board shall take appropriate action pursuant to section 2153.~~

3. In-service training. Nothing in this chapter applies to in-service teaching or training programs for paramedical personnel.

4. Approval and monitoring of nursing assistant training curriculum and faculty. An educational institution or health care facility desiring to conduct an educational program for nursing assistants to prepare individuals for a certificate of training and subsequent listing on the Maine Registry of Certified Nursing Assistants ~~shall~~ must apply to the Department of Education and submit evidence:

A. That it is prepared to carry out the curriculum for nursing assistants as prescribed by the ~~State Board of Nursing board;~~

B. That it is prepared to meet those standards established by the ~~State Board of Nursing board;~~

C. That it is prepared to meet those standards for educational programming and faculty as established by the Department of Education; and

D. With respect to an application by a health care facility, that an educational institution ~~can~~ ~~not~~ cannot provide a nursing assistant training program within 30 days of the application date.

The Department of Education shall issue a notice of approval to ~~any~~ an educational institution or health care facility that meets the requirements of this subsection.

The Department of Education shall consult with the ~~State Board of Nursing~~ board in approving and monitoring of nursing assistant training programs.

Sec. A-115. 32 MRSA §2104-A, as enacted by PL 1989, c. 579, §7, is amended to read:

§2104-A. Nurse orientation in institutions

A nurse who is employed in a hospital or nursing home and involved in direct patient care shall, at the beginning of the nurse's employment, participate in an individualized controlled learning experience adjusted for competency based upon practice standards and protocols. Each hospital or nursing home shall develop a plan with the employee for compliance with this section, which ~~shall~~ must contain a mutually agreed upon completion date. A copy of the plan ~~shall~~ must be made a part of the nurse's personnel file. The staffing plan for the hospital or nursing home ~~shall~~ must reflect current trainee competence.

Sec. A-116. 32 MRSA §2105-A, as amended by PL 1985, c. 724, §§11 and 12, is further amended to read:

§2105-A. Disciplinary actions

1-A. 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. Investigation may include a hearing before the board to determine whether grounds exist for suspension, revocation or denial of a license, or as otherwise ~~deemed~~ considered necessary to the fulfillment of its responsibilities under this chapter. The board may subpoena witnesses, records and documents, including records and documents maintained by a health care facility, in ~~any~~ an investigation or hearing it conducts.

The board shall notify the licensee of the content of a complaint filed against the licensee as soon as possible, but ~~in no event~~ not later than ~~within~~ from 60 days of receipt of this information. The licensee shall

respond within 30 days. If the licensee's response to the complaint satisfies the board that the complaint does not merit further investigation or action, the matter may be dismissed, with notice of the dismissal to the complainant, if any.

If, in the opinion of the board, the factual basis of the complaint is or may be true, and it is of sufficient gravity to warrant further action, the board may request an informal conference with the licensee. The board shall provide the licensee with adequate notice of the conference and of the issues to be discussed. The conference ~~shall~~ must be conducted in executive session of the board, pursuant to Title 1, section 405, unless otherwise requested by the licensee. Statements made at the conference may not be introduced at a subsequent formal hearing unless all parties consent.

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

A. Warn, censure or reprimand;

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

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

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

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

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

refuse to renew the license of ~~a person~~ an individual licensed under this chapter:

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

B. Habitual ~~intemperance in the use of alcohol or the habitual use of narcotic or hypnotic or other substances the use of which~~ substance abuse that has resulted or ~~may~~ is foreseeably likely to result in the licensee performing ~~his~~ services in a manner ~~which that~~ endangers the health or safety of ~~his~~ patients;

C. A professional diagnosis of a mental or physical condition ~~which that~~ has resulted or ~~may~~ is foreseeably likely to result in the licensee performing ~~his~~ the licensee's duties in a manner ~~which that~~ endangers the health or safety of ~~his~~ the licensee's patients;

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

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

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

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

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

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

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

I. Engaging in false, misleading or deceptive advertising.

3. Confidentiality of information. ~~Any reports~~ Reports, information or records provided to the board by a health care facility pursuant to this chapter ~~shall be~~ are confidential insofar as the reports, information or records identify or permit identification of ~~any~~ a patient, ~~provided~~ except that the board may disclose ~~any~~ confidential information:

A. In an adjudicatory hearing or informal conference before the board or in ~~any~~ a subsequent formal proceeding to which the information is relevant; and

B. In a consent agreement or other written settlement; when the information constitutes or pertains to the basis of board action.

A copy of ~~any~~ a report, information or record received by the board under this subsection ~~shall~~ must be provided to the licensee.

Sec. A-117. 32 MRSA §2106, as amended by PL 1991, c. 797, §15, is further amended to read:

§2106. Violations; penalties

It is a crime for any person, including ~~any~~ a corporation, or association or individual, to:

1. Fraudulent diploma or record. Sell or fraudulently obtain or furnish ~~any~~ a nursing diploma, license, renewal or record or provide aid ~~or abet therein in doing so;~~ ~~or~~

2. Fraudulent license. Practice nursing as defined by this chapter under cover of ~~any~~ a diploma, license or record illegally or fraudulently obtained or signed or issued unlawfully or under fraudulent representation; ~~or~~

3. Practice without license. Practice professional nursing or practical nursing as defined by this chapter unless ~~duly~~ licensed to do so ~~under this chapter;~~ ~~or~~

4. Implying license. Use in connection with the person's name ~~any~~ a designation tending to imply that the person is a licensed registered nurse or a licensed practical nurse unless ~~duly~~ so licensed ~~so to practice~~ under this chapter; ~~or~~

5. License suspended or revoked. Practice professional nursing or practical nursing during the time the person's license issued under this chapter is suspended or revoked; or

6. Violation of chapter. Otherwise violate ~~any~~ provisions of this chapter.

A person who violates this section commits a Class E crime.

The District Court has original and concurrent jurisdiction with the Superior Court over all prosecutions for violation of this chapter. All fines and forfeitures collected under this chapter must accrue to the county where the offense is prosecuted. It is necessary to prove in ~~any~~ a prosecution or hearing under this section only a single act prohibited by law or a single holding out or an attempt without proving a general course of conduct; in order to constitute a violation. ~~Such~~ These crimes are prosecuted by the district attorney.

Sec. A-118. 32 MRSA §2107 is amended to read:

§2107. Injunctions

The Superior Court ~~shall have~~ has jurisdiction, upon information filed by the county attorney at the request of the board, to restrain or enjoin ~~any person~~ an individual from committing ~~any an~~ act declared to be a misdemeanor by this chapter. If it ~~be~~ is established that the defendant has been or is committing an act declared to be a misdemeanor by this chapter, the court shall enter a decree perpetually enjoining ~~said~~ the defendant from further committing ~~such that~~ act. In case of violation of ~~any an~~ injunction issued under this section, the court may summarily try and punish the offender for contempt of court. ~~Such injunction~~ Injunction proceedings ~~shall be~~ are in addition to, and not in lieu of, all penalties and other remedies provided in this chapter.

Sec. A-119. 32 MRSA §2108-A, as enacted by PL 1983, c. 769, §3, is amended to read:

§2108-A. Immunity

~~Any person~~ An individual or health care facility acting in good faith ~~shall be~~ is immune from civil liability to the licensee or applicant for licensure for the following actions:

1. Making information available to the board. Making ~~any~~ a report or other information available to the board under this chapter; and

2. Assisting the board. Assisting the board in carrying out ~~any of~~ its duties.

Sec. A-120. 32 MRSA §2151, as amended by PL 1989, c. 503, Pt. B, §133, is further amended to read:

§2151. Appointment; term; removal

~~A~~ The State Board of Nursing, as established by Title 5, section 12004-A, subsection 25, ~~shall~~

~~consist~~ consists of 9 members who ~~shall be~~ are appointed by the Governor. ~~Five members of the board shall be professional nurses. Two members shall be licensed practical nurses. One of the nurse members of the board must be a nurse who is currently practicing long-term care nursing. Two members shall be representatives of the public. Except to fill vacancies in unexpired terms, all appointments shall be for a term of 5 years after such appointment or until their successors have been duly appointed and qualified. No person may be eligible for more than one reappointment. Any vacancy on the board shall be filled for the unexpired term by the appointment of another member by the Governor. Any members~~ A full-term appointment is for 4 years. Appointment of members must comply with section 60. Members of the board may be removed from office for cause by the Governor.

Sec. A-121. 32 MRSA §2152, as repealed and replaced by PL 1985, c. 724, §13, is amended to read:

§2152. Qualifications

Each member of the board must be a citizen of the United States and a resident of this State for at least 3 consecutive years prior to appointment and shall file with the Secretary of State an oath of office before beginning ~~his term of office~~ service. ~~The State Board of Nursing shall be~~ board is composed of:

1. Professional nurses. Five professional nurses, each of whom:

A. Must be a graduate of a state-approved educational program in professional nursing;

B. Holds a current ~~Maine~~ state license to practice nursing; and

C. Has at least 3 years' experience in active practice immediately preceding appointment.

A minimum of 2 professional nurses must be active in an approved educational program in nursing. A minimum of 2 professional nurses must be active in nursing service. ~~One of the professional nurse members of the board must be practicing long-term care nursing;~~

2. Licensed practical nurse. Two licensed practical nurses who:

A. Must be a graduate of a ~~state-approved~~ state-approved educational program in practical nursing;

B. Holds a current ~~Maine~~ state license to practice practical nursing; and

C. Has at least 3 years' experience in active practice immediately preceding appointment; and

3. Public members. Two public members. ~~No~~ A person may not qualify for appointment as a public member of the board if that person or any a member of his that person's immediate family is currently serving as:

A. A member of ~~any other~~ another state licensing board;

B. On the board of ~~any other~~ another health care agency; and

C. Engaged for compensation in the provision of health services or the provision of health research, instruction or insurance.

Sec. A-122. 32 MRSA §2153, as amended by PL 1985, c. 819, Pt. A, §§31 and 32, is repealed.

Sec. A-123. 32 MRSA §2153-A is enacted to read:

§2153-A. Powers and duties

The board shall hold annual meetings at which it shall elect from its members a chair and a secretary. It may hold such other meetings during the year as it determines necessary to transact its business. Special meetings must be called by the secretary on the request of 2 members. Five members of the board constitute a quorum at a meeting.

The board:

1. Bylaws. May adopt bylaws, rules for the transaction of the business of the board and the government and management of its affairs, not inconsistent with the laws of this State and of the United States, as it considers expedient;

2. Seal. May adopt a seal, which must be placed in the care of the executive director;

3. Curricula. May prescribe curricula and standards for educational programs preparing individuals for licensure under this chapter;

4. Surveys. May provide for surveys of the programs described in subsection 3 as it determines necessary;

5. Approval. May approve such nursing educational programs within the State as meet the requirements of this chapter and of the board;

6. Denial. May place nursing educational programs on probation, or warn, or deny, condition, withdraw or discontinue approval from nursing edu-

catinal programs for failure to meet approved curricula or other standards as established by this chapter or pursuant to law;

7. Licenses. May examine, license and renew the licenses of qualified applicants;

8. Prosecution. May cause the prosecution and enjoinder of individuals violating this chapter and incur necessary expenses for those activities;

9. Records. May keep a record of all its proceedings;

10. Report. May make an annual report to the Commissioner of Professional and Financial Regulation for each fiscal year showing its receipts and disbursements and giving a full account of its activities during the previous 12-month period;

11. Budget. Shall submit to the Commissioner of Professional and Financial 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 revision or change;

12. Executive and assistant director. May appoint and employ qualified individuals, not members of the board, to serve as executive director and assistant executive director to the board, fix their compensation and define their duties;

13. Other employees. May employ other individuals as may be necessary to carry out the work of the board; and

14. Funds. May set aside and budget funds for, make contracts for, and procure goods or services the board determines necessary to accomplish its duties under this chapter.

The Commissioner of Professional and Financial Regulation shall act as a liaison between the board and the Governor. The commissioner does not have the authority to exercise or interfere with the exercise of discretionary, regulatory or licensing authority granted by statute to the board.

Sec. A-124. 32 MRSA §2154, as amended by PL 1985, c. 724, §16, is further amended to read:

§2154. Qualifications of executive employee

The executive director shall must meet all the qualifications for professional nurse board members required in section 2152 and shall must, in addition, hold a master's degree in nursing.

Sec. A-125. 32 MRSA §2156 is amended to read:

§2156. Disposition of funds

All ~~moneys~~ money received by the board under this chapter ~~shall~~ must be paid to the Treasurer of State. The Treasurer of State shall place the money to the credit of the State Board of Nursing Fund. All amounts paid into this fund ~~shall~~ must be held subject to the order of the board to be used only for the expenses incurred in the performance of the purpose of this chapter and the duties imposed ~~thereby~~, by it as well as the promotion of nursing education and standards of nursing care in this State.

Sec. A-126. 32 MRSA §2201, as amended by PL 1987, c. 402, Pt. A, §169, is further amended to read:

§2201. Qualifications

An applicant for a license to practice professional nursing shall submit to the board written evidence, verified by oath, that the applicant:

2. High school. Has completed an approved 4-year high school course of study or ~~the~~ its equivalent ~~thereof~~; and

3. Professional school. Has completed a course of study of not less than 2 years in an approved program in professional ~~school~~ of nursing and holds a degree, diploma or certificate.

In case of transfer of a student from one approved school of nursing to another, the time allowance for previous preparation ~~shall~~ must be determined by the board, ~~provided~~ except that not less than one year ~~shall~~ must have been spent in the school from which ~~she receives her~~ the diploma is received. In case of transfer of a student because of closing of a school of nursing, the board shall determine the length of time required to be spent in the school of nursing granting ~~her~~ the diploma.

Sec. A-127. 32 MRSA §2202, as amended by PL 1991, c. 153, §1 and affected by §5, is further amended to read:

§2202. Licenses; examination

The applicant is required to pass a written examination in subjects ~~deemed~~ determined necessary by the board to ~~determine~~ ascertain the fitness of the applicant to practice professional nursing. ~~Upon~~ If the applicant successfully passing passes the examination, the board shall issue to the applicant a license to practice professional nursing as a registered nurse, the license to be in force for a period of at least one year until the birth date of the licensee. The initial license is renewable as provided in section 2206.

Sec. A-128. 32 MRSA §2204 is amended to read:

§2204. Examination; time

The board shall hold at least one examination annually at ~~such a~~ place and at ~~such a~~ time as determined by the board shall fix and determine. ~~Notice thereof shall be given by publication at least one month previous to date of examination in such newspapers and nursing journals as the board may determine.~~

Sec. A-129. 32 MRSA §2206, as amended by PL 1991, c. 153, §2 and affected by §5, is further amended to read:

§2206. Renewals

The license of every registered nurse licensed under this chapter is renewable every 2 years, except as otherwise provided. At least 30 days before the date that the license expires, the board shall mail an application for renewal of license to each professional nurse who holds a valid license. The application must be mailed to the most recent address of that ~~person~~ individual as it appears on the records of the board. That ~~person~~ individual shall complete the renewal application and return it to the board with the renewal fee as designated by the board designates, but not to exceed \$100, before the expiration date of the license. Upon receipt of the application and fee, the board shall verify the accuracy of the application and issue to the applicant a ~~certificate of~~ renewal of license for a period of 2 years, expiring on the anniversary of the applicant's birth.

~~Any~~ A registered nurse who fails to renew the license as provided may be reinstated by the board on satisfactory explanation for failure to renew the license and on payment of a reinstatement fee of \$10, in addition to the current renewal fee.

~~Any person~~ An individual practicing professional nursing during the time the ~~person's~~ individual's license has lapsed is considered an illegal practitioner and is subject to the penalties provided for violations of this chapter.

~~A person~~ An individual who is not engaged in professional nursing in the State is not required to pay a renewal fee for as long as the ~~person~~ individual does not practice, but shall notify the board of inactive status in writing. Prior to resumption of the practice of professional nursing, that ~~person~~ individual is required to notify the board and remit a renewal fee for the current period.

Sec. A-130. 32 MRSA §2207, as amended by PL 1989, c. 609, §5, is further amended to read:

§2207. Registered nurse; fees

Every applicant applying for a license to practice as a registered nurse shall pay a fee to the board as follows:

1. Examination. For examination, a fee of ~~\$60~~ not to exceed \$100 payable on application;

2. Reexamination. For reexamination, a fee to be determined by the board based on the number of areas to be covered and not to exceed ~~\$60~~ \$100; and

3. Endorsement. For endorsement, a fee of ~~\$60~~ not to exceed \$100 payable on application.

Sec. A-131. 32 MRSA §2208, as amended by PL 1985, c. 724, §22, is further amended to read:

§2208. Title and abbreviation

~~Any person~~ An individual who holds a current license to practice professional nursing in this State ~~shall have~~ has the right to use the title "Registered Nurse" and the abbreviation "R.N."; No other ~~person~~ individual may assume ~~such the~~ title or use ~~such the~~ abbreviation or ~~any~~ other words, letters, signs or devices to indicate that the ~~person~~ individual using the same is a registered nurse.

Sec. A-132. 32 MRSA §2209 is amended to read:

§2209. Registration under prior law

~~Any person~~ An individual holding a license ~~or certificate of registration~~ as a registered nurse in ~~Maine the State~~ issued by the former Board of Registration of Nurses, ~~which that~~ is valid on September 12, 1959, ~~shall be~~ is licensed as a registered nurse under this chapter, and the renewal of ~~said the~~ licenses for ~~said persons shall~~ those individuals must be effectuated under this section.

Sec. A-133. 32 MRSA §2251-A, sub-§1, as enacted by PL 1985, c. 724, §24, is amended to read:

1. Education. The applicant must have completed an approved 4-year high school course of study or ~~the its~~ equivalent ~~thereof~~.

Sec. A-134. 32 MRSA §2255, as amended by PL 1991, c. 153, §4 and affected by §5, is further amended to read:

§2255. Renewals

The license of every practical nurse licensed under this chapter is renewable every 2 years, except as otherwise provided. At least 30 days before the date that the license expires, the board shall mail an application for renewal of license to each practical

nurse who holds a valid license. The application must be mailed to the most recent address of that ~~person~~ individual as it appears on the records of the board. That ~~person~~ individual shall complete the renewal application and return it to the board with the renewal fee ~~as designated by the board designates~~, but not to exceed \$100, before the expiration date of the license. Upon receipt of the application and fee, the board shall verify the accuracy of the application and issue to the applicant a ~~certificate of~~ renewal of license for a period of 2 years, expiring on the anniversary of the applicant's birth.

~~Any A~~ A practical nurse who fails to renew the license as provided may be reinstated by the board on satisfactory explanation for failure to renew the license and on payment of a reinstatement fee of \$10, in addition to the renewal fee.

~~Any person~~ An individual practicing nursing as a licensed practical nurse during the time the ~~person's~~ individual's license has lapsed is considered an illegal practitioner and is subject to the penalties provided for violations of this chapter.

~~A person~~ An individual who is not engaged in practical nursing in the State is not required to pay a renewal fee as long as the ~~person~~ individual does not practice, but shall notify the board of inactive status in writing prior to the expiration date of that ~~person's~~ individual's current license. Before the resumption of practice as a licensed practical nurse and transfer to active status, that ~~person~~ individual is required to notify the board, complete a renewal application and remit the current renewal fee.

Sec. A-135. 32 MRSA §2256, as amended by PL 1989, c. 609, §§8 and 9, is further amended to read:

§2256. Licensed practical nurse; fees

Every applicant applying for a license to practice as a licensed practical nurse shall pay a fee to the board as follows:

1. Examination. For examination, a fee of ~~\$50~~ not to exceed \$100 payable on application;

2. Reexamination. For reexamination, a fee to be determined by the board ~~and shall~~ not to exceed \$50 \$100; and

3. Endorsement. For endorsement, a fee of ~~\$50~~ not to exceed \$100 payable on application.

Sec. A-136. 32 MRSA §2257, as amended by PL 1985, c. 724, §28, is further amended to read:

§2257. Title and abbreviation

~~Any person~~ An individual who holds a current license to practice as a licensed practical nurse in this State ~~shall have~~ has the right to use the title "Licensed Practical Nurse" and abbreviation "L.P.N.". No other ~~person shall~~ individual may assume ~~such that~~ that title or use ~~such that~~ that abbreviation or any other words, letters, signs or figures to indicate that the ~~person~~ individual using the same is a licensed practical nurse.

Sec. A-137. 32 MRSA §2258 is amended to read:

§2258. Registration under prior law

~~Any person~~ An individual holding a license as a licensed practical nurse in ~~Maine in the State~~ issued by the former Board of Registration of Nurses, ~~which that~~ is valid on September 12, 1959, ~~shall be~~ is licensed as a licensed practical nurse under this chapter, and the renewal of ~~said the~~ the licenses for ~~said persons shall~~ those individuals must be effectuated under this subchapter.

Sec. A-138. 32 MRSA §2258-A, as amended by PL 1977, c. 497, §11, is further amended to read:

§2258-A. Administration of medication

Any employee of ~~any an~~ an institution under the control of the Department of Mental Health and Mental Retardation or of an institution licensed by the State as a hospital, nursing home, extended care facility or boarding home who, in the exercise of due care, is authorized by the head of ~~such that~~ that institution or ~~his a~~ a designee to perform selected activities in the administration of medications and any ~~person indi-~~ individual who, in the exercise of due care, is delegated ~~such those~~ those functions by a licensed allopathic or osteopathic physician ~~shall be~~ is immune from criminal prosecution and civil liability for ~~any such that~~ that administration of medication prior to January 1, 1978; but not ~~thereafter~~ after January 1, 1978.

Sec. A-139. 32 MRSA §2273, sub-§2, as enacted by PL 1983, c. 746, §2, is amended to read:

2. Terms of appointment. The Governor, within 60 days following the effective date of this chapter, shall appoint 2 board members for a term of one year, 2 for a term of 2 years and one for a term of 3 years. Appointments made ~~thereafter shall be~~ after the initial appointments are for 3-year terms, ~~but no person may be appointed to serve more than 2 consecutive terms.~~ Terms shall begin on the first day of the calendar year and end on the last day of the calendar year ~~or until successors are appointed,~~ except for the first appointed members who shall serve through the last calendar day of the year in which they are appointed, ~~before commencing the terms prescribed~~

~~by this section.~~ Appointments of members must comply with section 60.

~~Any A~~ A member of the board may be removed from office for cause by the Governor. ~~A member may not serve more than 2 full successive 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.~~

Sec. A-140. 32 MRSA §2351, 3rd ¶, as amended by PL 1983, c. 413, §117, is further amended to read:

The appointive members ~~shall be~~ are appointed for terms of 4 years, ~~except that at least one appointive member's term shall expire in each 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 that expiration, regardless of the date of his appointment. ~~No appointive member 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.~~ Appointments of members must comply with section 60.

Sec. A-141. 32 MRSA §2351, 4th ¶, as amended by PL 1983, c. 413, §117, is repealed.

Sec. A-142. 32 MRSA §2411, sub-§1, as amended by PL 1987, c. 542, Pt. K, §§2, 3 and 20, is further amended to read:

1. Practice of optometry. The practice of optometry is defined as ~~any one or any a~~ any a combination of the following practices:

A. The examination of the eye and related structures without the use of surgery or other invasive techniques to ascertain defects, abnormalities or diseases of the eye;

B. ~~Functional examination.~~ The determination of the accommodative or refractive states of the human eye and evaluation of visual functions-;

C. The correction, treatment or referral of vision problems and ocular abnormalities by the prescribing, adapting and application of ophthalmic lenses, devices containing lenses, prisms, contact lenses, orthoptics, vision therapy, ocular pharmaceutical agents and prosthetic devices and other optical aids, and by using other corrective procedures to preserve, restore or improve vision, excluding invasive, laser or other surgery;

D. ~~Fitting of eyeglasses.~~ The fitting, bending and adjusting of eyeglasses with ophthalmic lenses, except that activities covered by this subsection shall ~~are~~ not be considered as the practice of optometry providing if the fitting, bending and adjusting is ~~are~~ by order of and under the responsibility of an optometrist or ophthalmologist; ~~and~~

E. ~~Replacement of lens.~~ The replacement or duplication of an ophthalmic lens without a written prescription from ~~a person~~ an individual licensed under the laws of this State to practice either optometry or medicine.

Nothing in this ~~section shall~~ subsection may be construed to prevent an optical mechanic from doing the merely mechanical work associated with adapting, fitting, bending, adjusting, replacing or duplicating of eyeglasses with ophthalmic lenses.

An ophthalmic lens ~~within the means of this section shall be any~~ is a spectacle lens or contact lens which ~~that~~ has a spherical, cylindrical or prismatic power or value or any a lens ground pursuant to a written prescription.

Sec. A-143. 32 MRSA §2411, sub-§2, as repealed and replaced by PL 1975, c. 563, §1, is amended to read:

2. Optometrist. "Optometrist" means ~~a person~~ an individual who has obtained ~~a certificate of registration from the Maine State Board of Optometry and a license to practice optometry in the State of Maine.~~

Sec. A-144. 32 MRSA §2415, as amended by PL 1989, c. 503, Pt. B, §136, is further amended to read:

§2415. Appointment; tenure; vacancies; removal

The State Board of Optometry, as established by Title 5, section 12004-A, subsection 28, and in this chapter called the "board," ~~shall consist~~ consists of 6 persons appointed by the Governor. Five of ~~such persons shall~~ the appointees must have been resident optometrists engaged in the actual practice of optometry in this State for a period of at least 5 years prior to their appointment and one of ~~such persons shall~~ the appointees must be a consumer member who ~~shall be~~ is a resident of this State and ~~shall have~~ has no pecuniary interest in optometry or in the merchandising of optical products. ~~They shall be appointed for terms as the terms of the present members expire, so that eventually the term of one member shall expire each year and each shall hold office for a term of 5 years and until a successor is appointed and qualified. Any vacancy in said the board shall be filled by the appointment of a person, qualified as aforesaid, to hold~~

~~office during the unexpired term of the member whose place is filled. Any Appointment is for a term of 5 years. Appointments of members must comply with section 60. A member of said the board may be removed from office for cause by the Governor. The board shall have~~ has a common seal.

Sec. A-145. 32 MRSA §2416, as amended by PL 1983, c. 812, §221, is further amended to read:

§2416. Officers; compensation; meetings

The board shall annually elect from its members a president and a ~~secretary who shall be treasurer~~ secretary-treasurer. They ~~shall severally~~ each have authority, during their term of office, to administer ~~such~~ oaths and take ~~such~~ affidavits as ~~are~~ required by this chapter, ~~certifying thereto under their hand and the seal of the board.~~ The ~~treasurer~~ secretary-treasurer shall receive all fees, charges and assessments payable to the board, and account for and pay over the same according to law. The board shall meet at least once in each year at ~~Augusta~~ within the Capital area, and, in addition ~~thereto~~, whenever and wherever the president and secretary thereof shall call ~~a meeting necessary to conduct the business of the board.~~ A majority of ~~said the~~ board ~~shall constitute~~ constitutes a quorum.

The members of the board ~~shall~~ are each ~~be~~ entitled to compensation according to the provisions of Title 5, chapter 379, ~~except that the secretary of said board shall receive an annual salary of \$500. Any~~ In a year in which the income of the board, ~~from examination fees and annual license fees collected under this chapter, plus any unexpended balances on hand,~~ is not sufficient to pay members of the board, available funds ~~shall~~ must be prorated, ~~except that the secretary's compensation shall have prior claim to available funds.~~

The ~~secretary shall~~ secretary-treasurer is responsible to keep a full record of the proceedings of ~~said the~~ board, which ~~shall~~ must be open to public inspection at all reasonable times.

Sec. A-146. 32 MRSA §2417, as amended by PL 1991, c. 675, §1, is further amended to read:

§2417. Standards; rules of board

1. Standards for licensure. The following ~~shall~~ constitute ~~are~~ the requirements ~~which applicants must be complied with by applicants for examination before they can be examined or receive a certificate~~ meet before licensure:

A. Be at least 18 years of age;

C. Be a graduate of a recognized school of optometry; and

D. Have succeeded in an examination as described in section 2422.

Upon satisfying ~~the foregoing~~ these requirements, an applicant ~~shall~~ may be licensed ~~hereunder~~ by the board.

3. Standards for minimum eye examination.

The following ~~shall constitute~~ are the minimum standards for a competent professional eye examination:

- A. ~~History~~ A history of the patient's visual problems and care;
- B. ~~Visual~~ A test of the acuity of each eye, uncorrected and with best correction;
- C. ~~Examination~~ An examination for ~~any~~ an abnormal condition or any significant characteristics of internal and external ocular tissues;
- D. Advice for medical treatment or referral, or both;
- E. Objective and subjective refraction of the eyes; and
- F. ~~Cover~~ A cover test or muscle balance tests, or both.

Each optometrist shall maintain a complete record of all eye examinations given. Each optometrist shall include in ~~his~~ the examination record the findings under paragraphs A through F, as well as any prescriptions or programs of corrective procedure. ~~Such information shall~~ This information for each patient must be available from the optometrist for a period of not less than 10 years.

4. Minimum prescription requirements. The following ~~shall constitute~~ are the minimum requirements for optometric prescriptions:

~~A. For ophthalmic lenses, other than contact lenses:~~

- ~~(1) Dioptric power of spheres, cylinders and prisms, axis of cylinders and position of base of prisms;~~
- ~~(2) Designation of pupillary distance;~~
- ~~(3) Type and form of lenses;~~
- ~~(4) Description of type and placements of reading segments in multifocal lenses;~~
- ~~(5) Placement of optical centers for distance seeing and near point seeing;~~

~~(6) Name of patient, date of prescription and name and office location of prescriber.~~

A-1. For ophthalmic lenses and contact lenses:

- (1) The prescription must contain all the information necessary to be properly dispensed;
- (2) The prescription must specify whether it is for contact lenses or ophthalmic lenses; and
- (3) All prescriptions must include the name of the patient, date of prescription, name and office location of prescriber and an expiration date.

~~B. For contact lenses:~~

- ~~(1) Base curve, peripheral curve, intermediate curve;~~
- ~~(2) Power;~~
- ~~(3) Size of lens;~~
- ~~(4) Size of optical zone;~~
- ~~(5) Thickness;~~
- ~~(6) Edge shape;~~
- ~~(7) Color;~~
- ~~(8) Form.~~

C. All prescriptions ~~shall~~ must be reduced to writing and placed on file as provided in subsection 3.

D. For pharmaceutical agents all prescriptions must include:

- (1) Patient's The patient's name;
- (2) Date The date;
- (3) Name The name, quantity and dosage of drugs;
- (4) Number The number of refills;
- (5) Name The name of the prescriber;
- (6) Drug The drug license number of the prescriber;
- (7) A sequential number; and
- (8) The prescriber's directions for usage.

Sale of pharmaceutical agents by an optometrist is prohibited.

4-A. Release of contact lens prescription.

After contact lenses have been adequately fitted and the patient released from immediate follow-up care by the optometrist, the patient may request a copy of the contact lens specifications from the optometrist. ~~The~~ Upon patient request, the optometrist shall provide a copy of the prescription, at no cost, which must contain the information necessary to properly duplicate the current prescription. The prescription must contain an expiration date. The prescription may contain fitting guidelines and may also contain specific instructions for use by the patient.

The prescribing optometrist is not liable for ~~any~~ an injury or condition to a patient that results from negligence in packaging, manufacturing or dispensing lenses by anyone other than the prescribing optometrist.

The dispensing party may dispense contact lenses only upon receipt of a written prescription, except that an optometrist may fill a prescription of another optometrist or a physician without a copy of the prescription. Except in the case of a physician who has previously seen the wearer, a contact lens prescription may not be filled by mail; but must be filled by being personally dispensed to the contact lens wearer. ~~A person~~ An individual who fills a contact lens prescription shall maintain a file of that prescription for a period of 6 years. ~~Any person~~ An individual, corporation or other entity that improperly fills a contact lens prescription or fills an expired prescription commits a civil violation for which a forfeiture of not less than \$250 nor more than \$1,000 may be adjudged.

~~Any person~~ An individual may file a complaint with the board seeking disciplinary action concerning violations of this subsection. The board shall investigate or cause to be investigated and shall resolve a complaint in a timely fashion on its own motion or upon receipt of a written complaint. The board shall conduct its actions in accordance with the Maine Administrative Procedure Act.

5. Rules. The board shall, in accordance with the Maine Administrative Procedure Act, Title 5, ~~section sections 8051 et seq. to 8059~~, make reasonable rules ~~and regulations~~, not inconsistent with law, to govern the following:

A. The time, place and manner of conducting state board examinations in optometry and the manner and form in which applications for ~~such~~ examination ~~shall~~ must be filed;

B. The fees for registration and licensing under subchapter III; and

C. The conduct of the lawful practice of optometry in accordance with the standards established by this section.

The board may make ~~such~~ other reasonable rules ~~and regulations~~, in accordance with Title 5, ~~section sections 8051 et seq. to 8059~~, as ~~shall be otherwise~~ necessary for the proper performance of its duties ~~under this section~~, including rules ~~and regulations~~ relating to false, deceptive and misleading advertising. ~~Any rules or regulations promulgated~~ Rules adopted relating to such advertising ~~shall may~~ not be inconsistent with any rules ~~or regulations promulgated~~ adopted pursuant to Title 5, section 207, subsection 2.

Sec. A-147. 32 MRSA §2418, as amended by PL 1985, c. 748, §42, is further amended to read:

§2418. Reports; liaison; limitations

On or before August 1st of each year, the board shall submit to the Commissioner of Professional and Financial 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~~ considers essential.

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

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

Sec. A-148. 32 MRSA §2418-A, as amended by PL 1985, c. 748, §42, is further amended to read:

§2418-A. Budget

The board shall submit to the Commissioner of Professional and Financial 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 other change.

Sec. A-149. 32 MRSA §2418-B, as enacted by PL 1991, c. 675, §2, is repealed.

Sec. A-150. 32 MRSA §2419-A, as enacted by PL 1987, c. 542, Pt. K, §§10 and 20, is amended to read:

§2419-A. Licensure for use of therapeutic pharmaceutical agents

Use of therapeutic pharmaceutical agents by an optometrist requires a therapeutic license from the

State Board of Optometry. ~~Licensure shall require Initial licensure requires~~ a review of credentials by the State Board of Optometry, including the successful completion of a transcript quality course in general and ocular pharmacology. A transcript quality course means a course ~~which is~~ given by a regional or professional accrediting organization approved by the Council on Post-secondary Accreditation of the United States Department of Education and approved by the State Board of Optometry. The board shall require a course ~~which that~~ includes a minimum of 100 hours of ocular therapeutics, including at least 25 hours of supervised clinical training, in the examination, diagnosis and treatment of conditions of the eye and its adnexa. ~~Any such That~~ course ~~shall must~~ include participation by an ophthalmologist.

The board shall also require an applicant to successfully complete a graded written examination, administered by the State Board of Optometry or the National Board of Examiners in Optometry, demonstrating competency in the use of therapeutic pharmaceutical agents.

Sec. A-151. 32 MRSA c. 34-A, sub-c. III, first 2 lines, are repealed and the following enacted in their place:

SUBCHAPTER III

LICENSURE

Sec. A-152. 32 MRSA §2421, as enacted by PL 1973, c. 788, §156, is repealed and the following enacted in its place:

§2421. Licensure required

1. Licensure required. An individual may not practice optometry in this State without first obtaining a license from the board, but this chapter does not apply to individuals already licensed to practice medicine within this State.

2. Penalty. An individual who practices optometry in violation of subsection 1 commits a Class E crime. The State may bring action in Superior Court to enjoin an individual from violating subsection 1 regardless of whether proceedings have been or may be instituted in Administrative Court and regardless of the status of criminal proceedings.

Sec. A-153. 32 MRSA §2422, as amended by PL 1987, c. 542, Pt. K, §§11 and 20, is further amended to read:

§2422. Examination; fees; initial licensure

~~Except as provided in section 2424, every person~~ Every individual before beginning the practice of optometry in this State ~~shall must~~ pass an examina-

tion before the board. The board shall provide an opportunity for applicants to take the examination at least twice per year. At the discretion of the board, ~~such the~~ examination may consist of tests in basic sciences; in anatomy and physiology of the eye; pathology; practical, theoretical and physiological optics; practical and theoretical optometry; clinical diagnosis and therapeutics; and ~~such~~ other phases of optometric knowledge and skill ~~as the board may deem determines to be~~ essential. The board shall include an examination on the subject of general and ocular pharmacology as it relates to optometry and the use of pharmaceutical agents for all new applicants for a ~~certificate of registration and license. Any person~~ An individual, having signified to the board his desire who has applied to be examined, shall appear before the board at ~~such the~~ time and place ~~as they may designate the board designates~~ and, before ~~such the~~ examination, shall pay to the board a sum not in excess of ~~\$100 \$200~~, as established by the board. All ~~persons applicants~~ successfully passing ~~such the~~ examination ~~shall must~~ be registered, in a record ~~which shall be kept by the secretary of the board, as licensed to practice optometry and shall receive a certificate of such registration issued by the board.~~ The board may require applicants who have failed to pass the licensure examination 3 times to enroll in a course of continuing education as prescribed by the board.

1. Requirement. All applicants for a therapeutic pharmaceutical license under this section shall submit proof of:

A. Satisfactory completion of a course in general and ocular pharmacology with particular emphasis on the application and use of pharmaceutical agents for the purpose of examination, diagnosis and treatment of conditions of the eye and its adnexa. The course ~~shall constitute must~~ include a minimum of 100 hours of ocular therapeutics, including at least 25 hours of supervised clinical training and ~~shall must~~ be taught by an accredited institution and approved by the board; or

B. Graduation from an accredited optometric institution and passing an examination on therapeutic pharmaceuticals administered by the National Board of Examiners in Optometry; and

C. Completion of one year of acceptable practice as a licensed optometrist.

Sec. A-154. 32 MRSA §2423, as amended by PL 1983, c. 378, §27, is further amended to read:

§2423. Licensing

1. Annual renewal. Every ~~registered licensed~~ optometrist practicing in the State shall annually, before the first day of April, pay to the board a license renewal fee not in excess of ~~\$100~~ \$200 as established by the board under section 2417, ~~for each office location.~~

2. Nonactive license. Every ~~registered licensed~~ optometrist not practicing within the State ~~shall, must~~ upon payment of an annual license renewal fee not in excess of ~~\$100~~ \$200 as established by the board, be issued a nonactive license renewal ~~certificate.~~ ~~Said~~ ~~The fee shall be~~ is payable to the board before the first day of April each year. Should a holder of ~~such~~ a nonactive license ~~renewal certificate~~ desire to practice within the State, ~~he shall so~~ the licensee shall notify the board in writing, ~~including a statement of his proposed office location, and except as hereinafter provided, he shall forthwith otherwise provided in this chapter, must then~~ be issued an active license ~~certificate~~ by the board.

3. Examination. Every ~~registered~~ optometrist holding a nonactive license ~~renewal certificate~~ for a period of 3 years or more, who desires an active license ~~certificate,~~ shall ~~be required to~~ submit to a practical examination ~~with regard to~~ for professional and technical proficiency conducted by the board. ~~If he shall reasonably have demonstrated the applicant demonstrates professional and technical proficiency as the result of such in the examinations, he shall then the applicant may~~ be issued an active license ~~certificate~~ authorizing ~~him to~~ practice in this State. ~~Said~~ The active license ~~certificate shall be~~ is renewed annually as provided in subsection 1.

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

5. Military service; license to practice optometry. A resident of the State who is serving in the military service of the United States and is engaged in the practice of optometry as defined in section 2411, ~~shall be~~ is entitled to the issuance of an active license, upon payment of the required annual renewal fee.

Sec. A-155. 32 MRSA §2424, as amended by PL 1977, c. 694, §597, is repealed.

Sec. A-156. 32 MRSA §2425, as amended by PL 1987, c. 542, Pt. K, §§12 and 20, is further amended to read:

§2425. Display of license

Every ~~person individual~~ to whom a ~~certificate of registration and current certificate of annual license renewal are~~ is granted shall display the ~~same~~ license in a conspicuous part of ~~his the office wherein the practice of optometry is conducted where the licensee practices.~~ Optometrists An optometrist awarded credentials by the board in the use of diagnostic and therapeutic pharmaceuticals are ~~required to~~ shall affix current documentation of these privileges to ~~their registration that optometrist's license~~ as provided by the board upon annual ~~license~~ renewal.

Sec. A-157. 32 MRSA 2426, as amended by PL 1987, c. 542, Pt. K, §§13 and 20, is further amended to read:

§2426. Educational programs

All optometrists ~~now or hereafter~~ licensed in the State of Maine ~~shall be~~ are required to take annual courses in subjects related to the practice of the profession of optometry, to the end that the utilization and application of new techniques, scientific and technical advances, the use of pharmaceutical agents and treatment of ocular diseases and the achievements of research will assure comprehensive vision care to the public. The length of study ~~shall be~~ is determined by the board, but in no event ~~shall it~~ may the length be less than 15 hours nor exceed ~~20~~ 30 hours in any calendar year. Optometrists authorized to use therapeutic pharmaceutical agents shall complete, as part of their annual course work, 5 or more hours of approved transcript quality course work in ocular pharmacology, diagnosis and treatment of ocular disease. Attendance must be at a course or courses approved by the board and is to be certified to the board upon a form provided by the board and ~~shall be~~ submitted by each optometrist at the time ~~he makes~~ of application to the board for the renewal of his license ~~renewal and shall accompany accompanied by~~ the annual renewal fee. The board shall notify all optometrists licensed in this State of all courses approved by it at least 15 days prior to the offering of ~~such each~~ course. ~~The board is authorized to use up to 1/2 of its annual renewal fees for the purpose of contracting with institutions of higher learning, professional organizations or qualified individuals for the providing of educational programs approved by the board.~~

~~In no instance may the board require a greater number of hours of study than are available at approved courses held within the State of Maine and the~~ The board shall be is permitted to waive this continuing education requirement in cases of illness or undue hardship. If an applicant for a ~~renewal of license renewal~~ fails to comply with this continuing education provision and ~~no~~ action has not been taken by the board to waive the requirements because of the causes

specified, then the board ~~shall~~ may not renew the license, except that in its discretion, it may renew the license conditionally, with the provision that within 6 months the applicant shall fulfill the requirements.

Sec. A-158. 32 MRSA §2429, as enacted by PL 1991, c. 675, §3, is repealed and the following enacted in its place:

§2429. Consumer information

The board shall develop a consumer information brochure pursuant to section 59-A.

Sec. A-159. 32 MRSA c. 34-A, sub-c. IV, first 3 lines are repealed and the following enacted in their place:

SUBCHAPTER IV

REVOCAION, REFUSAL OR SUSPENSION OF LICENSE

Sec. A-160. 32 MRSA §2431-A, as amended by PL 1987, c. 542, Pt. K, §§16 and 20, is further amended to read:

§2431-A. Disciplinary actions

1. Disciplinary proceedings and sanctions.

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

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

If, in the opinion of the board, the factual basis of the complaint is or may be true, and ~~it the complaint~~ is of sufficient gravity to warrant further action, the board may request an informal conference with the licensee. The board shall provide the licensee with adequate notice of the conference and of the issues to be discussed. The conference ~~shall~~ must be conducted in executive session of the board, pursuant to Title 1, section 405, unless otherwise requested by the licensee. Statements made at the conference may not be introduced at a subsequent formal hearing unless all parties consent.

If the board finds that the factual basis of the complaint is true and is of sufficient gravity to warrant

further action, it may take any of the following actions it ~~deems~~ determines appropriate:

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

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

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

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

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

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

B. Habitual ~~intemperance in the use of alcohol or the habitual use of narcotic or hypnotic or other substances the use of which~~ substance abuse that has resulted or ~~may is~~ is foreseeably likely to result in the licensee performing ~~his~~ his duties services in a manner ~~which that~~ which endangers the health or safety of ~~his~~ his patients;

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

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

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

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

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

F. Unprofessional conduct. A licensee ~~shall be deemed is considered~~ to have engaged in unprofessional conduct if ~~he~~ the licensee violates ~~any a~~ commonly understood standard of professional behavior ~~which has been established in the practice for which the licensee is licensed or board rule governing professional conduct~~;

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

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

I. Engaging in false, misleading or deceptive advertising;

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

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

L. Representing one's self to the public as something other than an optometrist, ~~by which~~ shall be meant for example, as an optician, eye

physician or by ~~any other use of another~~ designation ~~which that~~ would tend to confuse the nature of one's licensed practice. The following titles ~~shall be~~ are considered lawful:

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

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

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

O. Failure to display a diagnostic or therapeutic drug license issued under section 2419-A or 2425; or

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

Sec. A-161. 32 MRSA §2434, as amended by PL 1983, c. 378, §33, is further amended to read:

§2434. Unauthorized associations

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

1. Associations. Association for the joint practice of optometry with ~~any person~~ an individual, corporation or partnership not licensed to practice optometry or another of the healing arts;

2. Aiding unauthorized practice. ~~The aiding and abetting~~ Assisting an unlicensed individual, corporation or partnership in the practice of optometry of ~~any person not licensed to practice in this State~~;

3. Loan of license. The lending, leasing or in any other manner placing of one's ~~certificate of registration~~ license at the disposal of or in the service of ~~any person~~ an individual not licensed to practice optometry in this State;

4. Mercantile employment. The practice of optometry as a full or part-time employee of ~~any~~ a mercantile establishment or directly or indirectly encouraging one's optometric services to be promoted as part of ~~any~~ a mercantile or commercial establishment. In this prohibition ~~shall be~~ is included the practice of optometry as a lessee of a commercial or mercantile establishment involved in the selling of spectacles, frames, mounting, lenses or other optical devices; and

5. Continuing unauthorized associations. The continuance of an optometrist directly or indirectly in the employ of or in association with ~~any~~ an optometrist after knowledge that ~~such~~ the optometrist is engaged in the violation of the provisions of this chapter.

Sec. A-162. 32 MRSA §2435, as amended by PL 1983, c. 378, §34, is further amended to read:

§2435. Corporate practice of optometry

~~No registered~~ A licensed optometrist, under this chapter, may ~~not~~ associate ~~himself in any way~~ with ~~any person~~ an individual who is not a ~~registered~~ licensed optometrist nor ~~any~~ a copartnership, firm or corporation for the promotion of ~~any~~ a commercial practice for profit or division of profit ~~which that~~ enables ~~any such person~~ the individual, copartnership, firm or corporation to engage, either directly or indirectly, in the practice of optometry in this State.

Sec. A-163. 32 MRSA §2436, as enacted by PL 1973, c. 788, §156, is amended to read:

§2436. Succession in practice

An optometrist taking over an established practice shall clearly indicate that ~~he~~ the new optometrist is responsible individually for the practice, but ~~he~~ shall be permitted to ~~the optometrist may~~ use the term: "succeeded by," "successor to," or "succeeding" for a period not exceeding 2 years.

Sec. A-164. 32 MRSA §2441, as amended by PL 1987, c. 542, Pt. K, §§17 and 20, is repealed.

Sec. A-165. 32 MRSA §§2442 and 2443, as enacted by PL 1973, c. 788, §156, are repealed.

Sec. A-166. 32 MRSA §2444, as enacted by PL 1973, c. 788, §156, is amended to read:

§2444. Public aid ocular services

All agencies, commissions, clinics and bureaus administering relief, public assistance, public welfare assistance, social security, health insurance or health services under the laws of this State may accept the service of licensed optometrists for ~~any~~ a service

covered by their licenses relating to ~~any persons~~ individuals receiving benefits from ~~said~~ those agencies or commissions and ~~shall~~ must pay for ~~such~~ the services in the same way as practitioners of other professions ~~may be~~ are paid for similar services. ~~None of said governmental~~ Government agencies, or their agents, officials or employees ~~thereof~~, including the public schools, ~~in the performance of their duties shall~~ in any way show discrimination may not discriminate among licensed ocular practitioners.

~~Whoever violates or fails to comply with this section shall be punished by a fine of not more than \$100 or by imprisonment for not more than 90 days, or by both.~~

Sec. A-167. 32 MRSA §2446, as amended by PL 1987, c. 542, Pt. K, §§18 and 20, is further amended to read:

§2446. Drugs

~~Any~~ An optometrist who uses pharmaceutical agents, without first having obtained a license under section 2419-A ~~shall be deemed guilty of~~ commits a misdemeanor and ~~shall be punished by a fine of not less than \$50 nor more than \$200~~ Class E crime.

~~The board further reserves right to review performances and remove a therapeutic drug license, as outlined in section 2431 A or if the licensee fails to comply with the requirements in section 2426.~~

Sec. A-168. 32 MRSA c. 36, first 5 lines are repealed and the following enacted in their place:

CHAPTER 36

OSTEOPATHIC PHYSICIANS

SUBCHAPTER I

BOARD OF OSTEOPATHIC LICENSURE

Sec. A-169. 32 MRSA §2561, as amended by PL 1991, c. 150, §1, is further amended to read:

§2561. Membership; qualifications; tenure; vacancies

The Board of Osteopathic ~~Examination and Registration~~ Licensure, as established by Title 5, section 12004-A, subsection 29, and in this chapter called the "board," consists of 9 ~~persons~~ members appointed by the Governor. These ~~persons~~ members must be residents of this State. Six of these ~~persons~~ members must be graduates of a legally chartered college of osteopathic medicine or university having the power to confer degrees in osteopathic medicine and must be, at the time of ~~their~~ their appointment, actively engaged in the practice of ~~their~~ the profession of osteopathic medicine

osteopathic medicine in ~~Maine~~ the State for a period of at least 5 years, and 3 of these ~~persons~~ members must be ~~representatives of interest of consumers public members~~. ~~None of the members representing the interests of consumers may be members of, or associated with, or have a financial interest in a health care provider or profession.~~ Consumer groups may submit nominations to the Governor for the members to be appointed to represent the interest of consumers. ~~Each appointment is for a period of 5 years as the terms of the present members expire. Any vacancy in the board caused by death, resignation or for any other cause, except completion of a full term of service, must be filled by the appointment of a person, qualified as was the member whose place is filled, to hold office during the unexpired term of that member. Any A full term of appointment is for 5 years. Appointment of members must comply with section 60. A member of the board may be removed from office for cause by the Governor.~~

Sec. A-170. 32 MRSA §2562, as amended by PL 1991, c. 425, §1, is further amended to read:

§2562. Meetings; organizations; duties; powers

The board shall meet ~~annually~~ in June of each year at ~~such a~~ time and place as the ~~chairman~~ chair may designate. ~~It~~ The board shall elect one of its members as ~~chairman~~ chair annually and one of its members as ~~secretary and treasurer~~ secretary-treasurer, to hold ~~such~~ office at the pleasure of the board. ~~The board shall be required annually to set a reregistration fee for the ensuing year, based on a balance of operating expenses and income factors. The treasurer secretary-treasurer shall receive all fees, charges and assessments payable to the board and account for and pay over the same to the State ensure proper management of the board's finances. Special meetings may be called at the pleasure of the chairman chair and in case of the death or inability of the chairman chair, the secretary secretary-treasurer may call special meetings. Said The board shall cause a seal of suitable inscription to be procured and to be affixed to such papers as that may require such the seal, shall keep a correct record of all of its proceedings and shall have has power to make such rules and regulations, not inconsistent with this chapter, as it may deem considers necessary for the successful enforcement of its authority and the performance of its duties. The As part of the biennial relicensure process, the board shall at its annual meeting in every even year prepare and distribute to each licensed osteopathic physician practicing in Maine the State a copy of its code of ethics and current rules and regulations relative to continuing medical education. The chairman chair and the secretary shall be empowered to secretary-treasurer may administer oaths in matters connected with the duties of said the board. The~~

records of ~~said the~~ board shall must include, ~~among other things,~~ a report of all ~~moneys~~ money received and disbursed by ~~said the~~ board, ~~also and~~ a list of all applicants for ~~certificates~~ licenses, ~~giving including~~ the name and location of the institution granting a D.O. degree, Doctor of ~~Osteopathic Medicine Osteopathy~~, to ~~the each~~ applicant; and ~~the fact shall be recorded~~ whether the applicant was granted or denied a ~~certificate~~ license. ~~Such These~~ records, or duplicates thereof, shall must always be open to inspection in the office of the Secretary of State during regular office hours. Four members of the board shall constitute a quorum for the transaction of business. ~~No certificate A license to practice osteopathic medicine shall may not be granted, except on an affirmative vote of at least 4 members a majority of the board.~~

Each member of the board shall ~~be compensated is entitled to compensation~~ according to the provisions of Title 5, chapter 379. All requisitions for payment of money shall must be signed by the ~~chairman chair~~ and the ~~secretary~~ secretary-treasurer of ~~said the~~ board. If the fees to be collected under ~~any of~~ the provisions of this chapter are insufficient to pay the salaries and expenses provided by this section, the members of ~~said the~~ board shall ~~be are~~ entitled to only a pro rata payment for salary in ~~any~~ years in which ~~such the~~ fees are insufficient.

The board shall ~~have~~ has the duty and the power to annually determine the salary of the secretary-treasurer, not to exceed \$6,000. The board has the power to employ, fix the salary of and prescribe the duties of other personnel as the board shall ~~deem~~ considers necessary.

The board may set reasonable fees for services, such as providing license certifications and verifications, providing copies of ~~law~~ laws and rules and providing copies of documents.

Sec. A-171. 32 MRSA §2562-A, as enacted by PL 1985, c. 804, §§17 and 22, is amended to read:

§2562-A. Adequacy of budget

The budget submitted by the board to the Commissioner of Professional and Financial Regulation shall must be sufficient to enable the board to comply with this subchapter. The fiscal resources available to the board ~~should~~ must enable it to strengthen its staffing capabilities and those of the Department of ~~the~~ Attorney General's legal and investigative staff so that complaints, including the professional liability related complaints detailed in Title 24, section 2607, ~~can be are~~ resolved in a timely fashion. ~~The board shall engage in a collaborative effort with the Board of Registration in Medicine so that the Department of Attorney General's legal and investigative staff resources can be shared. Staff resources shall include~~

~~an additional staff member to handle complaint processing and licensure problems. One investigator and one attorney may be shared with the Board of Registration in Medicine.~~

Sec. A-172. 32 MRSA c. 36, sub-c. II, first 2 lines are repealed and the following enacted in their place:

SUBCHAPTER II

LICENSURE

Sec. A-173. 32 MRSA §2571, as amended by PL 1991, c. 425, §2, is further amended to read:

§2571. Licensure; qualifications; fees

~~Any person~~ An individual, before engaging in the practice of osteopathic medicine in this State, shall make application for a ~~certificate~~ license to the board, on a form prescribed by ~~it~~ the board. The application must be filed with the ~~secretary of the board~~ at least 60 days before the date of examination together with a fee of not more than \$350. The applicant shall present a diploma granted by an osteopathic college or university accredited by the American Osteopathic Association having the power to grant a D.O. degree. Applicants graduating from an osteopathic college or university having the power to grant a D.O. degree shall present evidence of having completed an internship of at least 12 months in a hospital conforming to the minimal standards for accreditation by the American Osteopathic Association, or the equivalency, as determined by the board. All applicants shall provide ~~such~~ reasonable and proper facts as the board in its application may require. The board at its discretion may permit an applicant, who is otherwise qualified to be examined during internship, a ~~certificate of licensure~~ license to be withheld until successful completion of internship.

All fees set in this chapter are nonrefundable application fees or administrative processing fees payable to the board at the time of application or at the time board action is requested. Unless otherwise specified, the board shall set the fees.

An applicant may not be licensed unless the board finds that the applicant is qualified and that no cause exists, as set forth in section 2591-A, that would be considered grounds for disciplinary action against a licensed physician.

Sec. A-174. 32 MRSA §2572, as amended by PL 1991, c. 425, §3, is further amended to read:

§2572. Examination, reexamination; endorsement; temporary licensure

Applicants must be examined in whole or in part in writing and must be thorough in ~~such~~ subjects as the board determines necessary, including osteopathic theories and methods, to determine the competency of the candidate to practice osteopathic medicine ~~and surgery~~ in the State. If the examination is passed in a manner satisfactory to the board, the board shall issue to the applicant a ~~certificate~~ license granting the applicant the right to practice osteopathic medicine in this State. If the applicant fails to pass the examination, the applicant is entitled to one reexamination within one year ~~thereafter~~ after failure upon payment of a fee of not more than \$300 ~~plus the costs of the examination set by the board~~. Osteopathic physicians who have been certified by the National Board of Osteopathic Examiners or have been strictly examined and ~~thereafter~~ licensed to practice osteopathic medicine in another state, which has equivalent licensing requirements ~~as Maine to this State~~, may be licensed to practice osteopathic medicine in this State upon the payment of not more than \$300 and the substantiation to the board of an earned D.O. degree and the license obtained in ~~such~~ the other state. The board may at its discretion require an examination of any such applicant.

Sec. A-175. 32 MRSA §2573, as amended by PL 1991, c. 425, §4, is further amended to read:

§2573. Temporary licensure

An osteopathic physician in good repute who is a graduate of an accredited osteopathic college or university having the power to grant a D.O. degree, serving as a fellow, intern or resident physician ~~or surgeon~~ in a hospital in this State, shall register with the board and must be issued a ~~certificate~~ temporary license by the board evidencing the right ~~of such person to hold a temporary registration~~ to practice only under hospital control. Such a ~~certificate~~ license may not be issued for a period in excess of one year but may be renewed from time to time, not to exceed an aggregate of 5 years. The ~~certificate~~ license must be in a form prescribed by the board and may be revoked or suspended by the board with ~~such~~ the suspension or revocation effective immediately when written notification from the board is received by the hospital. ~~No~~ An examination may not be required for applicants for this temporary ~~certificate~~ license. The fee for such a ~~certificate~~ license may not be more than \$300.

Sec. A-176. 32 MRSA §2574, as amended by PL 1991, c. 425, §5, is further amended to read:

§2574. Locum tenens

An osteopathic physician having a D.O. degree from an American Osteopathic Association, accredited osteopathic college or university and of good repute may, at the discretion of the board, be given a temporary ~~certificate~~ license to be effective for not more than 6 months after issuance, for the purpose of permitting ~~such~~ the physician to serve as "locum tenens" for another osteopathic physician who is unable, because of illness or some other substantiated reason, to maintain the practice, thus fulfilling a need in that area for providing health services. The fee for such a ~~certificate~~ license may be not more than \$500.

Sec. A-177. 32 MRSA §2575, as amended by PL 1991, c. 425, §6, is further amended to read:

§2575. Camp physicians

~~Any~~ An osteopathic physician being a graduate of an accredited osteopathic college or university having the power to grant a D.O. degree, and ~~who is~~ of good repute may, at the discretion of the board, make application for a temporary ~~certificate~~ license to practice as a camp physician at a specified camp. Such an osteopathic physician is entitled to practice only on the patients at ~~said~~ the camp. The ~~certificate~~ license must be obtained each year. Applications for such a temporary ~~certificate~~ license must be made in the same manner as for regular ~~certificates~~ licenses. ~~No~~ An examination may ~~not~~ be exacted from applicants for ~~such~~ temporary ~~certificates~~ licenses. The fee may not be more than \$500.

Sec. A-178. 32 MRSA §2576, as amended by PL 1991, c. 425, §7, is further amended to read:

§2576. Visiting instructors

A temporary visiting instructor's ~~certificate~~ license may be granted an osteopathic physician who holds a current and valid license to practice osteopathic medicine ~~or surgery~~ in another state. This ~~certificate~~ license entitles the osteopathic physician to practice in this State ~~where~~ when that physician is performing osteopathic medical procedures as a part of a course or courses of instruction in continuing medical education in a hospital in this State. The annual fee for such a temporary ~~certificate~~ license may not be more than \$100. The license issued pursuant to this section is ~~of~~ for a duration set by the board. Such a temporary ~~certificate~~ license may be revoked for any one of the reasons in section 2591-A.

Sec. A-179. 32 MRSA c. 36, sub-c. IV, first 2 lines are repealed and the following enacted in their place:

SUBCHAPTER IV**LICENSES**

Sec. A-180. 32 MRSA §2581, as amended by PL 1991, c. 425, §8, is further amended to read:

§2581. Licenses; biennial relicensure; fees; reinstatement

Upon satisfactorily qualifying for licensure, the applicant ~~shall~~ may be issued a ~~certificate~~ license by the board, which ~~has been~~ is dated and signed by its members and upon which the official seal of the board ~~shall be~~ is affixed. ~~Such certificate shall~~ The license must designate the holder as a physician licensed to practice osteopathic medicine in the State of Maine. ~~Such certificates shall~~ The license must be publicly displayed at the ~~person's~~ individual's principal place of practice.

Every osteopathic physician legally licensed to practice in this State, shall, on or before the first day of January of each even-numbered year, pay to the ~~secretary of the~~ board a fee ~~as stipulated~~ set by the board not to exceed \$500 for the renewal of the osteopathic physician's ~~certificate~~ license to practice. In addition to the payment of ~~such~~ the renewal fee, each licensee ~~so~~ applying for the renewal of the osteopathic physician's ~~certificate~~ license shall, ~~commencing for the year 1975 and thereafter,~~ furnish to the board satisfactory evidence that the osteopathic physician has attended in the ~~year~~ 2 preceding ~~years~~ at least ~~50~~ 100 hours of educational programs devoted to continuing medical education approved by the board. The required education must be obtained from formalized programs of continuing medical education sponsored by recognized associations, colleges or universities, hospitals, institutes or groups approved by the board. A copy of the current approved list must be available in the office of the ~~secretary~~ secretary-treasurer of the board. At least 40% of these credit hours must be osteopathic medical education approved in the rules ~~and regulations~~ established by the board. The board may adjudicate continuing medical education performance in situations of illness, hardship or military service upon written petition by the applicant. The ~~secretary~~ secretary-treasurer of the board shall send a written notice of the foregoing requirements to each ~~such~~ osteopathic physician, at least 60 days prior to ~~each~~ January 1st, directed to the last known address of the licensee and enclosing ~~therewith~~ with the notice proper blank forms for application for renewal. If ~~any~~ a licensee fails to furnish the board evidence of attendance at continuing medical educational programs, as approved by the board, fails to pay the renewal fee or fails to submit a completed application for renewal, the osteopathic physician automatically forfeits the

right to practice osteopathic medicine in this State. After January 1st of each even-numbered year, the board shall send notice by first class mail to each licensee who has failed to meet ~~any~~ of the requirements for renewal. If the failure is not corrected within 30 days, then the osteopathic physician's license may be ~~deemed~~ considered lapsed by the board. The ~~secretary~~ secretary-treasurer of the board may reinstate the osteopathic physician upon the presentation of satisfactory evidence of continuing medical education as outlined and approved by the board and upon payment of the renewal fee.

~~Reregistration~~ Relicensure fees provided for under this section ~~shall~~ are not ~~be~~ required of an osteopathic physician who is 70 ~~or more~~ years of age or older on the first day of January of the year in which the ~~reregistration~~ relicensure is made, although the requirements for continuing medical education ~~provided for shall~~ apply without regard to age.

~~Such certificate shall entitle a person~~ The license entitles an individual to whom it is granted the privilege to practice osteopathic medicine in any county in this State, in all its branches as taught in American Osteopathic Association approved colleges and universities of osteopathic medicine with the right to use ~~such drugs as that~~ are necessary in the practice of osteopathic medicine.

~~Any person~~ An individual to whom a ~~certificate has been license~~ is granted under this section shall designate ~~himself or herself~~ that individual's status as an osteopathic physician either by the letters D.O. following ~~his~~ the licensee's name or by the words "osteopathic physician" following or accompanying ~~his~~ the licensee's name when the prefix Doctor or Dr. is used.

~~Any~~ An applicant not complying with ~~reregistration~~ relicensure requirements is entitled to be reinstated upon paying the ~~reregistration~~ relicensure fee for the given year and satisfying the board that ~~he~~ the applicant has paid all ~~reregistration~~ relicensure fees due at the time of ~~his~~ the applicant's withdrawal, and ~~no~~ that a cause exists does not exist for revoking or suspending ~~his or her~~ the applicant's license. The board shall ~~have the right and the duty~~ to determine the skill and competence of any an osteopathic physician applying for a reinstatement who has not been engaged in the active practice of osteopathic medicine in this or some other state for a period in excess of one year from the date of ~~his~~ the physician's most recent ~~reregistration~~ relicensure in Maine.

Sec. A-181. 32 MRSA §2591-A, as amended by PL 1989, c. 462, §7, is further amended to read:

§2591-A. Disciplinary actions

1. Disciplinary proceedings and sanctions.

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

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

If, in the opinion of the board, the factual basis of the complaint is or may be true, and ~~it~~ the complaint is of sufficient gravity to warrant further action, the board may request an informal conference with the licensee. The board shall provide the licensee with adequate notice of the conference and of the issues to be discussed. The conference ~~shall~~ must be conducted in executive session of the board, pursuant to Title 1, section 405, unless otherwise requested by the licensee. Statements made at the conference may not be introduced at a subsequent formal hearing unless all parties consent.

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

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

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

C. If the board concludes that modification or nonrenewal of the license ~~might be~~ is in order, the board shall hold an adjudicatory hearing in

accordance with the provisions of the Maine Administrative Procedure Act, Title 5, chapter 375, subchapter IV; or

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

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

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

B. ~~Habitual intemperance in the use of alcohol or the habitual use of narcotic or hypnotic or other substances the use of which substance abuse that has resulted or may be foreseeably likely to result in the licensee performing his duties services in a manner which that endangers the health or safety of his the licensee's patients;~~

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

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

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

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

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

F. Unprofessional conduct. A licensee ~~shall be deemed~~ is considered to have engaged in unpro-

fessional conduct if ~~he the licensee~~ violates ~~any~~ a standard of professional behavior ~~which that~~ has been established in the practice for which the licensee is licensed;

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

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

I. Engaging in false, misleading or deceptive advertising;

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

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

L. Division of professional fees not based on actual services rendered; or

M. Failure to comply with the requirements of Title 24, section 2905-A.

3. Report. By March 1st of each year, the board shall submit to the Legislature a report consisting of statistics on the following for the preceding year:

A. The number of complaints against licensees received from the public or filed on the board's own motion;

B. The number of complaints dismissed for lack of merit or insufficient evidence of grounds for discipline;

C. The number of cases in process of investigation or hearing carried over at year end; and

D. The number of disciplinary actions finalized during the report year as tabulated and categorized by the annual statistical summary of the Physician Data Base of the Federation of State Medical Boards of the United States, Inc.

Sec. A-182. 32 MRSA §2592-A, as enacted by PL 1991, c. 534, §6, is amended to read:

§2592-A. Reporting and investigation of complaints

When an action is taken against a licensee and the licensee moves or has moved to another state, the

board may report to the appropriate licensing board in that state the complaint that has been filed, any other complaints in the physician's record on which action was taken and any disciplinary actions of the board with respect to that physician.

When ~~a person~~ an individual applies for a license under this chapter, the board may investigate the professional record of that ~~person~~ individual, including any professional records that the ~~person~~ individual may have as a licensee in other states. The board may deny a license or authorize a restricted license based on the record of the applicant in other states.

Sec. A-183. 32 MRSA §§2593 and 2594, as enacted by PL 1973, c. 374, §1, are amended to read:

§2593. Mental or physical examination of licensee licensed to practice in Maine

For the purpose of this chapter, ~~every~~ an osteopathic physician ~~shall~~ is, by so practicing, ~~be~~ deemed to have given ~~his~~ consent to a mental or physical examination when directed in writing by the board, and ~~further~~ to have waived all objections to the admissibility of the examining ~~physicians'~~ physician's testimony or examination on the grounds that ~~the same constitute~~ it constitutes privileged communication. ~~Such~~ These examinations ~~to~~ must be conducted by a qualified ~~person~~ individual from a list of 5 provided by the board.

§2594. Immunity of licensee rendering emergency care

~~No~~ An osteopathic physician licensed under this chapter, who, in the exercise of due care, renders emergency care at the scene of an accident ~~shall be~~ is not liable for any civil damages as the result of acts or omissions by such ~~a person~~ an individual in rendering emergency care.

Sec. A-184. 32 MRSA §2594-A, as enacted by PL 1973, c. 788, §159, is amended to read:

§2594-A. Assistants

Nothing contained in this chapter ~~shall~~ may be construed to prohibit an individual from rendering medical services, if ~~such~~ these services are rendered under the supervision and control of a physician ~~or surgeon, provided that such~~ if the individual ~~shall~~ has satisfactorily completed a training program approved by the Board of Osteopathic ~~Examination and Registration~~ Licensure. Supervision and control ~~shall~~ may not be construed as requiring the personal presence of the supervising and controlling physician at the place where ~~such~~ these services are rendered, unless ~~such~~ a physical presence is necessary to pro-

vide patient care of the same quality as provided by the physician. ~~Further, nothing~~ Nothing in this chapter ~~shall~~ may be construed as prohibiting a physician ~~or surgeon~~ from delegating to ~~his~~ the physician's employees certain activities relating to medical care and treatment ~~now being~~ carried out by custom and usage when ~~such~~ these activities are under the direct control of and in the personal presence of the physician ~~or surgeon~~. The physician delegating ~~such~~ these activities, ~~either to his employees, to program graduates or to participants in an approved training program, shall be deemed~~ is legally liable for ~~such~~ the activities of ~~such persons~~ those individuals, and ~~such person shall~~ any individual in this relationship ~~be construed as~~ is considered the physician's agent. Nothing contained in this section ~~shall~~ may be construed to apply to registered nurses acting pursuant to chapter 31.

When the delegated activities are part of the practice of optometry as defined in chapter 34-A, then the ~~person~~ individual to whom ~~such~~ these activities are delegated ~~shall~~ must possess a valid license to practice optometry in Maine, or otherwise ~~shall~~ may perform only as a ~~technician~~ technician within the established office of a physician, and ~~otherwise acting~~ may act solely on the order of and under the responsibility of a physician skilled in the treatment of eyes as designated by the proper professional board, and without assuming evaluation or interpretation of examination findings by prescribing corrective procedures to preserve, restore or improve vision.

Sec. A-185. 32 MRSA §2594-B, as enacted by PL 1977, c. 391, is amended to read:

§2594-B. Licenses of qualification; physician's statement

1. Licenses required. ~~No~~ A physician assistant ~~shall be permitted to~~ may not practice under the supervision of an osteopathic physician until ~~he~~ the physician assistant has applied for and obtained ~~a~~ license issued by the Board of Osteopathic Licensure, which must be renewed annually.

~~A. A certificate of qualification issued by the Board of Osteopathic Examination and Registration; and~~

~~B. A certificate of registration, which must be renewed annually.~~

2. Statement by supervisory physician. All applications for ~~certificate of qualification~~ license ~~shall~~ must be accompanied by an application by the proposed supervisory physician, which application ~~shall~~ must contain a statement that that physician ~~shall be~~ is responsible for all medical activities of the physician assistant.

3. Employment. A physician assistant may not employ a supervisory physician for the purposes of meeting the requirements of this section.

Sec. A-186. 32 MRSA §2594-C, as amended by PL 1991, c. 425, §§9 and 10, is further amended to read:

§2594-C. Rules

1. Rules authorized. The board may adopt such rules and regulations dealing with osteopathic physician assistants as are necessary to carry out sections 2594-A through 2594-D.

2. Content. The rules and regulations authorized under this section may include, but need are not be limited to rules and regulations in the following areas:

- A. Training programs for and ~~certification licensure~~ of physician assistants;
- B. Information to be included in applications submitted by physician assistants for ~~certification licensure~~;
- C. Information to be included in applications submitted by proposed supervisory physicians;
- D. Knowledge and skills to be required of the physician assistants;
- E. The agency relationship to be required between supervising physicians and physician assistants;
- F. Requirements with respect to the supervisory physician's supervision of medical services provided by physician assistants;
- G. The methods of performance to be required of physician assistants;
- H. Requirements for initial ~~registration licensure~~, including fees, which ~~in no event~~ may not exceed \$100;
- I. Requirements for ~~biennial registration annual licensure~~, including fees, which ~~in no event~~ may not exceed \$75;
- J. Provisions relating to physician assistant trainees;
- K. Continuing education requirements, as a precondition to annual ~~registration licensure~~;
- L. Requirements for physician supervision of physician extenders, including fees, which ~~in no event~~ may not exceed \$100; and

M. Requirements for transfer of ~~registration licensure~~ by a physician extender to another physician, including fees, which ~~in no event~~ may not exceed \$25.

Sec. A-187. 32 MRSA §2594-D, as amended by PL 1983, c. 378, §40, is further amended to read:

§2594-D. Termination of license

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

- A. ~~Has held himself out or permitted himself to be represented~~ Claims to be, or permits another to represent that physician assistant as a licensed physician;
- B. Has performed otherwise than at the direction of and under the supervision of a physician licensed by the board;
- C. Has been delegated and has performed a task beyond ~~his~~ that physician assistant's competence;

2. Consent to physical or mental examination; objections to admissibility of physician's testimony waived. For the purposes of this section, every physician assistant ~~registered licensed~~ under these rules and regulations who ~~shall accept~~ accepts the responsibility of rendering medical services in this State by the filing of an application and of annual ~~registration licensure~~;

- A. ~~Shall be~~ is deemed to have given ~~his~~ consent to a mental or physical examination when directed in writing by the board; and
- B. ~~Shall be~~ is deemed to have waived all objections to the admissibility of the examining ~~physicians'~~ physician's testimony or reports on the ground that ~~the same constitute~~ these constitute a privileged communication.

Pursuant to Title 4, section 1153, the ~~Administrative~~ Administrative Court shall immediately suspend the ~~certificate license~~ of ~~any physician's~~ a physician assistant who can be shown, through the results of the medical or physical examination conducted under this section or through other competent evidence, to be unable to render medical services with reasonable skill and safety to patients by reason of mental illness, alcohol intemperance, excessive use of drugs or narcotics; or as a result of ~~any~~ a mental or physical condition interfering with the competent rendering of medical services.

Sec. A-188. 32 MRSA §2595, as amended by PL 1979, c. 96, §2, is further amended to read:

§2595. Treatment of minors

~~Any person~~ An individual licensed under this chapter who renders medical care to a minor for treatment of venereal disease or abuse of drugs or alcohol is under no obligation to obtain the consent of ~~said~~ the minor's parent or guardian or to inform ~~such~~ the parent or guardian of ~~such~~ the treatment. Nothing in this section ~~shall~~ may be construed so as to prohibit the licensed ~~person~~ individual rendering ~~such~~ the treatment from informing ~~such~~ the parent or guardian. For purposes of this section, "abuse of drugs" means the use of drugs solely ~~for their~~ to induce a stimulant, depressant or hallucinogenic effect upon the higher functions of the central nervous system and not as a therapeutic agent recommended by a practitioner in the course of medical treatment.

Sec. A-189. 32 MRSA §2596, as repealed and replaced by PL 1987, c. 646, §9, is amended to read:

§2596. Review committee member immunity

~~Any~~ A physician licensed under this chapter who is a member of a utilization review committee or a peer review committee that is a requirement of accreditation by the American Osteopathic Association or is established and operated under the auspices of the physician's respective state or county professional society or the Board of Osteopathic ~~Examinations and Registration~~ Licensure is immune from civil liability for undertaking or failing to undertake ~~any~~ an act within the scope of the function of the committee.

Sec. A-190. 32 MRSA §2596-A is enacted to read:

§2596-A. Establishment of protocols for operation of a professional review committee

The board shall establish a protocol to govern the operation of a professional review committee as defined in Title 24, section 2502, subsection 4-A. The protocol must require the professional review committee to submit to the board information specified by the board regarding reports received by the professional review committee, as well as an annotated list of contacts or investigations made by the professional review committee and the disposition of each report, except that the committee may not be compelled to disclose information that may serve to identify the subject of a report. The protocol may not prohibit an impaired physician from seeking alternative forms of treatment.

Sec. A-191. 32 MRSA §2598, as amended by PL 1991, c. 797, §16, is further amended to read:

§2598. Penalty

~~Any person~~ An individual who attempts to practice osteopathic medicine without proper license ~~or certificate~~ or who induces the belief that ~~said person~~ that individual is legally engaged in the practice of osteopathic medicine without having fully complied with all requirements of law commits a Class E crime; ~~provided~~ except that nothing in this chapter may be construed to prohibit ~~any~~ a lawfully qualified osteopathic physician in ~~any other~~ another state meeting a ~~registered~~ licensed osteopathic physician in this State for consultation.

Sec. A-192. 32 MRSA §2599, as enacted by PL 1975, c. 137, §1, is amended to read:

§2599. Records of proceedings of hospital medical staff review committees confidential

All proceedings and records of proceedings concerning medical staff reviews and hospital reviews conducted by committees of physicians and other health care personnel on behalf of hospitals located within the State, when ~~such~~ these reviews are required by state or federal law or regulations or as a condition of accreditation by the Joint Commission on Accreditation of Hospitals or the American Osteopathic Association Committee on Hospital Accreditation are confidential and ~~shall be~~ are exempt from discovery without a showing of good cause.

Sec. A-193. 32 MRSA §2599-A, as enacted by PL 1989, c. 462, §8, is repealed.

Sec. A-194. 32 MRSA §2599-B is enacted to read:

§2599-B. Consumer information

The board shall develop a consumer information brochure pursuant to section 59-A.

Sec. A-195. 32 MRSA §2600, as enacted by PL 1991, c. 675, §4, is amended to read:

§2600. Release of contact lens prescription

After contact lenses have been adequately fitted and the patient released from immediate follow-up care by the physician, the patient may request a copy of the contact lens specifications from the physician. The physician shall provide a copy of the prescription, at no cost, which must contain the information necessary to properly duplicate the current prescription. The prescription must contain an expiration date. The prescription may contain fitting guidelines and may also contain specific instructions for use by the patient.

The prescribing physician is not liable for ~~any~~ an injury or condition to a patient that results from negligence in packaging, manufacturing or dispensing lenses by anyone other than the prescribing physician.

The dispensing party may dispense contact lenses only upon receipt of a written prescription, except that a physician may fill a prescription of an optometrist or another physician without a copy of the prescription. Except in the case of a physician who has previously seen the wearer, a contact lens prescription may not be filled by mail, but must be filled by being personally dispensed to the contact lens wearer. ~~A person~~ An individual who fills a contact lens prescription shall maintain a file of that prescription for a period of 6 years. ~~Any person~~ An individual, corporation or other entity that improperly fills a contact lens prescription or fills an expired prescription commits a civil violation for which a forfeiture of not less than \$250 nor more than \$1,000 may be adjudged.

~~Any person~~ An individual may file a complaint with the board seeking disciplinary action concerning violations of this section. The board shall investigate or cause to be investigated and shall resolve a complaint on its own motion or upon receipt of a written complaint. The board shall conduct its actions in accordance with the Maine Administrative Procedure Act.

Sec. A-196. 32 MRSA §3112, sub-§1, as repealed and replaced by PL 1983, c. 413, §126, is amended to read:

1. Appointment. Members of the board ~~shall be~~ are appointed by the Governor for a term of 4 years, ~~except that at least one member's term shall expire in each calendar year and appointments for terms of less than 4 years may be made in order to comply with this limitation. Members currently serving on the existing board will continue until the expiration of their present appointment. 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. Vacancies shall be filled within 60 days of expiration. Appointments of members must comply with section 60.~~

~~Any~~ A member of the board may be removed from office for cause by the Governor. ~~A member may not serve more than 2 full successive 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.~~

Sec. A-197. 32 MRSA c. 48, first 4 lines are repealed and the following enacted in their place:

CHAPTER 48

BOARD OF LICENSURE IN MEDICINE

SUBCHAPTER I

BOARD OF LICENSURE

Sec. A-198. 32 MRSA §3263, as amended by PL 1989, c. 878, Pt. A, §95, is further amended to read:

§3263. Appointment; vacancies; compensation

The Board of ~~Registration~~ Licensure in Medicine, as established by Title 5, section 12004-A, subsection 24, and in this chapter called the "board," ~~shall consist~~ consists of 10 ~~persons~~ individuals who are residents of this State, appointed by the Governor. ~~Three persons shall~~ individuals must be representatives of the public. ~~Seven persons shall~~ individuals must be graduates of a legally chartered medical college or university having authority to confer degrees in medicine and ~~shall~~ must have been actively engaged in the practice of their profession in this State for a continuous period of 5 years preceding their appointments to the board. ~~Three persons, qualified as aforesaid, shall be appointed members of the board on or before July 1st of every uneven-numbered year, each to hold office for 6 years from the July 1st following appointment, except that at every 3rd uneven numbered year beginning in 1991, a 4th person shall be appointed. Any vacancy in the board shall be filled by the appointment of a person, qualified as was the member whose place is filled, to hold office during the unexpired term of that member. A full-term appointment is for 6 years. Appointment of members must comply with section 60. Any~~ A member of the board may be removed from office for cause by the Governor.

Sec. A-199. 32 MRSA §3264, as enacted by PL 1971, c. 591, §1, is amended to read:

§3264. Oath

Each member of ~~said~~ the board shall, before entering upon the duties of ~~his~~ the member's office, take the constitutional oath of office, and shall, in addition, make oath that ~~he~~ the member is qualified under the terms of this chapter to hold ~~such~~ the office.

Sec. A-200. 32 MRSA §3265, as enacted by PL 1971, c. 591, §1, is repealed.

Sec. A-201. 32 MRSA §§3266 to 3268, as enacted by PL 1971, c. 591, §1, are amended to read:

§3266. Elections; meetings; seal; expenses

The members of ~~said~~ the board shall meet on the 2nd Tuesday of July of the uneven-numbered years at ~~such~~ the time and place as ~~they~~ the board may determine and shall elect a ~~chairman~~ chair and a secretary who shall hold their respective offices for the term of 2 years. The secretary of ~~said~~ the board ~~shall be~~ is the treasurer ~~thereof~~ and shall receive all fees, charges and assessments payable to the board and account for and pay over the same according to law. The ~~said~~ board shall hold regular meetings, one in March, one in July and one in November of each year, and ~~such~~ any additional meetings at ~~such~~ other times and places as it may determine. ~~Said~~ The board shall cause a seal to be engraved and shall keep a record of all their proceedings.

§3267. Quorum

A majority of the members of the board ~~shall constitute~~ constitutes a quorum for the transaction of business under this chapter, but a less number may adjourn from time to time until a quorum is present.

§3268. Members may administer oaths

~~Any~~ A member of ~~said~~ the board ~~shall have~~ has the authority to administer oaths, compel the testimony of witnesses and compel the production of books, records and documents relevant to inquiry pursuant to a subpoena issued in accordance with section 3269.

Sec. A-202. 32 MRSA §3269, as amended by PL 1991, c. 425, §11, is further amended to read:

§3269. Powers and duties of the board

The board ~~shall have~~ has the following powers and duties in addition to all other powers and duties imposed by this chapter:

1. Set standards. The power to set standards of eligibility for examination for candidates desiring admission to medical practice in Maine;

2. Adopt criteria. The power to design or adopt an examination and other suitable criteria for establishing a candidate's knowledge in medicine and its related skills;

3. Licensing and standards. The power to license ~~and register~~ and to set standards of practice for physicians and surgeons practicing medicine in Maine;

4. Hearings and procedure. The power to hold hearings and take evidence in all matters relating to the exercise and performance of the powers and duties vested in the board; and, the board, acting

through the secretary, ~~shall have~~ has the authority to subpoena witnesses, books, records and documents in hearings before it;

5. Legal representation. The power to engage legal counsel, to be approved by the Attorney General, and investigative assistants of its own choosing to advise the board generally and specifically, to represent the board in ~~any~~ hearings before it and in ~~any~~ appeals taken from a decision of the board;

6. Salary and duties. Except as provided in subsections 15 and 16, the power to employ and prescribe the duties of other personnel as the board ~~shall deem~~ determines necessary. Except as prescribed in subsection 15, the appointment and compensation of that staff ~~shall be~~ is subject to the Civil Service Law;

7. Rules. The power to ~~promulgate such~~ adopt rules ~~and regulations~~ as the board ~~may deem~~ determines necessary and proper to carry out this chapter;

8. Complaints. The duty to investigate complaints in a timely fashion on its own motion and those lodged with the board or its representatives regarding the violation of ~~any~~ a section of this chapter and the violation of ~~any~~ rules ~~or regulations~~ adopted by the board pursuant to its authority;

8-A. Report. By March 1st of each year, the board shall submit to the Legislature a report consisting of statistics on the following for the preceding year:

A. The number of complaints against licensees received from the public or filed on the board's own motion;

B. The number of complaints dismissed for lack of merit or insufficient evidence of grounds for discipline;

C. The number of cases in process of investigation or hearing carried over at year end; and

D. The number of disciplinary actions finalized during the report year as tabulated and categorized by the annual statistical summary of the Physician Data Base of the Federation of State Medical Boards of the United States, Inc.;

9. Open financial records. The duty to keep a record of the names and residences of all ~~persons~~ registered individuals licensed under this chapter and a record of all ~~moneys~~ money received and disbursed by ~~said~~ the board, and ~~said~~ records or duplicates ~~thereof shall~~ must always be open to inspection in the office of the secretary during regular office hours. ~~Said~~ The board shall annually make a report to the Commissioner of Professional and Financial Regula-

tion and to the Legislature containing a full and complete account of all its official acts during the preceding year, and a statement of its receipts and disbursements and ~~such~~ comments or suggestions as ~~it may deem~~ the board determines essential-;

10. Powers. The power to mandate, conduct and operate or contract with other agencies, ~~persons individuals~~, firms or associations for the conduct and operation of programs of medical education, including statewide programs of health education for the general public and to disburse funds accumulated through the receipt of licensure fees for this purpose, provided that ~~no such~~ funds may not be disbursed for this purpose for out-of-state travel, meals or lodging for ~~any~~ a physician being educated under this program. The power to conduct and operate or contract with other agencies or nonprofit organizations for the conduct and operation of a program of financial assistance to medical students indicating an intent to engage in family practice in rural Maine, under which program ~~said~~ the students may be provided with interest-free grants or interest-bearing loans in an amount not to exceed \$5,000 per student per year on ~~such~~ terms and conditions as the board may determine.

Notwithstanding any other provision of this subsection, if the board contracts with the Commissioner of Education to provide funds for the costs of ~~any~~ positions for which the State has contracted at the University of Vermont College of Medicine, or the Tufts University School of Medicine, the terms of the contract between the board and the commissioner ~~shall~~ must be in accordance with the requirements of Title ~~20 20-A~~, chapter ~~304 421~~;

11. Conduct examinations. The power to conduct examinations in medicine; ~~and~~

12. Other services and functions. The power to provide services and carry out functions necessary to fulfill the board's statutory responsibilities. The board may set reasonable fees for services such as providing license certification and verifications, providing copies of board law and rules, and providing copies of documents. The board may also set reasonable fees to defray its cost in administering examinations for special purposes that it may from time to time require and for admitting courtesy candidates from other states to its examinations;

13. Liaison; limitation. The commissioner ~~shall act~~ acts as a liaison between the board and the Governor.

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

14. Budget. The board shall submit to the Commissioner of Professional and Financial 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-;

15. Adequacy of budget, fees and staffing. The budget submitted by the board to the Commissioner of Professional and Financial Regulation ~~shall~~ must be sufficient, if approved, to provide for adequate legal and investigative personnel on the board's staff and that of the Attorney General to assure that professional liability complaints described in Title 24, section 2607, and complaints regarding ~~any~~ a section of this chapter can be resolved in a timely fashion. Within the limit set by section 3279, the board shall charge sufficient ~~registration~~ licensure fees to finance this budget provision. The board shall submit legislation to request an increase in these fees should they prove inadequate to the provisions of this subsection.

Within the limit of funds provided to it by the board, the Department of the Attorney General shall make available to the board sufficient legal and investigative staff to enable all consumer complaints mentioned in this subsection to be resolved in a timely fashion-; and

16. Executive director. The board may appoint an executive director who ~~shall serve~~ serves at the pleasure of the board and who shall assist the board in carrying out its administrative duties and responsibilities under this chapter. The salary range for the executive director ~~shall~~ must be set by the board within the range established by Title 2, section 6-C.

Sec. A-203. 32 MRSA c. 48, sub-c. II, first 2 lines are repealed and the following enacted in their place:

SUBCHAPTER II

LICENSURE

Sec. A-204. 32 MRSA §3270, as amended by PL 1991, c. 797, §17, is further amended to read:

§3270. Licensure required

Unless ~~duly registered and~~ licensed by ~~said~~ the board, ~~no person shall~~ an individual may not practice medicine or surgery or ~~any a branch thereof~~, of medicine or surgery or ~~hold himself out~~ claim to be legally licensed to practice medicine or surgery or ~~any a branch thereof~~ of medicine or surgery within the State by diagnosing, relieving in any degree or curing, or professing or attempting to diagnose, relieve or

cure ~~any~~ a human disease, ailment, defect or complaint, whether physical or mental, or of physical and mental origin, by attendance or by advice, or by prescribing or furnishing ~~any~~ a drug, medicine, appliance, manipulation, method or ~~any~~ a therapeutic agent whatsoever or in any other manner unless otherwise provided by statutes of this State. ~~Any person~~ An individual licensed under chapter 36 may prefix the title "Doctor" or the letters "Dr." to ~~his that individual's~~ name, as provided in section 2581, or ~~any~~ a chiropractor ~~duly~~ licensed by this State may prefix the title "Doctor" or the letters "Dr." to ~~his that individual's~~ name when accompanied by the word "Chiropractor," or ~~any~~ a dentist duly licensed by this State may prefix the title "Doctor" or the letters "Dr." to ~~his that individual's~~ name or ~~any~~ an optometrist duly licensed under the laws of this State may prefix the title "Doctor" or the letters "Dr." to ~~his that individual's~~ name when accompanied by the word "Optometrist" or ~~any~~ a podiatrist ~~duly~~ licensed under the laws of this State may prefix the title "Doctor" or the letters "Dr." to ~~his that individual's~~ name when accompanied by the word "Podiatrist" or "Chiropracist."

Whoever, not being duly ~~registered~~ licensed by ~~said~~ the board, practices medicine or surgery or ~~any~~ a branch ~~thereof~~ of medicine or surgery, or purports to practice medicine or surgery or ~~any~~ a branch ~~thereof~~ of medicine or surgery in ~~any of the ways aforesaid~~ a way cited in this section, or who uses the title "Doctor" or the letters "Dr." or the letters "M.D." in connection with that ~~person's individual's~~ name, contrary to this section, commits a Class E crime. The prefixing of the title "Doctor" or the letters "Dr." or the appending of the letters "M.D." by ~~any person~~ an individual to that ~~person's individual's~~ name or the use of the title of doctor or physician in any way by ~~any person~~ an individual not ~~duly registered~~ licensed as described is prima facie evidence that ~~said person that individual~~ that individual is purporting to practice medicine or surgery contrary to this section, ~~provided~~ except that nothing contained in this section prevents ~~any person~~ an individual who has received the doctor's degree from ~~any~~ a reputable college or university, other than the degree of "Doctor of Medicine" from prefixing the letters "Dr." to that ~~person's individual's~~ name, if that ~~person individual~~ individual is not engaged, and does not engage, in the practice of medicine or surgery or the treatment of ~~any~~ a disease or human ailment. Nothing in this chapter may be ~~so~~ construed as to affect or prevent the practice of the religious tenets of ~~any~~ a church in the ministrations to the sick or suffering by mental or spiritual means.

All fees set in this chapter are nonrefundable application fees or administrative processing fees payable to the board at the time of application or at

the time board action is requested. Unless otherwise specified, the board shall set the fees.

Sec. A-205. 32 MRSA §3270-A, as amended by PL 1977, c. 78, §181, is further amended to read:

§3270-A. Assistants

Nothing contained in this chapter ~~shall~~ may be construed to prohibit an individual from rendering medical services, if ~~such~~ these services are rendered under the supervision and control of a physician or surgeon, ~~provided~~ and if that ~~such~~ individual ~~shall~~ has satisfactorily completed a training program approved by the Board of ~~Registration~~ Licensure in Medicine and ~~any~~ a competency examination determined by this board. Supervision and control ~~shall~~ may not be construed as requiring the personal presence of the supervising and controlling physician at the place where ~~such~~ these services are rendered, unless ~~such~~ a physical presence is necessary to provide patient care of the same quality as provided by the physician. ~~Further, nothing~~ Nothing in this chapter ~~shall~~ may be construed as prohibiting a physician or surgeon from delegating to ~~his the physician's or surgeon's~~ employees certain activities relating to medical care and treatment ~~now being~~ carried out by custom and usage when ~~such~~ the activities are under the direct control of and in the personal presence of the physician or surgeon. The physician delegating ~~such~~ these activities, ~~either~~ to his employees, ~~to~~ program graduates or to participants in an approved training program, ~~shall be deemed~~ is legally liable for ~~such~~ the activities of ~~such persons those individuals~~, and ~~such person~~ any individual in this relationship ~~be construed as is considered~~ the physician's agent. Nothing contained in this section ~~shall~~ may be construed to apply to registered nurses acting pursuant to chapter 31 ~~of this Title~~.

When the delegated activities are part of the practice of optometry as defined in chapter 34-A, then the ~~person individual~~ individual to whom ~~such~~ these activities are delegated ~~shall~~ must possess a valid license to practice optometry in Maine, or otherwise ~~shall~~ may perform only as a technician within the established office of a physician, and otherwise acting solely on the order of and under the responsibility of a physician skilled in the treatment of eyes as designated by the proper professional board, and without assuming evaluation or interpretation of examination findings by prescribing corrective procedures to preserve, restore or improve vision.

Sec. A-206. 32 MRSA §3270-B, as amended by PL 1991, c. 425, §13, is further amended to read:

§3270-B. Certificate of qualification and regulation

~~No~~ A physician assistant ~~shall be~~ is not permitted to practice until ~~he~~ the physician assistant has applied for and obtained a certificate of qualification issued by the Board of ~~Registration~~ Licensure in Medicine and a certificate of registration, which must be renewed biannually. All applications for certificate of qualification ~~shall~~ must be accompanied by an application by the proposed supervisory physician, which application ~~shall~~ must contain a statement that that physician ~~shall be~~ is responsible for all medical activities of the ~~physician's~~ physician assistant. The Board of ~~Registration~~ Licensure in Medicine is authorized to ~~promulgate~~ adopt rules ~~and regulations~~ regarding the training and certification of physician assistants, ~~and~~ the agency relationship between the physician assistant and the supervising physician. Those ~~regulations~~ rules may pertain, but ~~are not by way of limitation~~ limited, to the following matters:

1. Application information. The information to be contained in the application for a certificate of qualification;

2. Application information required of proposed supervisory physician. The information that ~~shall be~~ is required on the application filed by the proposed supervisory physician;

3. Supervising physician's requirements. The training and educational requirements, scope of permissible clinical medical procedures, the manner and methods by which the supervising physician shall supervise the physician assistant's medical services;

4. Methods and conditions. The methods and conditions under which the physician assistant may perform medical services;

5. Temporary eligibility. The issuance of temporary physician assistant certification and equivalency training eligibility for registration of physician assistant trainees;

6. Advisory committee appointment. Appointment of an advisory committee for continuing review of physician assistant program and rules ~~and regulations~~;

7. Continuing educational requirements. Continuing educational requirements as a precondition to continued licensure or licensure renewal;

8. Fees for original application. Fees for the original physician assistant application, which ~~in no event~~ may not exceed ~~the sum of~~ \$100;

9. Initial application of supervising physician. Fee for the initial application of the supervising

physician, which ~~in no event~~ may not exceed ~~the sum of~~ \$100;

10. Fee for transfer of license. Fee for transfer of registration by a physician assistant from one supervising physician to another, which ~~in no event~~ may not exceed ~~the sum of~~ \$50; and

11. Fees for biennial license renewal. Fees for the biennial registration renewal of physician assistants in an amount not to exceed \$100.

Sec. A-207. 32 MRSA §3270-C, as amended by PL 1983, c. 378, §46, is further amended to read:

§3270-C. Termination of license

1. Grounds. The sanctions of section 3283-A ~~shall~~ apply to a ~~physician's~~ physician assistant who has:

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

A-1. Claimed to be legally licensed or allowed another to represent that physician assistant as holding a valid license;

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

C. Been delegated and performed a task or tasks beyond ~~his~~ the physician assistant's competence; and

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

2. Consent to physical or mental examination; objections to admissibility of physician's testimony waived. For the purposes of this section, every ~~physician's~~ physician assistant registered under these rules ~~and regulations~~ who ~~shall accept~~ accepts the privilege of rendering medical services in this State by the filing of an application and of biannual registration renewal:

A. ~~Shall be~~ Is deemed to have ~~given his consent~~ consented to a mental or physical examination when directed in writing by the ~~Board~~ board; and

B. ~~Shall be~~ Is deemed to have waived all objections to the admissibility of the examining ~~physicians'~~ physician's testimony or reports on the ground that ~~the same~~ these constitute a privileged communication.

Pursuant to Title 4, section 1153, the Administrative Court shall immediately suspend the certificate of ~~any~~

physician's a physician assistant who can be shown, through the results of the medical or physical examination conducted under this section or through other competent evidence, to be unable to render medical services with reasonable skill and safety to patients by reason of mental illness, alcohol intemperance, excessive use of drugs or narcotics, or as a result of ~~any~~ a mental or physical condition interfering with the competent rendering of medical services.

Sec. A-208. 32 MRSA §3271, as amended by PL 1991, c. 425, §14, is further amended to read:

§3271. Qualifications for medical licensure

Except where otherwise specified by this chapter, all applicants for ~~registration~~ licensure as a physician or surgeon in the State ~~shall~~ must satisfy ~~each~~ of the following requirements.

1. Medical education. Each applicant ~~shall~~ either must:

A. Graduate from a medical school designated as accredited by the Liaison Committee on Medical Education;

B. Graduate from an unaccredited medical school, be evaluated by the Educational Commission for Foreign Medical Graduates and receive a permanent certificate from the Educational Commission for Foreign Graduates; or

C. Graduate from an unaccredited medical school and achieve a passing score on the Visa Qualifying Examination or another comprehensive examination ~~deemed~~ determined by the board to be substantially equivalent ~~thereto~~ to the Visa Qualifying Examination.

2. Postgraduate training. Each applicant who has graduated from an accredited medical school on or after January 1, 1970 ~~is required to~~ must have satisfactorily completed at least 24 months in a graduate educational program approved by the Accreditation Council on Graduate Medical Education, the Canadian Medical Association or the Royal College of Physicians and Surgeons of Canada. Each applicant who has graduated from an accredited medical school prior to January 1, 1970, ~~is required to~~ must have satisfactorily completed at least 12 months in a graduate educational program approved by the Accreditation Council on Graduate Medical Education, the Canadian Medical Association or the Royal College of Physicians and Surgeons of Canada. Each applicant who has graduated from an unaccredited medical school ~~is required to~~ must have satisfactorily completed at least 36 months in a graduate educational program approved by the Accreditation Council on Graduate Medical Education, the Canadian Medi-

cal Association, the Royal College of Physicians and Surgeons of Canada or approved by an accrediting body ~~which that~~ the board considers an equivalent of the accrediting bodies. Notwithstanding this subsection, ~~any an~~ applicant who is board certified in family practice and who graduated prior to July 1, 1974, is board certifiable, board certified or board eligible in emergency medicine and who graduated prior to July 1, 1982, ~~shall be~~ is deemed to meet the postgraduate training requirements of this subsection.

3. Examination. Each applicant ~~shall~~ must achieve a passing score on each component of the uniform examination of the Federation of State Medical Boards or ~~such other~~ examinations designated by the board as the qualifying examination or examinations for licensure. Each applicant ~~shall~~ must additionally ~~be required to~~ achieve a passing score on a State of Maine examination administered by the board.

4. Fees. Each applicant shall pay a fee up to \$500 plus the cost of the qualifying examination or examinations.

5. Board action. ~~No An~~ applicant may ~~not~~ be ~~registered~~ licensed unless the board finds that the applicant is qualified and ~~that there exists~~ exists, as set forth in section 3282-A, ~~which would~~ that may be considered grounds for disciplinary action against a licensed physician or surgeon.

Sec. A-209. 32 MRSA §3272, as repealed and replaced by PL 1983, c. 741, §2, is amended to read:

§3272. Examinations

Each applicant for licensure as a physician or surgeon shall, at least 60 days before the date of ~~his~~ the applicant's qualifying examination, present to the secretary of the board an application under oath or affirmation containing satisfactory proof that the applicant has met the requirements for medical education and postgraduate medical training set forth in section 3271, subsections 1 and 2. Applicants ~~shall~~ must be examined in writing and may be examined orally on such subjects as the board ~~may deem~~ considers necessary.

Sec. A-210. 32 MRSA §3274, as enacted by PL 1971, c. 591, §1, is amended to read:

§3274. Licenses

Each physician ~~registered~~ licensed under this chapter ~~shall, following registration,~~ is entitled to receive a ~~certificate thereof~~ license under the seal of the board and signed by the ~~chairman~~ chair and ~~the~~ secretary, which must be publicly displayed at the ~~person's~~ individual's principal place of practice, as

long as ~~said person~~ this individual continues the practice of medicine.

Sec. A-211. 32 MRSA §3275, as amended by PL 1991, c. 425, §16, is further amended to read:

§3275. Licensure by reciprocity

1. Licensure without examination. The board may, at its discretion, grant licensure without written examination to a physician in good standing who otherwise meets the requirements of section 3271 and who has been:

A. Examined and certified by the National Board of Medical Examiners;

B. Examined and licensed by a board of another state, ~~provided that if~~ the examination passed by the applicant is ~~deemed~~ determined by the board to ~~have been~~ be equivalent to its own examination; or

C. Graduated from a nationally accredited medical school located in the United States, Canada or the British Isles; and:

(1) Has been examined and certified by the Medical Council of Canada; or

(2) Has been examined and certified by the board of a Canadian province or ~~any a~~ country in the British Isles, ~~provided that if~~ the examination passed by the applicant is ~~deemed~~ determined by the board to ~~have been~~ be equivalent in all essentials to its own examination.

~~No An~~ applicant may ~~not~~ not be ~~registered~~ licensed pursuant to this section, unless the board finds that ~~there exists~~ no cause exists, as set forth in section 3282-A, ~~which that~~ would be considered grounds for disciplinary action against a licensed physician or surgeon.

2. Fees. ~~Any A~~ physician who applies for a license pursuant to subsection 1 shall pay a fee of not more than \$500.

3. Rules. The board may make ~~such rules and regulations~~ as may be necessary in connection with this section.

Sec. A-212. 32 MRSA §3276, as amended by PL 1991, c. 425, §17, is further amended to read:

§3276. Temporary licensure

~~Any A~~ physician who is qualified under section 3275 may, without examination, be granted a temporary license for a period not to exceed one year, when the board ~~deems it~~ determines that this action is necessary in order to provide relief for local or na-

tional emergencies or for situations in which ~~there are~~ the number of physicians is insufficient ~~physicians~~ to supply adequate medical services. The fee for this temporary license is may not be more than \$200.

Sec. A-213. 32 MRSA §3277, as amended by PL 1991, c. 425, §18, is further amended to read:

§3277. Camp physicians

~~Any A~~ physician who is qualified under section 3275 may, at the discretion of the board, be temporarily licensed as a camp physician so that the physician may care for the campers in that particular camp for which the physician was hired and ~~obtained re-~~ tained as a camp physician. That physician is entitled to practice only on patients in the camp. The ~~certificate of licensure~~ temporary license must be obtained each year. Application for this temporary ~~certificate~~ license must be made in the same form and manner as for regular licensure. ~~No An~~ examination may ~~not~~ not be exacted from applicants for these temporary licenses. The fee for temporary licensure may not be more than \$100 annually, ~~which includes registration and certificate~~.

Sec. A-214. 32 MRSA §3278, as amended by PL 1991, c. 425, §19, is further amended to read:

§3278. Locum tenens

~~Any A~~ physician who is qualified under section 3275 may, at the discretion of the board, be given a temporary license to be effective for not more than 6 months after issuance for the purpose of permitting the physician to serve as "locum tenens" for some other physician who is then licensed to practice medicine in this State and whose own license is not temporary or limited under ~~any of~~ the provisions of this chapter, ~~provided that such if~~ the Maine physician is ~~either unable because of illness~~ to maintain the practice because of illness or because of absence from the general locus of ~~such this physician's~~ practice or for other reasons ~~deemed~~ determined sufficient by the board. The fee for this temporary license may not be more than \$150.

Sec. A-215. 32 MRSA §3279, as amended by PL 1991, c. 425, §§20 and 21, is further amended to read:

§3279. Interns; residents; visiting instructors

1. Interns. ~~Any An~~ applicant who is qualified under section 3271, subsection 1, may receive a temporary educational certificate from the board to act as an intern for a period ~~of no~~ not longer than 24 months.

2. Residents. ~~Any An~~ applicant who is qualified under section 3271, subsection 1, may receive a

temporary educational certificate from the board to act as a hospital resident. A certificate to a hospital resident may be renewed annually at the discretion of the board for not more than 5 years.

3. Conditions of certification. ~~No~~ An applicant for a temporary educational certificate may ~~not be registered certified~~ unless the board finds that the applicant is qualified and that there exists no cause, as set forth in section 3282-A, ~~which that~~ would be considered grounds for disciplinary action against a licensed physician or surgeon. The board, in its discretion, may ~~provide that require~~ require an examination ~~will be required~~ for applicants for temporary educational certificates. Recipients of these certificates ~~shall have~~ are entitled to all the rights granted to physicians who ~~have been~~ are licensed to practice medicine and surgery, except that their practice ~~shall be~~ is limited to the training programs in which they are enrolled. A temporary educational certificate may be suspended or revoked, or the board may refuse to renew ~~any such the~~ the certificate, for ~~any of~~ the reasons stated in section 3282-A, or if the intern or hospital resident has violated the limitations placed upon ~~his~~ the intern's temporary educational certificate.

4. Visiting instructors. A physician who has an unrestricted license to practice medicine or surgery in another state may practice medicine or surgery in this State when ~~he~~ the physician is performing medical procedures as part of a course of instruction in graduate medical education in a hospital located in this State. The right of a visiting medical instructor to practice medicine in this State may be suspended or revoked for ~~any of~~ the reasons stated in section 3282-A, or if the visiting medical instructor has performed medical procedures ~~which that~~ are not a part of a course of instruction.

5. Contract students. ~~Any~~ An applicant who is qualified under section 3271, subsection 1, who received ~~his a~~ a medical education as a contract student as provided in Title 20-A, chapter 421, and who agrees to practice in a primary care or other specialized area as defined in Title 20-A, section 11803, subsection 2, or an underserved area as defined in Title 20-A, section 11802, ~~shall be deemed is considered~~ to have completed the postgraduate training requirements of section 3271, subsection 2, upon satisfactory completion of at least 12 months in a graduate educational program approved as specified in section 3271. The board may make the ~~reregistration relicensure~~ relicensure of an individual for 4 years after ~~his~~ the individual's licensure under this subsection contingent on ~~his the individual's~~ the individual's continuing to practice in an underserved area.

This subsection ~~shall apply applies~~ applies only to ~~persons individuals~~ individuals entering into a contract under Title 20-A, chapter 421, on or before December 31, 1984.

6. Fees. The board shall set fees for physicians and students licensed ~~or registered~~ pursuant to this section. The amounts set for ~~the registrations and~~ licenses issued under this section may not be more than \$100.

Sec. A-216. 32 MRSA §3280, as amended by PL 1991, c. 425, §§22 to 24, is further amended to read:

§3280. Biennial relicensure; fees

On or before the first day of July, 1966, and on or before the first day of July of every even-numbered year ~~thereafter~~ after July, 1966, every physician licensed under this chapter shall apply to the Board of ~~Registration Licensure~~ Registration Licensure in Medicine for a ~~certificate of biennial registration relicensure~~ certificate of biennial registration relicensure on forms provided by the board. On or before the first day of July, 1982, and on or before the first day of July of every even-numbered year ~~thereafter~~ after July, 1982, ~~any an~~ any applicant actively practicing medicine in the State shall include satisfactory evidence to the board that, in the preceding 2 years, the applicant has completed a course of continuing medical education as prescribed in the rules and regulations of the board. The ~~registration relicensure~~ relicensure fee for residents of this State and for nonresidents ~~in no event~~ may ~~not~~ not exceed the sum of \$265. This section does not apply to interns or residents ~~registered licensed~~ licensed under section 3279 nor does it apply to those holding temporary ~~certificates licenses~~ licenses for practice in hospitals or camps as provided in section 3277. The ~~registration licensure~~ relicensure fees provided for under this section may not be required of ~~any a~~ any physician who is 70 years of age on the first day of July of the year for which ~~reregistration relicensure~~ relicensure is made, although the requirement of ~~reregistration relicensure~~ relicensure as provided for applies without regard to age.

At least 60 days before July 1st of every even-numbered year ~~thereafter~~ the board shall mail to each licensee at ~~his the licensee's~~ the licensee's last known office address a notice of requirement of ~~reregistration relicensure~~ relicensure with appropriate forms ~~therefor for relicensure~~ for relicensure. ~~Whenever~~ When a licensee fails to ~~reregister relicensure~~ relicensure within the time required, it ~~shall be the duty of the board to~~ shall notify ~~such the licensee at his the licensee's~~ such the licensee at the licensee's last known office address that ~~his reregistration the licensee's relicensure application~~ the licensee's relicensure application is past due. Thirty days after such notice has been sent, if ~~reregistration relicensure~~ relicensure has still not been made, the board shall notify the licensee by certified mail, return receipt requested, with instructions to deliver to addressee only, that ~~his the licensee's~~ the licensee's license has been suspended for 30 days, at the end of which period, if ~~reregistration relicensure~~ relicensure has still not been made, the license ~~will lapse lapses~~ lapses automatically and the board ~~shall may~~ may not restore ~~same the license~~ the license except upon the following conditions:

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

2. **Reinstatement fee.** The licensee shall show cause why the licensee failed to ~~reregister~~ relicense and pay the board for ~~registration~~ licensure fee arrearage and an additional reinstatement fee of \$100; ~~and~~

3. **Late fee.** If the board writes to a licensee after July 1st of an even-numbered year regarding the licensee's failure to submit a completed renewal application form to the board, then the board may assess a fee of not more than \$100 to complete the processing of the application.

Sec. A-217. 32 MRSA §3281, as amended by PL 1977, c. 388, §8, is further amended to read:

§3281. Withdrawal of license

The holder of a license or temporary license who notifies the board in writing of the withdrawal of ~~his registration~~ the holder's license is not required to pay ~~registration~~ licensure fees or penalties beyond those due at the time of ~~his the holder's~~ withdrawal, but after a holder gives ~~such this~~ notice, ~~his the holder's~~ license to practice is not valid until reinstated by the board.

An applicant for reinstatement is entitled to be reinstated upon paying a reinstatement fee of \$50 and satisfying the board that ~~he the applicant~~ has paid all fees and penalties due at the time of ~~his the applicant's~~ withdrawal, and no cause exists for revoking or suspending ~~his the applicant's~~ license, and ~~he the applicant~~ has applied within 5 years after ~~his the applicant's~~ withdrawal, and was in active practice outside this State within one year prior to the filing of application for reinstatement.

Sec. A-218. 32 MRSA §3282-A, as amended by PL 1991, c. 824, Pt. A, §68, is further amended to read:

§3282-A. Disciplinary sanctions

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~~ not later than 60 days after receipt of this information. The licensee shall respond within 30 days. If the licensee's response to the complaint satisfies the board that the complaint does not merit

further investigation or action, the matter may be dismissed, with notice of the dismissal to the complainant, if any.

If, in the opinion of the board, the factual basis of the complaint is or may be true and the complaint is of sufficient gravity to warrant further action, the board may request an informal conference with the licensee. The board shall provide the licensee with adequate notice of the conference and the issues to be discussed. The complainant may attend and may be accompanied by legal counsel and one other ~~person~~ individual. The conference must be conducted in executive session of the board, pursuant to Title 1, section 405, unless otherwise requested by the licensee. Before the board decides what action to take at the conference or as a result of the conference, the board shall give the complainant a reasonable opportunity to speak. Statements made at the conference may not be introduced at a subsequent formal hearing unless all parties consent. The complainant, the licensee or either of their representatives shall maintain the confidentiality of the conference.

When a complaint has been filed against a licensee and the licensee moves or has moved to another state, the board may report to the appropriate licensing board in that state the complaint that has been filed, ~~any~~ other complaints in the physician's record on which action was taken and ~~any~~ disciplinary actions of the board with respect to that physician.

When ~~a person~~ an individual applies for a license under this chapter, the board may investigate the professional record of that ~~person~~ individual, including ~~any~~ professional records that the ~~person~~ individual may have as a licensee in other states. The board may deny a license or authorize a restricted license based on the record of the applicant in other states.

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

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

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

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

C. If the board concludes that modification or nonrenewal of the license ~~might be~~ is in order, the board shall hold an adjudicatory hearing in accordance with Title 5, chapter 375, subchapter IV.

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

The board shall require a licensee to notify all patients of the licensee of ~~any~~ a probation or stipulation under which the licensee is practicing as a result of board disciplinary action. This requirement does not apply to ~~any~~ a physician participating in an alcohol or drug treatment program pursuant to Title 24, section 2505, ~~any~~ a physician who retires following charges made or complaints investigated by the board or ~~any~~ a physician under the care of a professional and whose medical practices and services are not reduced, restricted or prohibited by the disciplinary action.

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

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

B. ~~Habitual intemperance in the use of alcohol or the habitual use of narcotic or hypnotic or other substances the use of which substance~~ abuse that has resulted or ~~may be~~ is foreseeably likely to result in the licensee performing ~~his~~ his ~~duties~~ services in a manner ~~which~~ that endangers the health or safety of ~~his~~ his patients;

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

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

E. Incompetence in the practice for which ~~he~~ the licensee is licensed. A licensee ~~shall be~~

~~deemed~~ is considered incompetent in the practice if the licensee has:

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

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

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

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

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

I. Engaging in false, misleading or deceptive advertising;

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

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

L. Failure to comply with the requirements of Title 24, section 2905-A.

Sec. A-219. 32 MRSA §3286, as amended by PL 1981, c. 594, §2, is further amended to read:

§3286. Emergency action

Upon its own motion or upon complaint, the board ~~shall~~, in the interests of public health, safety and welfare, shall treat as an emergency ~~any~~ any a complaint or allegation that ~~a person~~ an individual licensed under this chapter is or may be unable to practice medicine with reasonable skill and safety to

patients by reason of mental illness, alcohol intemperance, excessive use of drugs, narcotics or as a result of ~~any a~~ mental or physical condition interfering with the competent practice of medicine. In enforcing this paragraph, the board ~~shall have authority to~~ may compel a physician to submit to a mental or physical examination by physicians designated by it. Failure of a physician to submit to ~~such this~~ examination when directed ~~shall constitute~~ constitutes an admission of the allegations against ~~him the~~ physician, unless the failure was due to circumstances beyond ~~his the physician's~~ control, ~~consequent~~ upon which a final order of disciplinary action may be entered without the taking of testimony or presentation of evidence. A physician affected under this paragraph ~~shall must~~, at reasonable intervals, be afforded an opportunity to demonstrate that ~~he the~~ physician can resume the competent practice of medicine with reasonable skill and safety to patients.

For the purpose of this section, by practicing or by making and filing a biennial license to practice medicine in this State, every physician licensed under this chapter who ~~shall accept~~ accepts the privilege to practice medicine in this State ~~shall, by so practicing or by the making and filing of biennial registration to practice medicine in this State, be~~ is deemed to have given ~~his~~ consent to a mental or physical examination when directed in writing by the board and ~~further~~ to have waived all objections to the admissibility of the examining physicians' testimony or examination reports on the ground grounds that the ~~same testi-~~ mony or reports constitute a privileged communication.

Injunctions ~~shall must~~ issue ~~forthwith~~ immediately to enjoin the practice of medicine by ~~any person~~ an individual licensed to practice under this chapter when ~~such person's that individual's~~ continued practice will or ~~might may~~ cause irreparable damage to the public health or safety prior to the time proceedings under this chapter could be instituted and completed. In a petition for injunction pursuant to this section, there ~~shall must~~ be set forth with particularity the facts ~~which that~~ make it appear that irreparable damage to the public health or safety will or ~~well~~ might may occur prior to the time proceedings under this chapter could be instituted and completed. ~~Such~~ The petition ~~shall must~~ be filed in the name of the board on behalf of the State ~~of Maine~~.

Sec. A-220. 32 MRSA §3289, as enacted by PL 1971, c. 591, §1, is amended to read:

§3289. Record of reinstatement

Upon the reinstatement of ~~any such a~~ license by the board, either upon its own motion or upon application, the secretary of the board shall ~~forthwith~~

immediately enter the order of reinstatement in the minutes and records of the board.

Sec. A-221. 32 MRSA §3292, as amended by PL 1979, c. 96, §3, is further amended to read:

§3292. Treatment of minors

~~Any person~~ An individual licensed under this chapter who renders medical care to a minor for treatment of venereal disease or abuse of drugs or alcohol is under no obligation to obtain the consent of ~~said the~~ minor's parent or guardian or to inform ~~such~~ the parent or guardian of ~~such the~~ treatment. ~~Nothing in this~~ This section ~~shall may not~~ be construed ~~so as~~ to prohibit the licensed ~~person individual~~ rendering ~~such the~~ treatment from informing ~~such the~~ parent or guardian. For purposes of this section, "abuse of drugs" means the use of drugs solely for their stimulant, depressant or hallucinogenic effect upon the higher functions of the central nervous system and not as a therapeutic agent recommended by a practitioner in the course of medical treatment.

Sec. A-222. 32 MRSA §3293, as repealed and replaced by PL 1987, c. 646, §10, is amended to read:

§3293. Review committee member immunity

~~Any A~~ A physician licensed under this chapter who is a member of a utilization review committee, medical review committee, surgical review committee, peer review committee or disciplinary committee that is a requirement of accreditation by the Joint Commission on Accreditation of Hospitals or is established and operated under the auspices of the physician's respective state or county professional society or the Board of Registration Licensure in Medicine is immune from civil liability for undertaking or failing to undertake ~~any an~~ act within the scope of the function of the committee.

Sec. A-223. 32 MRSA §3296, as amended by PL 1987, c. 646, §11, is further amended to read:

§3296. Records of proceedings of medical staff review committees confidential

All proceedings and records of proceedings concerning medical staff reviews, hospital reviews and other reviews of medical care conducted by committees of physicians and other health care personnel on behalf of hospitals located within the State or on behalf of individual physicians, when the reviews are required by state or federal law, rule ~~or~~ regulations or as a condition of accreditation by the Joint Commission on Accreditation of Hospitals or the American Osteopathic Association Committee on Hospital Accreditation or are conducted under the auspices of the state or county professional society to

which the physician belongs, are confidential and shall be are exempt from discovery.

Sec. A-224. 32 MRSA §3297, as amended by PL 1987, c. 719, is further amended to read:

§3297. Posting of policy regarding acceptance of Medicare assignment

~~Each~~ An allopathic physician licensed pursuant to chapter 48, ~~each~~ an osteopathic physician licensed pursuant to chapter 36, ~~each~~ a chiropractor licensed pursuant to chapter 9 and ~~each~~ a podiatrist licensed pursuant to chapter 51 who treats Medicare-eligible individuals shall, ~~after January 1, 1984,~~ post in a conspicuous place ~~his policy~~ the that professional's policy regarding the acceptance of Medicare assignment.

This posting ~~shall~~ must state the policy on accepting assignment and ~~shall~~ name the ~~person~~ individual with whom the patient should communicate regarding the policy.

The Board of ~~Registration Licensure~~ in Medicine, the Board of Osteopathic ~~Examination and Registration Licensure~~, the Board of ~~Examiners Licensure of Podiatrists Podiatric Medicine~~ and the Board of Chiropractic ~~Examination and Registration Licensure~~ shall enforce the provisions of this section and ~~shall~~ inform each licensee of ~~their~~ the licensee's obligation under this law. Each board ~~shall have the authority to~~ may discipline a licensee under its jurisdiction for failing to comply with this section and ~~shall have the authority to~~ impose a monetary penalty of not less than \$100 and not more than \$1,000 for each violation.

Sec. A-225. 32 MRSA §3299, as enacted by PL 1989, c. 462, §13, is repealed.

Sec. A-226. 32 MRSA §3299-A is enacted to read:

§3299-A. Consumer information

The board shall develop a consumer information brochure pursuant to section 59-A.

Sec. A-227. 32 MRSA §3300, as enacted by PL 1991, c. 675, §5, is amended to read:

§3300. Release of contact lens prescription

After contact lenses have been adequately fitted and the patient released from immediate follow-up care by the physician, the patient may request a copy of the contact lens specifications from the physician. The physician shall provide a copy of the prescription, at no cost, which must contain the information neces-

sary to properly duplicate the current prescription. The prescription must contain an expiration date. The prescription may contain fitting guidelines and may also contain specific instructions for use by the patient.

The prescribing physician is not liable for ~~any~~ an injury ~~to~~ or a condition ~~to~~ of a patient that results from negligence in packaging, manufacturing or dispensing lenses by anyone other than the prescribing physician.

The dispensing party may dispense contact lenses only upon receipt of a written prescription, except that a physician may fill a prescription of an optometrist or another physician without a copy of the prescription. Except in the case of a physician who has previously seen the wearer, a contact lens prescription may not be filled by mail, but must be filled by being personally dispensed to the contact lens wearer. ~~A person~~ An individual who fills a contact lens prescription shall maintain a file of that prescription for a period of 6 years. ~~Any person~~ An individual, a corporation or any other entity that improperly fills a contact lens prescription or fills an expired prescription commits a civil violation for which a forfeiture of not less than \$250 nor more than \$1,000 may be adjudged.

~~Any person~~ An individual may file a complaint with the board seeking disciplinary action concerning violations of this section. The board shall investigate or cause to be investigated and shall resolve a complaint. The board shall conduct its actions in accordance with the Maine Administrative Procedure Act.

Sec. A-228. 32 MRSA §3401, 2nd ¶, as enacted by PL 1987, c. 597, §9, is amended to read:

The appointive members ~~shall be~~ are appointed for terms of 4 years, ~~except that at least one appointive member's term shall expire in each 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, that member shall serve until a 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. No appointive member may be eligible to serve more than 2 full consecutive terms, provided that, for this purpose only, a period actually which exceeds 1/2 of the 4 year term shall be deemed a full term. Appointments of members must comply with section 60.

Sec. A-229. 32 MRSA §3551, as repealed and replaced by PL 1977, c. 297, is repealed and the following enacted in its place:

§3551. Definitions

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

1. Board. "Board" means the Board of Licensure of Podiatric Medicine.

2. License. "License" means authorization to practice podiatric medicine.

3. Podiatrist. "Podiatrist" means an individual currently licensed to practice podiatric medicine.

4. Practice of podiatric medicine. "Practice of podiatric medicine" means the diagnosis and treatment of maladies of the human foot and ankle by medical, surgical or mechanical means. Practice of podiatric medicine includes the administration of local anesthesia in conjunction with the practice of podiatry. The use of general anesthesia is permitted in conjunction with the practice of podiatry when administered or supervised by a medical or osteopathic physician who assumes responsibility for the administration of that anesthesia to a patient being treated by a podiatrist.

Sec. A-230. 32 MRSA §3552 is repealed and the following enacted in its place:

§3552. Licensure; exceptions; penalty

1. Licensure required. Except as otherwise provided, it is unlawful for an individual to practice or attempt to practice podiatry or to claim to be licensed as a podiatrist without first obtaining a license to practice podiatry as provided in this chapter.

2. Exceptions. This chapter does not apply to an individual licensed to practice a healing art or science who is practicing podiatric medicine in the course of practice and within the scope of that license, to a commissioned medical or surgical officer of a United States Army, United States Navy or United States Marine hospital or public health service or to the sale of nonprescription foot appliances in commercial establishments.

3. Penalty. A person who practices podiatric medicine in violation of subsection 1 commits a Class E crime. The State may bring action in Superior Court to enjoin a person from violating subsection 1, regardless of whether proceedings are instituted in Administrative Court and regardless of the status of criminal proceedings.

Sec. A-231. 32 MRSA §3553, as amended by PL 1979, c. 61, §1, is repealed and the following enacted in its place:

§3553. Narcotics

A licensed podiatrist may prescribe narcotic drugs for the treatment of ailments within the scope of the podiatrist's license with the approval of the Drug Enforcement Administration.

Sec. A-232. 32 MRSA §3554 is repealed.

Sec. A-233. 32 MRSA c. 51, sub-c. II, first 2 lines are repealed and the following enacted in their place:

SUBCHAPTER II**BOARD OF LICENSURE OF PODIATRIC MEDICINE**

Sec. A-234. 32 MRSA §3601, as amended by PL 1989, c. 503, Pt. B, §141, is further amended to read:

§3601. Appointment; term; removal

The Board of ~~Examiners~~ Licensure of Podiatrists, as Podiatric Medicine established in Title 5, section 12004-A, subsection 33, and in this chapter called the "board," ~~shall be 2 members of the Board of Registration in Medicine together with 2~~ consists of 4 podiatrists and a representative of the public appointed by the Governor. One of the members shall must be chosen by a majority of the members to act as chair of the board for a term of 2 years and the secretary-treasurer of the Board of Registration in Medicine shall act as secretary-treasurer of the board. The podiatrists are appointed by the Governor shall be appointed for a term of 4 years from nominations submitted by the Podiatry Association of Maine and by other organizations and individuals, except that the first appointment of the new member shall be for a term of 2 years. The podiatrists selected shall must at the time of their appointment have been actively engaged in the practice of podiatry for a period of at least 2 years. The representative of the public shall be appointed for a term of 4 years. Appointment of members must comply with section 60.

Sec. A-235. 32 MRSA §3602, as amended by PL 1983, c. 812, §231, is further amended to read:

§3602. Meetings; officers; records

The board shall hold regular semiannual meetings, ~~one in March, one in July and one in November and such additional meetings at such times and places as the board may determine and may hold other meetings during the year as it determines necessary to transact its business.~~ One of the members ~~shall~~ must be chosen by a majority of the board to act as ~~chairman~~ chair of the board for a term of 2 years. ~~The secretary and treasurer of the Board of Registration in~~

~~Medicine shall act as~~ One member must be chosen by a majority of the board to act as secretary and treasurer of the board and for a term of 2 years, who shall keep a record of the proceedings of the board, which record shall must include, among other things, a record of all money received and disbursed, a list of all applicants for licenses to practice podiatry and the fact of whether the applicant was those applicants were granted or denied a license. The records shall must be filed in the office of the secretary of the board and shall always be open to inspection during regular office hours. Four Three members of the board shall constitute a quorum for the transaction of business, but no a license to practice podiatry shall may not be granted except upon the affirmative vote of 4 a majority of the members of the board.

Sec. A-236. 32 MRSA §3603, as amended by PL 1983, c. 812, §232, is further amended to read:

§3603. Compensation; disposition of fees

The ~~treasurer of the~~ board shall receive all fees, charges and assessments payable to the board and account for and pay over ~~these those fees, charges and assessments~~ according to law. Members of the ~~Board of Registration in Medicine, the secretary of the board, the podiatrists and the public member appointed by the Governor, as provided in section 3601,~~ shall each be compensated board are entitled to compensation according to the provisions of Title 5, chapter 379, and all expenses shall be certified by the ~~chairman and secretary.~~

Sec. A-237. 32 MRSA §3604, as amended by PL 1985, c. 748, §42, is further amended to read:

§3604. Reports; liaison; limitations

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

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

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

Sec. A-238. 32 MRSA §3605-A, as enacted by PL 1989, c. 632, §2, is repealed.

Sec. A-239. 32 MRSA §3605-B is enacted to read:

§3605-B. Powers and duties of the board

In addition to powers and duties otherwise provided by law, the board has the following powers and duties:

1. Licenses. Examine and issue and renew the licenses of qualified applicants;

2. Continuing education. Adopt standards for continuing education necessary to maintain licensure;

3. Rules. Adopt rules in accordance with the Maine Administrative Procedure Act, as it determines necessary to carry out the purposes of this chapter;

4. Conduct investigations and hold hearings. Hold hearings to assist with investigations, to determine whether grounds exist for suspension, revocation or denial of licensure or to perform the board's duties in accordance with due process.

The board may not refuse to renew a license for a reason other than failure to pay a required fee, unless it has afforded the licensee the opportunity for an adjudicatory hearing. The board shall hold an adjudicatory hearing at the written request of an individual who is denied a license for a reason other than failure to pay a required fee, if the request for hearing is received by the board within 30 days of the board's transmission of written notice to the applicant of denial of the application, the reasons for denial and a statement of the applicant's right to request a hearing. Hearings must be conducted in conformity with Title 5, chapter 375, subchapter IV to the extent applicable. The board may subpoena witnesses, records and documents for a hearing it conducts;

5. Contracts. Enter into contracts to carry out its responsibilities under this chapter; and

6. Records. The board shall keep a record of its procedures.

Sec. A-240. 32 MRSA c. 51, sub-c. III, first 2 lines are repealed and the following enacted in their place:

SUBCHAPTER III

LICENSE REQUIREMENTS

Sec. A-241. 32 MRSA §3651, as amended by PL 1983, c. 378, §56, is repealed.

Sec. A-242. 32 MRSA §3651-A, as enacted by PL 1993, c. 278, §1 and affected by §4, is amended to read:

§3651-A. Requirements and licensure

1. Residency requirement. ~~Each~~ An applicant who has graduated after January 1, 1991 from podiatric medical school as set forth in section ~~3654~~ 3651-B seeking licensure to practice podiatry ~~must~~ shall provide the board with evidence of satisfactory completion of at least one year of postgraduate clinical training in a podiatric residency training program approved by the accrediting body of the American Podiatric Medical Association, or its successor organization.

2. Residency licensure. A doctor of podiatric medicine who has graduated after January 1, 1991 from podiatric medical school as set forth in section ~~3654~~ 3651-B may not practice podiatric medicine in a podiatric residency program without first having applied for and obtained a residency license from the board.

A. An applicant for a residency license must be a doctor of podiatric medicine who is a graduate of a school of podiatry, as set forth in this chapter. An examination is not required for applicants for residency licensure. The fee for residency licensure is the same as the ~~registration~~ registration fee for licensure for that year. The residency license application and the license must be in forms prescribed by the board. A residency license may be denied for ~~any~~ any a reason for which a podiatric medical license may be disciplined under section 3655-A.

B. A residency license is valid only for the practice of podiatric medicine as part of the postgraduate residency program. A residency license is subject to discipline for ~~any~~ any a reason for which a podiatric medical license may be disciplined under section 3655-A. If the holder of a residency license is terminated from or otherwise ceases to be a resident in the postgraduate residency program, the residency license becomes void as of the date the resident is terminated or ceases to be a resident.

C. A residency license is valid for up to one year, and may be renewed annually before the first day of July of every year ~~thereafter~~, not to exceed an aggregate of 4 years. Renewal of a residency license is subject to the same requirements and conditions as the initial residency license.

Sec. A-243. Effective date. That section of this Act that amends the Maine Revised Statutes, Title 32, section 3651-A takes effect July 1, 1995.

Sec. A-244. 32 MRSA §3651-B is enacted to read:

§3651-B. Examination; requirements

1. Examination. Except as otherwise provided in this chapter, an individual must be examined by the board as to the individual's qualifications before engaging in the practice of podiatry. An applicant shall present to the board an application for a license to practice podiatry on a form prescribed by the examiners and containing satisfactory proof that the applicant:

A. Is at least 18 years of age; and

B. Has received a certificate of graduation from an accredited college of podiatric medicine, recognized by the Council of Education of the American Podiatry Association or its equivalent.

2. Rules. To be eligible for licensure, the applicant must pass a comprehensive examination as prescribed by the board in its rules.

Sec. A-245. 32 MRSA §3652, as amended by PL 1993, c. 347, §1, is further amended to read:

§3652. Fees; reexamination; license renewal

Every ~~Any~~ An applicant for an examination for a license to practice podiatry shall pay, at the time of filing an application, ~~pay to the secretary of the Board of Examiners of Podiatrists~~ pay to the secretary of the Board of Examiners of Podiatrists a license application fee of \$100 not more than \$200, plus actual cost of examination administration as set by the board. If the application is denied and examination refused, 1/2 of the fee must be returned to the applicant. An applicant who fails to pass an examination is entitled to a reexamination within 6 months upon the payment of an additional \$50, but only 2 such reexaminations are permitted. Podiatrists licensed in another state and applying for a license to practice in this State without examination shall pay a fee of \$100 not more than \$200.

Every ~~Any~~ A doctor of podiatric medicine licensed to practice podiatric medicine and surgery within this State shall apply, on or before August 1, 1993 and on or before July 1st of every year ~~thereafter~~ thereafter apply after August 1, 1993, to the examiners board for a license renewal on a form furnished by the examiners board and shall pay a renewal fee of \$125 not more than \$200.

On or before August 1, 1993, and on or before July 1st of every year ~~thereafter~~ after August 1, 1993, any ~~an~~ applicant who is practicing podiatric medicine and surgery in this State shall include satisfactory evidence to the board that in the preceding license period the applicant has completed a program of continuing education as prescribed in the rules of the examiners board.

~~If application for license renewal according to the conditions set forth in this section is not submitted within 2 months after the date of notification by the secretary that the renewal is due, the license of the person failing to renew lapses. The license may be reissued only by a majority vote of the examiners and upon payment of a reinstatement fee of \$25, and only if there exists no cause, as set forth in this chapter, that may be considered grounds for suspension or revocation of the license.~~

An application for license renewal made not more than 90 days after the date of expiration must include a late fee, to be set by the board, in addition to the renewal fee. An application received more than 90 days but less than 2 years after the expiration date is subject to the requirements for new applicants as well as continuing education requirements, if applicable, and a late fee of not more than \$200, except that the board, giving due consideration to the health, welfare and safety of the citizens of the State, may waive the examination requirement at its discretion. A license that has been expired for over 2 years may not be renewed and must be processed as a new application.

Sec. A-246. 32 MRSA §3653 is amended to read:

§3653. Display of licenses; use of title

~~Every An applicant who shall satisfactorily meet meets the requirements for license to practice podiatry, as provided in this chapter, shall may be granted a certificate under the seal of license by the Board of Registration in Medicine board signed by the chairman and secretary chair, which certificate shall entitle entitles the person individual to whom it is granted to practice podiatry anywhere in this State. Every such certificate shall The license must be conspicuously displayed at the place of practice of such person, and every renewal certificate for the current year shall be displayed in connection with the original certificate the podiatrist. A podiatrist licensed in accordance with this chapter may use the word "Doctor" or the letters "Dr." when followed by the word "Podiatrist" or "Chiropodist," only if he is a graduate of a school approved by the examiners, or if graduated prior to the establishment of a board of examiners, then from a school approved for examination and registration in the state in which the school was located or the designation of the degree "D.P.M."~~

Sec. A-247. 32 MRSA §3654, as amended by PL 1983, c. 378, §57 and PL 1993, c. 278, §2 and affected by §4, is repealed and the following enacted in its place:

§3654. Reciprocity; endorsement; residency requirement

Until July 1, 1995, the board may issue a license to practice podiatry by endorsement to an applicant who has successfully passed the written examination of another state or of a national certifying agency in podiatry recognized by the board if the written examination of the other state or national certifying agency was, in the opinion of the board, equivalent to its own examination and if the applicant satisfies in all other respects the requirements for licensure in section 3651-A. The application to the board must be accompanied by an application fee of not more than \$200.

Beginning July 1, 1995, the board may issue a license to practice podiatry by endorsement to an applicant who has successfully passed the written examination of another state or of a national certifying agency in podiatry recognized by the board if the written examination of the other state or national certifying agency was, in the opinion of the board, equivalent to its own examination and if the applicant satisfies in all other respects the requirements for licensure in section 3651-A. An applicant for licensure by endorsement who graduated after January 1, 1991 from podiatric medical school under section 3651-A shall provide the board evidence of satisfactory completion of at least one year of postgraduate clinical training in a podiatric residency training program under section 3651-A. The application to the board must be accompanied by an application fee of not more than \$200.

Sec. A-248. 32 MRSA §3655-A, as enacted by PL 1983, c. 378, §59, is amended to read:

§3655-A. Disciplinary actions

1. Disciplinary proceedings and sanctions. The board shall investigate a complaint, on its own motion or upon receipt of a signed 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 but~~, absent unusual circumstances justifying delay, not later than ~~within~~ 60 days ~~of~~ from receipt of ~~this~~ the information. The licensee shall respond within 30 days. If the licensee's response to the complaint satisfies the board that the complaint does not merit further investigation or action, the matter may be dismissed, with notice of the dismissal to the complainant, if any.

If, in the opinion of the board, the factual basis of the complaint is or may be true, and ~~it~~ the complaint is of

sufficient gravity to warrant further action, the board may request an informal conference with the licensee. The board shall provide the licensee with adequate notice of the conference and of the issues to be discussed. The conference ~~shall~~ must be conducted in executive session of the board, pursuant to Title 1, section 405, unless otherwise requested by the licensee. Statements made at the conference may not be introduced at a subsequent formal hearing unless all parties consent.

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

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

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

C. If the board concludes that modification or nonrenewal of the license ~~might be or other disciplinary action under this chapter or Title 10, section 8003 is~~ in order, the board shall hold an adjudicatory hearing in accordance with the provisions of ~~the Maine Administrative Procedure Act, Title 5, chapter 375, subchapter IV; or~~

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

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

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

B. Habitual ~~intemperance in the use of alcohol or the habitual use of narcotic or hypnotic or other substances the use of which substance abuse that~~ has resulted or may is foreseeably likely to result in the licensee performing ~~his duties services~~ in a manner ~~which that~~ endangers the health or safety of ~~his~~ the licensee's patients;

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

D. Aiding or abetting the practice of podiatry by ~~a person an individual who is~~ not duly licensed under this chapter and who ~~represents himself claims~~ to be legally licensed;

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

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

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

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

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

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

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

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

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

Sec. A-249. 32 MRSA §3821, as amended by PL 1989, c. 503, Pt. B, §142, is further amended to read:

§3821. Membership; terms; vacancies

The State Board of Examiners of Psychologists, as established by Title 5, section 12004-A, subsection 34, and called the "board," ~~shall consist~~ consists of 9 members who ~~shall be~~ are appointed by the Governor to serve a term of 3 years. Two members of the board ~~shall must~~ be representatives of the public. Seven members of the board ~~shall must~~ be licensed psychologists or psychological examiners with at least one member licensed as a psychological examiner. These 7 members ~~shall must~~ be representative of the field of psychology insofar as possible. ~~Any vacancy occurring on the board shall be filled by the Governor for the unexpired term by a person qualified and selected as was the member being replaced. No person may be eligible to serve more than 2 full consecutive terms at any one time. Upon expiration of a member's term, that member shall serve until a successor is qualified and appointed. The successor's term shall be 3 years from the date of that expiration, regardless of the date of appointment.~~ Appointments of members must comply with section 60. Prior to ~~Before~~ the filling of any vacancies of professional or public members, the Governor shall solicit recommendations. A board member may be removed by the Governor for cause.

Sec. A-250. 32 MRSA §3837, sub-§4, as enacted by PL 1983, c. 413, §157, is repealed and the following enacted in its place:

4. Substance abuse. Habitual substance abuse that has resulted or is foreseeable likely to result in the licensee performing services in a manner that endangers the health or safety of patients;

Sec. A-251. 32 MRSA §4854, as repealed and replaced by PL 1989, c. 878, Pt. A, §96, is amended to read:

§4854. State Board of Veterinary Medicine

The State Board of Veterinary Medicine, as established by Title 5, section 12004-A, subsection 42, within the Department of Professional and Financial Regulation, ~~shall consist~~ consists of 6 members, appointed by the Governor, 5 of whom ~~shall must~~ be licensed ~~Maine~~ veterinarians who are residents of this State; and graduates of a veterinary school and who have been licensed to practice veterinary medicine in ~~Maine~~ the State for the 5 years

preceding their appointment and one member who ~~shall must~~ be a representative of the public. At least 30 days before the appointment of ~~any a~~ licensed Maine veterinarian to the board, the State Veterinary Medical Association shall forward to the Governor for consideration the names of 3 or more qualified veterinarians. The term of office of each present member of the board ~~shall expire~~ expires as ~~now~~ provided. One new member to be appointed to the board shall serve a 3-year term. One new member to be appointed to the board shall serve a 4-year term. The public member to be appointed to the board shall serve a 5-year term. ~~Thereafter~~ After the initial appointments, all members ~~shall be~~ are appointed for 5-year terms. ~~No person may serve 2 consecutive 5 year terms, but a person appointed for a term of less than 5 years may serve a successive term.~~ Appointments of members must comply with section 60. No ~~A~~ person may not serve on the board who is, or has been during the 2 years preceding appointment, a trustee or a member of the faculty or advisory board of a veterinary school.

Sec. A-252. 32 MRSA §4907, sub-§2, as repealed and replaced by PL 1983, c. 413, §174, is amended to read:

2. Term. ~~Appointments shall be~~ are for 5-year terms; ~~except that no more than one appointed 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 appointed member 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 the expiration, regardless of the date of his appointment. Vacancies occurring prior to the expiration of the specified term shall be filled by appointment for the unexpired term.~~ Appointments of members must comply with section 60. A board member may be removed for cause by the Governor.

Sec. A-253. 32 MRSA §5004, as amended by PL 1991, c. 283, §1, is further amended to read:

§5004. State Board of Licensure for Professional Foresters

~~A~~ The State Board of Licensure for Professional Foresters within the Department of Professional and Financial Regulation, as established by Title 5, section 12004-A, subsection 17, ~~shall administer~~ administers the provisions of this chapter. The board consists of 5 licensed professional foresters and one public member who are selected and appointed by the Governor. Appointments are for 3-year terms; ~~except that no more than one forester member's term~~

~~may expire in any one calendar year and appointments for terms of less than 3 years may be made to comply with this limitation. Upon expiration of a member's term, that member shall serve until a successor is qualified and appointed. The successor's term is 3 years from the date of the expiration, regardless of the date of appointment. No person may serve more than 3 full consecutive terms. A period actually served that exceeds 1/2 of the 3 year term is considered a full term. Appointments of members must comply with section 60.~~

Sec. A-254. 32 MRSA §5007, as amended by PL 1983, c. 413, §187, is further amended to read:

§5007. Removal of board members; vacancies

The Governor may remove ~~any a~~ board member for cause. ~~Vacancies in membership of the board shall be filled for the unexpired term in the same manner as for a full term appointment.~~

Sec. A-255. 32 MRSA §6010, last ¶, as repealed and replaced by PL 1983, c. 413, §197, is amended to read:

~~Appointments shall be are for 3-year terms; except that the terms of at least 2 members shall expire each calendar year and appointments of less than 3 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 3 year term shall be deemed a full term. Upon expiration of the member's term, he shall serve until his successor is qualified and appointed, and the successor's term shall be 3 years from the date of that expiration regardless of the date of his appointment. Any vacancy on the board shall be filled by appointment by the Governor. Any person appointed to fill a vacancy shall have the same qualifications as the board member being replaced and shall hold office during the unexpired term of the member whose place is filled. Appointments of members must comply with section 60. A board member may be removed by the Governor for cause.~~

Sec. A-256. 32 MRSA §6208-A, sub-§2, as enacted by PL 1983, c. 413, §211, is amended to read:

2. Term of office. ~~Appointments shall be are for 3-year terms, except that no more than 3 members' terms may expire in any one calendar year and appointments for terms of less than 3 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 3 years from the date of the expiration, regardless of the date of his appointment. Appointments of members must comply with section 60.~~

Sec. A-257. 32 MRSA §6208-A, sub-§§3 and 4, as enacted by PL 1983, c. 413, §211, are repealed.

Sec. A-258. 32 MRSA §7026, last ¶, as amended by PL 1985, c. 736, §6, is further amended to read:

~~Appointments shall be are for 3-year terms, except that no more than 3 members' terms may expire in any one 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 2 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 occurring prior to the expiration of the specified term shall be filled by appointment for the unexpired term. Appointments of members must comply with section 60.~~

Sec. A-259. 32 MRSA §9552, as amended by PL 1991, c. 827, Pt. A, §77, is further amended to read:

§9552. Membership

The Board of Commercial Driver Education, as established by Title 5, section 12004-A, subsection 12, administers this chapter and is composed of 5 members. The Governor shall appoint 4 members, as follows: Two members must be representatives of Class A schools, as defined in section 9601; one must be a representative of Class B schools, as defined in section 9601; and one member must be a public representative. The 5th member is the Director of the Bureau of Motor Vehicles or that director's designee. The term of office of each member is 4 years, except that, of the 3 school members on the first board appointed under this subchapter, one is appointed for 2 years and one is appointed for 3 years. ~~Thereafter~~ After the initial appointments, appointments are for 4-year terms, ~~except that no more than one school member's term 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. Appointments of members must comply with section 60. A board member may be removed by the Governor for cause.~~

~~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 that 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 appointed member 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.~~

Sec. A-260. 32 MRSA §9703, sub-§2, as enacted by PL 1985, c. 288, §3, is amended to read:

2. Terms of appointment. To the first board established under this chapter, the Governor shall appoint 2 board members for a term of one year, 2 for a term of 2 years and one for a term of 3 years. Appointments made thereafter shall be after the initial appointments are for 3-year terms, but no person may be appointed to serve more than 3 consecutive terms, provided that, for this purpose only, a period actually served which exceeds 1/2 of a 3 year term shall be deemed a full term. Appointments of members must comply with section 60. Any A member of the board may be removed from office for cause by the Governor.

Sec. A-261. 32 MRSA §9853, sub-§2, as enacted by PL 1983, c. 524, is amended to read:

2. Term of office. The term of office shall be is 3 years, except that of the first appointed members. Of the members first appointed to the board: Four members, including one radiologist, one radiographer, one licensed practitioner practitioner and one public member shall be are appointed to terms of 3 years; 4 members, including one nuclear medicine technologist, one radiation therapy technologist, one licensed practitioner and one radiation physicist shall be are appointed to terms of 2 years; and one radiologist and 2 radiographers shall be are appointed to a term of one year. Appointments of members must comply with section 60.

~~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.~~

Sec. A-262. 32 MRSA §9860, sub-§2, as enacted by PL 1983, c. 524, is amended to read:

2. Substance abuse. Habitual intemperance in the use of alcohol or the habitual use of narcotic or hypnotic substance abuse or abuse of other drugs listed as controlled substances by the drug enforcement administration, which use that has resulted or is foreseeable likely to result in the licensee being unable to perform his duties or perform those duties perform-

~~ing services in a manner which would endanger that endangers the health or safety of the patients to be served;~~

Sec. A-263. 32 MRSA §9903, sub-§2, as enacted by PL 1985, c. 389, §28, is amended to read:

2. Terms of appointment. To the first board established under this chapter, the Governor shall appoint 2 board members for terms of one year, 2 for terms of 2 years and one for a term of 3 years. Appointments made thereafter shall be after the initial appointments are for 3-year terms, but no person may be appointed to serve more than 3 consecutive terms, provided that for this purpose only, a period actually served which exceeds 1/2 of a 3 year term shall be deemed a full term. Appointments of members must comply with section 60. Any A member of the board may be removed from office for cause by the Governor.

Sec. A-264. 32 MRSA §12213, as repealed and replaced by PL 1989, c. 878, Pt. A, §99, is amended to read:

§12213. Appointment

The Board of Accountancy, as established by Title 5, section 12004-A, subsection 1, shall be within the Department of Professional and Financial Regulation. The board shall consist consists of 5 members appointed by the Governor. Each member of the board shall must be a citizen of the United States and a resident of this State. Three members shall must be holders of certificates issued under section 12227 and of currently valid permits issued under section 12251 and shall must have had, as their principal occupation, active practice as certified public accountants for at least the 5 preceding years. One member shall must hold a certificate issued under section 12239; and a currently valid permit issued under section 12251 and shall must have had, as a principal occupation, active practice as a noncertified public accountant for at least the 5 preceding years. One member of the board shall must be a representative of the public. Appointments shall be are for 3-year terms and the term of one member, other than the member registered under section 12239 and the public member, shall expire each calendar year and appointments of less than 3 years may be made in order to comply with this limitation. Any vacancy occurring during a term shall be filled by appointment for the unexpired term. Upon the expiration of a member's term of office, that member shall continue to serve until a successor has been appointed and has qualified and the successor's term shall be 3 years from the date of the expiration, regardless of the date of appointment. 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. Appointments of members must comply with section 60. The Governor shall may remove any a member of the board for cause.~~

Sec. A-265. 32 MRSA §12406, sub-§2, as enacted by PL 1987, c. 488, §3, is amended to read:

2. Terms of office. Appointments ~~shall be~~ are for 3-year terms, ~~except that no more than 2 members' terms may expire in any 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. Any vacancy occurring prior to the expiration of the specified term shall be filled by appointment for the unexpired term. Appointments of members must comply with section 60.~~

Sec. A-266. 32 MRSA §13062, sub-§§4, 6 and 7, as enacted by PL 1987, c. 395, Pt. A, §212, are amended to read:

4. Terms; removal. Terms of the members of the commission ~~shall be~~ are for 3 years. ~~No person may be appointed for more than 2 consecutive 3-year terms. Members may be removed by the Governor for cause.~~

6. Appointments. The members of the commission ~~shall be~~ are appointed by the Governor, subject to review by the joint standing committee of the Legislature having jurisdiction over business legislation and to confirmation by the Senate. ~~Appointments shall be made for a 3-year term, except that at least one appointive member's term 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 2 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. Appointments of members must comply with section 60.~~

7. Chair. The commission shall annually elect a chairman ~~chair~~ from its members.

Sec. A-267. 32 MRSA §13501, last ¶, as enacted by PL 1987, c. 395, Pt. A, §212, is amended to read:

Appointments ~~shall be~~ are 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. Appointments of members must comply with section 60. A member may be removed by the Governor for cause.~~

Sec. A-268. 32 MRSA §13715, as enacted by PL 1987, c. 710, §5, is repealed.

Sec. A-269. 32 MRSA §13715-A is enacted to read:

§13715-A. Terms of office

1. Length. Members of the board are appointed for terms of 3 years. Appointments of members must comply with section 60.

2. Grounds for removal. The Governor may remove a member of the board for cause.

Sec. A-270. 32 MRSA §13734, sub-§3, as enacted by PL 1987, c. 710, §5, is amended to read:

3. Fees. The board shall specify by rule the procedures to be followed, in addition to those specified by section ~~13715~~ 13715-A, and the fees to be paid for renewal of licenses.

Sec. A-271. 32 MRSA §13741, 3rd ¶, as enacted by PL 1987, c. 710, §5, is amended to read:

If, in the opinion of the board, the factual basis of the complaint is or may be true and ~~it~~ the complaint is of sufficient gravity to warrant further action, the board may request an informal conference with the licensee. The board shall provide the licensee with adequate notice of the conference and of the issues to be discussed. The conference ~~shall~~ must be conducted in executive session of the board, pursuant to Title 1, section 405, unless otherwise requested by the licensee. Statements made at the conference may not be introduced at a subsequent formal hearing unless all parties consent.

Sec. A-272. 32 MRSA §13742, sub-§2, ¶B, as enacted by PL 1987, c. 710, §5, is amended to read:

B. Habitual ~~intemperance in the use of alcohol or the habitual use of narcotic, hypnotic or other substances, the use of which substance abuse~~ that has resulted or may be foreseeably likely to result in the licensee performing duties in a manner which that endangers the health or safety of the patients;

Sec. A-273. 32 MRSA §13852, sub-§4, as enacted by PL 1989, c. 465, §3, is amended to read:

4. Terms of office. Of the first board members, the Governor shall appoint 3 for a term of one year; 3 for 2 years; and 2 for 3 years. Their successors ~~shall be~~ are appointed for terms of 3 years each, ~~except that any person chosen to fill a vacancy shall be appointed only for the unexpired term of the board member to be succeeded. Upon the expiration of the term of office, a board member shall continue to serve until a successor has been appointed and qualified. No person may be appointed for more than 2 consecutive terms. Appointments of members must comply with section 60.~~

Sec. A-274. 32 MRSA §13861, sub-§1, ¶B, as enacted by PL 1989, c. 465, §3, is amended to read:

B. Habitual ~~intemperance in the use of alcohol or the habitual use of narcotic, hypnotic substance abuse or abuse of other drugs listed as controlled substances by the drug enforcement administration, which use that has resulted or is~~ foreseeably likely to result in the licensee being unable to perform duties or perform those duties performing services in a manner which would endanger that endangers the health or safety of the patients to be served;

Sec. A-275. 32 MRSA §13902, sub-§2, as enacted by PL 1989, c. 346, §3, is amended to read:

2. Terms of appointment; removal. Appointments ~~shall be~~ are 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. Appointments of members must comply with section 60.~~

The Governor may remove ~~any~~ a 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.~~

Sec. A-276. 32 MRSA §13967, sub-§5, as enacted by PL 1989, c. 806, §3, is amended to read:

5. Terms of office. Of the first board members, the Governor shall appoint one for a term of one year; one for 2 years; and 3 for 3 years. Their successors ~~must be~~ are appointed for terms of 3 years each, ~~except that any person chosen to fill a vacancy must be appointed only for the unexpired term of the board member to be succeeded. Upon the expiration of the term of office, a board member shall continue to serve until a successor has been appointed and qualified. A person may not be appointed for more than 2 consecutive terms. Appointments of members must comply with section 60.~~

Sec. A-277. 32 MRSA §14211, sub-§1, as corrected by RR 1991, c. 1, §47, is amended to read:

1. Membership. The Board of Barbering and Cosmetology, as established by Title 5, section 12004-A, subsection 6, consists of 11 members who must be citizens of this State and have practiced in their respective fields for at least 3 years immediately prior to their appointment. Of the members, 4 must be licensed as cosmetologists, one must be licensed as a cosmetologist and instructor of cosmetology, 4 must be licensed as barbers and 2 must be representatives of the public.

The members of the board are appointed by the Governor for terms of 3 years. ~~None of the members are eligible to serve more than 3 consecutive 3 year terms or to serve more than 9 years consecutively; for this purpose only, a period actually served that exceeds 1/2 of the 3 year term is deemed a full term. Upon expiration of a member's term, that member shall serve until a successor is qualified and appointed. The successor's term is 3 years from the date of the expiration, regardless of the date of appointment. Appointments of members must comply with section 60.~~ During their membership on the board, the cosmetologist and barber members must hold valid licenses and be actively engaged in their practices. A board member may be removed by the Governor for cause.

~~Any vacancy in the board must be filled by the appointment by the Governor of a person with the same~~

~~qualifications as the board member being replaced to hold office for the remainder of the unexpired term.~~

A person operating or employed by a school of cosmetology or school of barbering may not be appointed as a member of the board. If a member of the board, after appointment, becomes affiliated in any way with such a school, that person's membership on the board immediately terminates and the unexpired term of that member must be filled by the Governor.

Sec. A-278. 32 MRSA §14308, sub-§1, ~~¶B~~, as enacted by PL 1991, c. 403, §1, is amended to read:

~~B. Habitual intemperance in the use of alcohol or the habitual use of narcotic or other drugs substance abuse that has resulted or is foreseeably likely to result in the regulated person being unable to perform necessary duties or performing those duties performing services in a manner that would endanger endangers the health or safety of clients;~~

Sec. A-279. 34-B MRSA §1211, as amended by PL 1989, c. 503, Pt. B, §162, is further amended to read:

§1211. Maine Developmental Disabilities Council

1. Establishment. The Governor shall establish ~~a State Planning and Advisory Council on the~~ Maine Developmental Disabilities Council, as authorized by Title 5, section 12004-I, subsection 66.

2. Appointments. Appointments to the council are governed as follows.

A. The Governor shall appoint appropriate representatives to the council as are required as a condition of eligibility for benefits under the "Amendments to the Developmental Disabilities Services and Facilities Construction Act of 1978," Public Law 93-288, United States Code, Title 42, Section 6000 et seq.

B. The Governor shall ensure that there is at least one representative from each of the regions established by the department, except that regional representatives may not be in addition to those required by the United States Code, Public Law 93-288.

3. Duties. The council shall consult with and coordinate with the commissioner in carrying out the purposes of the program established under the federal act specified in subsection 2.

4. Departmental role. The department's role under this section is as follows.

A. Except where a single state agency is otherwise designated or established in accordance with ~~any other~~ another state law, the department is designated to be the sole agency of the State:

(1) To develop jointly with the council the statewide plan required by the federal act specified in subsection 2; and

(2) To be the sole administering agency for that plan, which plan is now or may later be required as a condition to the eligibility for benefits under the federal act specified in subsection 2.

B. The department may receive, administer and expend ~~any~~ funds that may be available under the federal act specified in subsection 2 or from ~~any other sources, public or private, for those~~ the purposes of this section.

Sec. A-280. 36 MRSA §5285, as amended by PL 1993, c. 253, §2, is further amended to read:

§5285. Maine Children's Trust Incorporated; checkoff

1. Maine Children's Trust Incorporated.

Taxpayers who, when filing their returns, are entitled to a refund under this Part may designate that a portion of that refund be paid into the Maine Children's Trust ~~Fund Incorporated~~ established in Title 22, chapter ~~1052~~ 1058. Each individual income tax return form must contain a designation in substantially the following form: "Contributions to Maine Children's Trust ~~Fund Incorporated~~: () \$5, () \$10, () \$25 or () Other \$."

2. Contributions credited to the Maine Children's Trust Incorporated. The State Tax Assessor shall determine annually the total amount contributed pursuant to subsection 1. Prior to the beginning of the next year, ~~he the State Tax Assessor~~ shall deduct the cost of administering the Maine Children's Trust ~~Fund Incorporated~~ checkoff, but not exceeding \$2,000 annually, and report the remainder to the Treasurer of State, who shall credit forward that amount to the Maine Children's Trust ~~Fund Incorporated~~, which is established in Title 22, chapter ~~1052~~ 1058. ~~Interest earned by contributions in the fund shall be credited to the fund.~~

~~**3. Limitation on contributions.** When the total amount of the fund reaches \$4,000,000, the State Tax Assessor shall stop crediting contributions to the fund and shall treat amounts designed by taxpayers as if there had been no designation.~~

Sec. A-281. 38 MRSA §89, as amended by PL 1989, c. 503, Pt. B, §174, is further amended to read:

§89. Maine State Pilotage Commission

The Maine State Pilotage Commission, as established by Title 5, section 12004-A, subsection 40, ~~shall consist~~ consists of 5 members appointed by the Governor as follows: Three ~~shall must~~ be licensed pilots representing the Penobscot Bay and the Penobscot River, Bar ~~Harbor—Eastport Harbor to Eastport~~ and Bath; one ~~shall must~~ represent the marine industry interests; and one, with a marine background, ~~shall must~~ represent the public. ~~Each member shall serve for a term of 3 years or until a successor is appointed and qualified. Any vacancy which may occur in the commission shall be filled by the Governor for the remainder of the unexpired term. Any member shall be eligible to serve a successive term. Appointments are for 3-year terms. Appointments of members must comply with Title 32, section 60. The members of the commission shall be compensated are entitled to compensation~~ according to Title 5, chapter 379.

Sec. A-282. Distribution of materials. The distribution of the background material required pursuant to the Maine Revised Statutes, Title 10, section 8005 to prospective members of professional regulatory boards must begin no later than 6 months following the effective date of this Act.

Sec. A-283. Allocation. The following funds are allocated from Other Special Revenue to carry out the purposes of this Part.

1994-95

**HUMAN SERVICES,
DEPARTMENT OF**

**Maine Children's Trust Fund -
Child and Family Services**

All Other (\$200,000)

Provides for the transfer of funds due to the establishment of an independent Maine Children's Trust Incorporated.

**DEPARTMENT OF HUMAN
SERVICES**

TOTAL (\$200,000)

**MAINE CHILDREN'S
TRUST INCORPORATED**

**Maine Children's Trust
Incorporated**

All Other \$200,000

Provides for the allocation of funds through a transfer from the Department of Human Services.

**MAINE CHILDREN'S
TRUST INCORPORATED
TOTAL** \$200,000

**SECTION A-283
TOTAL ALLOCATIONS** \$-0-

PART B

Sec. B-1. 5 MRSA §12004-G, sub-§18, as enacted by PL 1987, c. 786, §5, is repealed.

Sec. B-2. 22 MRSA §2013-A, sub-§1, ¶¶C and D, as enacted by PL 1989, c. 72, §2, are amended to read:

C. Physicians and medical staff pursuant to this paragraph:

(1) Physicians, physician assistants, family nurse practitioners, Medicare-certified rural health clinics, professional associations or group practices performing only tests acceptable to the department ~~and the commission~~, as defined by rule, exclusively for the examination of their own patients; and

(2) Physicians, physician assistants, family nurse practitioners, Medicare-certified rural health clinics, professional associations or group practices performing tests, other than those listed in subparagraph (1), exclusively for the examination of their own patients are subject only to sections 2024, 2025 and 2039.

Notwithstanding subparagraphs (1) and (2), laboratories incorporated for the mutual use of physician or group practice owners shall be subject to all provisions of this Act;

D. Medical laboratories in a school, college, university or industrial plant which are under the direct supervision of, and which services are used exclusively by, a duly licensed physician and which perform only tests acceptable to the

department ~~and the commission~~; otherwise, only sections 2024, 2025 and 2039 apply;

Sec. B-3. 22 MRSA §2013-A, sub-§1, ¶E, as amended by PL 1989, c. 456, §1, is further amended to read:

E. Laboratories operated and maintained for research and teaching purposes which are recognized by the department ~~after consultation with the commission~~ or involve no patient or public health service;

Sec. B-4. 22 MRSA §2013-A, sub-§1, ¶G, as amended by PL 1989, c. 665, §1, is further amended to read:

G. Laboratory services performing health screening tests as defined and regulated by rule adopted by the department ~~and the commission~~. Services exempted under this paragraph include, but are not limited to, the performance of screening tests for cholesterol and colon cancer.

Sec. B-5. 22 MRSA §2014, sub-§1, as repealed and replaced by PL 1975, c. 218, is repealed.

Sec. B-6. 22 MRSA §2015, first ¶, as repealed and replaced by PL 1975, c. 218, is amended to read:

The department, ~~with the approval of the commission~~, shall issue a medical laboratory license to any medical laboratory which has applied for said license on forms provided by the department and which is found to be in compliance with this Act.

Sec. B-7. 22 MRSA §2021, as repealed and replaced by PL 1975, c. 218, is amended to read:

§2021. Use

All fees charged and collected by the department shall be deposited by it in the State Treasury to the credit of the department. All such ~~moneys are~~ money ~~is~~ appropriated to be used by the department in carrying out this Act. The expenditures of the department ~~and commission~~ may be paid from ~~such moneys~~ that money.

Sec. B-8. 22 MRSA §2023, first ¶, as repealed and replaced by PL 1975, c. 218, is amended to read:

The department ~~with the approval of the commission~~ shall prescribe and publish rules and regulations for medical laboratories. These rules and regulations shall relate to:

Sec. B-9. 22 MRSA §2023, sub-§4, as amended by PL 1989, c. 72, §3, is further amended to read:

4. Equipment. Equipment essential in the opinion of the department ~~and the commission~~ to proper conduct and operation of a medical laboratory; and

Sec. B-10. 22 MRSA §2025, as repealed and replaced by PL 1987, c. 211, §8, is amended to read:

§2025. Performance evaluation

The department shall require the demonstration of proficiency in the performance of the tests offered by laboratories subject to licensure or the provisions of this paragraph through successful participation in a proficiency testing program acceptable to the department ~~and the commission~~ covering all categories or subcategories in which testing is offered. Evaluated copies of results shall be forwarded to the department.

Sec. B-11. 22 MRSA §2026, as amended by PL 1989, c. 503, Pt. B, §88, is repealed.

Sec. B-12. 22 MRSA §2027, as amended by PL 1983, c. 812, §123, is repealed.

Sec. B-13. 22 MRSA §2028, as repealed and replaced by PL 1975, c. 218, is repealed.

Sec. B-14. 22 MRSA §2029, as amended by PL 1987, c. 211, §10, is further amended to read:

§2029. Director

Every medical laboratory shall have a director who is a legal resident of the State of Maine, except under certain conditions which may be designated by the ~~commission and~~ department. ~~He~~ The director shall also possess one of the following qualifications:

1. Certification. ~~He is~~ Is a physician licensed to practice medicine in the State of Maine, certified by the American Board of Pathology or the American Osteopathic Board of Pathology, or who possesses qualifications acceptable to the department ~~and the commission~~ and equivalent to such certification;

2. Special qualifications. ~~He is~~ Is a physician licensed to practice medicine with special qualifications acceptable to the department ~~and the commission~~; or

3. Qualified persons other than physicians. ~~He has~~ Has an earned doctorate degree in a chemical, physical or biological science from an accredited institution and either is certified in at least one laboratory specialty by the American Board of Clinical Chemistry, American Board of Medical Microbiology or other national accrediting board acceptable to the department ~~and the commission~~. Medical laboratories directed by persons qualified under this subsection shall only perform those examinations within the

scientific area in which members of the staff are trained and certified.

~~No~~ A medical laboratory may not perform examinations in the field of pathologic anatomy, including exfoliative cytology, unless the director or an employee of the laboratory is a diplomate of the American Board of Pathology certified in pathologic anatomy or the American Osteopathic Board of Pathology certified in pathologic anatomy, or unless ~~he~~ the director is a physician licensed to practice medicine in the State who possesses special qualifications acceptable to the department ~~and the commission~~, or unless ~~he~~ the director is a dentist licensed in Maine and is certified by the American Board of Oral Pathology.

Sec. B-15. 22 MRSA §2030, sub-§2, as enacted by PL 1989, c. 665, §2, is amended to read:

2. Exceptions. Notwithstanding this section, a medical laboratory may examine specimens without a physician referral for a limited number of laboratory services to be determined by rules adopted by the department ~~and the commission~~. Those services include testing for:

- A. Glucose for patients who have been previously diagnosed as having diabetes;
- B. Pregnancy;
- C. Colon cancer; and
- D. Cholesterol.

Sec. B-16. 22 MRSA §2036, as repealed and replaced by PL 1975, c. 218, is amended to read:

§2036. Hearing

Before suspension or revocation of its license, if requested, a hearing ~~shall~~ must be held ~~before a meeting of the commission~~ to show cause why a license should not be suspended or revoked.

Sec. B-17. 22 MRSA §2040, as amended by PL 1981, c. 470, Pt. A, §81, is further amended to read:

§2040. Appeal

Any person aggrieved by a decision of the department ~~or the commission~~ may appeal to the Administrative Court Judge under Title 5, chapter 375.

Sec. B-18. 24 MRSA §2339, sub-§2, ¶B, as enacted by PL 1989, c. 588, Pt. A, §47, is amended to read:

- B. Laboratory services provided by medical laboratories ~~licensed in accordance with the~~

~~Maine Medical Laboratory Commission~~, licensed by an ~~equivalent~~ out-of-state licensing authority or by a hospital, excluding those licensed laboratories owned by a community health center, a physician or group of physicians where the laboratory services are offered solely to the patients of the center, the physician or group of physicians;

Sec. B-19. 24-A MRSA §2677, sub-§2, ¶B, as enacted by PL 1989, c. 588, Pt. A, §54, is amended to read:

- B. Laboratory services provided by medical laboratories ~~licensed in accordance with the Maine Medical Laboratory Commission~~, licensed by an ~~equivalent~~ out-of-state licensing authority or by a hospital, excluding those licensed laboratories owned by a community health center, a physician or group of physicians where the laboratory services are offered solely to the patients of the center, the physician or group of physicians;

Sec. B-20. Maine Revised Statutes amended; revision clause; Board of Chiropractic Examination and Registration. Wherever in the Maine Revised Statutes the words Board of Chiropractic Examination and Registration appear or reference is made to those words, they are amended to read and mean Board of Chiropractic Licensure, and the Revisor of Statutes shall implement this revision when updating, publishing or republishing the statutes.

Sec. B-21. Maine Revised Statutes amended; revision clause; Board of Registration in Medicine. Wherever in the Maine Revised Statutes the words Board of Registration in Medicine appear or reference is made to those words, they are amended to read and mean Board of Licensure in Medicine, and the Revisor of Statutes shall implement this revision when updating, publishing or republishing the statutes.

Sec. B-22. Maine Revised Statutes amended; revision clause; Board of Osteopathic Examination and Registration. Wherever in the Maine Revised Statutes the words Board of Osteopathic Examination and Registration appear or reference is made to those words, they are amended to read and mean Board of Osteopathic Licensure, and the Revisor of Statutes shall implement this revision when updating, publishing or republishing the statutes.

Sec. B-23. Maine Revised Statutes amended; revision clause; Board of Examiners of Podiatrists. Wherever in the Maine Revised Statutes the words Board of Examiners of Podiatrists

appear or reference is made to those words, they are amended to read and mean Board of Licensure of Podiatric Medicine, and the Revisor of Statutes shall implement this revision when updating, publishing or republishing the statutes.

Sec. B-24. Transition provision.

1. The Board of Chiropractic Licensure, Board of Licensure in Medicine, Board of Osteopathic Licensure, Board of Licensure of Podiatric Medicine and the Maine Developmental Disabilities Council are the successors in every way to the powers, duties and functions of the former Board of Chiropractic Examination and Registration, Board of Registration in Medicine, Board of Osteopathic Examination and Registration, Board of Examiners of Podiatrists and the State Planning and Advisory Council on Developmental Disabilities, respectively.

2. All existing rules, regulations and procedures in effect, in operation or promulgated in or by the Board of Chiropractic Examination and Registration, Board of Registration in Medicine, Board of Osteopathic Examination and Registration, Board of Examiners of Podiatrists and the State Planning and Advisory Council on Developmental Disabilities or any of their administrative units or officers are hereby declared in effect and continue in effect until rescinded, revised or amended by the proper authority.

3. All existing contracts, agreements and compacts currently in effect in the Board of Chiropractic Examination and Registration, Board of Registration in Medicine, Board of Osteopathic Examination and Registration, Board of Examiners of Podiatrists and the State Planning and Advisory Council on Developmental Disabilities continue in effect.

4. Any positions authorized and allocated subject to the personnel laws to the former Board of Chiropractic Examination and Registration, Board of Registration in Medicine, Board of Osteopathic Examination and Registration, Board of Examiners of Podiatrists and the State Planning and Advisory Council on Developmental Disabilities are transferred respectively to the Board of Chiropractic Licensure, Board of Licensure in Medicine, Board of Osteopathic Licensure, Board of Licensure of Podiatric Medicine and the Maine Developmental Disabilities Council and may continue to be authorized.

5. All records, property and equipment previously belonging to or allocated for the use of the former Board of Chiropractic Examination and Registration, Board of Registration in Medicine, Board of Osteopathic Examination and Registration, Board of Examiners of Podiatrists and the State Planning and Advisory Council on Developmental Disabilities must become, on the effective date of this Act, part of the

property, respectively, of the Board of Chiropractic Licensure, Board of Licensure in Medicine, Board of Osteopathic Licensure, Board of Licensure of Podiatric Medicine and the Maine Developmental Disabilities Council.

6. All existing forms, licenses, letterheads and similar items bearing the name of or referring to the Board of Chiropractic Examination and Registration, Board of Registration in Medicine, Board of Osteopathic Examination and Registration, Board of Examiners of Podiatrists and the State Planning and Advisory Council on Developmental Disabilities may be used, respectively, by the Board of Chiropractic Licensure, Board of Licensure in Medicine, Board of Osteopathic Licensure, Board of Licensure of Podiatric Medicine and the Maine Developmental Disabilities Council until existing supplies of those items are exhausted.

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

Effective April 7, 1994, unless otherwise indicated.

CHAPTER 601

H.P. 681 - L.D. 923

An Act to Amend the Underground Oil Storage Tank Replacement Fund

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

Whereas, the Legislature needs to ensure that adequate loan and grant funds are available through the Finance Authority of Maine to those required to comply with various requirements of the environmental laws of the State during the upcoming construction season; 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. 10 MRSA §963-A, sub-§§1-A and 1-B are enacted to read:

1-A. Aboveground oil storage facility. "Aboveground oil storage facility," also referred to as