

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
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NON-EMERGENCY LAWS IS
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NON-EMERGENCY LAWS IS
SEPTEMBER 19, 1997

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
1997

exception of the fee specified in section 13225, except that the set fee for any one purpose may not exceed \$100.

Sec. 3. 32 MRSA §13199, sub-§2, ¶A, as enacted by PL 1987, c. 395, Pt. A, §212, is amended to read:

A. The applicant ~~shall~~ must have practiced as a real estate sales agent for 2 years within the 5 years immediately preceding the date of application, satisfactorily completed a course of study meeting commission established guidelines and ~~shall~~ appear at such time and place as the director may designate for the purpose of a written associate broker examination. An applicant may sit for the examination upon completion of the course of study. Regardless of the results of the examination, the commission ~~shall~~ may not issue a license under this section until an individual has completed 2 years as a licensed real estate sales agent. ~~For the purposes of this paragraph, "course of study" consists of 45 sessions of not more than 2 1/2 hours of instruction for each session.~~

Sec. 4. 32 MRSA c. 114, sub-c. V, as amended, is repealed.

See title page for effective date.

CHAPTER 210

S.P. 500 - L.D. 1562

An Act to Amend Professional Licensing Boards Laws

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

Sec. 1. 10 MRSA §8003, sub-§2, ¶¶D and E, as enacted by PL 1995, c. 502, Pt. H, §10, are amended to read:

D. To adopt rules establishing a uniform complaint procedure; ~~and~~

E. To perform licensing functions for other state agencies on a fee-for-service basis; and

Sec. 2. 10 MRSA §8003, sub-§2, ¶F is enacted to read:

F. To study jurisdictional overlap between the department's boards and commissions and other state agencies for purposes of streamlining and consolidating related legal authorities and administrative processes.

Sec. 3. 10 MRSA §8003, sub-§5, ¶C, as amended by PL 1995, c. 502, Pt. H, §10, is further amended to read:

C. The bureau, office, board or commission may:

(1) Require all applicants for license or registration renewal to have responded under oath to all inquiries set forth on renewal forms; ~~or~~

(2) Require applicants for license or registration renewal to present proof of satisfactory completion of continuing professional or occupational education in accordance with each bureau's, office's, board's or commission's rules. Failure to comply with the continuing education rules may, in the bureau's, office's, board's or commission's discretion, result in a decision to deny license or registration renewal or may result in a decision to enter into a consent agreement and probation setting forth terms and conditions to correct the licensee's or registrant's failure to complete continuing education. Terms and conditions of a consent agreement may include requiring completion of increased hours of continuing education, civil penalties, suspension and other terms as the bureau, office, board, commission, the licensee or registrant and the Department of the Attorney General determine appropriate; or

(3) Refuse to renew a license or registration when the bureau, office, board or commission finds a licensee or registrant to be in noncompliance with a board order or consent agreement.

Sec. 4. 10 MRSA §9006-A, as amended by PL 1993, c. 642, §14, is repealed.

Sec. 5. 32 MRSA §1203, sub-§2, as amended by PL 1995, c. 325, §16, is further amended to read:

2. Examinations.....~~\$50~~ \$80; and

Sec. 6. 32 MRSA §1507, first ¶, as enacted by PL 1993, c. 404, Pt. A, §1, is amended to read:

A licensee who is no longer actively practicing funeral service may surrender the licensee's active license to the State Board of Funeral Service and request inactive license status. ~~An applicant for The holder of an inactive status license~~ may not practice funeral service ~~either in the State or in any other state, province or territory.~~ The board may place the licensee on inactive status only upon proper applica-

tion and the submission of appropriate fees by the licensee. The holder of an inactive status license is required to renew the license annually but is not required to meet the continuing education requirement required by this chapter and the rules adopted under it.

Sec. 7. 32 MRSA §1951, sub-§6-A is enacted to read:

6-A. Regular employer. "Regular employer" means a person doing business in or operating within the State.

Sec. 8. 32 MRSA §1951, sub-§9, as amended by PL 1987, c. 735, §58, is further amended to read:

9. Treats or cares for. "Treats or cares for" means the pruning, trimming, and shaping, ~~installing lightning protections, cabling, bracing or fertilizing of trees~~ when the care requires the person to leave the ground. "Treats or cares for" also includes installing lightning protections, cabling or bracing of trees.

Sec. 9. 32 MRSA §2056, 2nd ¶, as amended by PL 1995, c. 353, §17, is further amended to read:

When the arborist conducts business at more than one address, additional certificates must be issued. ~~When an employee of a licensed arborist does not hold a license, the employee must carry, when working, a card or written authorization signed by the licensed arborist showing under whose supervision the employee is working and the name of the employer.~~ The board may not issue more than one license card to an individual qualified to receive a license, except as provided in section 2058.

Sec. 10. 32 MRSA §6212, sub-§12, as enacted by PL 1995, c. 394, §12, is amended to read:

12. Clinical supervision. For purposes of direct clinical supervision of licensed practitioners in the field of alcohol and drug counseling, the board may certify licensed psychologists, physicians, registered clinical nurse specialists, clinical professional counselors and clinical social workers, who are qualified to provide alcohol and drug counseling services by virtue of the requirements for that profession. Other members of any mental health profession must meet the criteria set forth by the International Certification and Reciprocity Consortium ~~or the National Association of Alcohol and Drug Abuse Counselors~~ or equivalent qualifications as determined by the board by rulemaking.

Sec. 11. 32 MRSA §6214-A, sub-§2-A, as enacted by PL 1995, c. 394, §18 and affected by §28, is repealed and the following enacted in its place:

2-A. Registered alcohol and drug counselor.

The board may issue a license to practice as a registered alcohol and drug counselor upon the affirmative vote of 6 members of the board to any applicant who has met the eligibility requirements set forth in section 6213.

Sec. 12. 32 MRSA §9705, sub-§1, as enacted by PL 1985, c. 288, §3, is amended to read:

1. License required. ~~After January 1, 1987, no person may An individual may not practice, or hold himself out represent that individual as authorized to practice, as a respiratory care practitioner in this State or use the words "respiratory care practitioner" or other words or letters to indicate that the person is a licensed respiratory care practitioner, unless he that individual is licensed in accordance with this chapter. A respiratory therapist licensed in accordance with this chapter may use the initials "R.R.T." A respiratory care technician licensed in accordance with this chapter may use the initials "C.R.T.T." An individual who holds a temporary license in accordance with this chapter may use the initials "G.R.T.T." until the individual has taken and passed the examination or until the term of the license has expired.~~

Sec. 13. 32 MRSA §12521, sub-§2, as enacted by PL 1995, c. 671, §13, is amended to read:

2. Title. A licensee must use the title "naturopathic doctor." Naturopathic doctors have the exclusive right to the use of the terms "naturopathic doctor," "naturopathic," "naturopath." "doctor of naturopathic medicine," "doctor of naturopathy," "naturopathic medicine," "naturopathic health care," "naturopathy" and the recognized abbreviation "N.D." Use of the title "physician" by the licensee is prohibited.

Sec. 14. 32 MRSA §14202, sub-§11, as enacted by PL 1991, c. 397, §6, is amended to read:

11. Student. "Student" means any person duly enrolled in a school licensed by the ~~Commissioner of Education~~ board and engaged in learning and acquiring a knowledge of the practice of:

- A. Cosmetology;
- B. Barbering;
- C. Aesthetics; or
- D. Manicuring.

Sec. 15. 32 MRSA §14203, sub-§1, ¶E, as amended by PL 1993, c. 179, §1, is further amended to read:

E. Persons employed by licensed establishments who provide shampooing services within the licensed establishments; ~~and~~

Sec. 16. 32 MRSA §14203, sub-§1, ¶F, as enacted by PL 1993, c. 179, §1, is amended to read:

F. Persons employed to apply special make-up designed for theater lighting to a person who requires this make-up for an appearance in the theater or a movie, on television or as a model; ~~and~~

Sec. 17. 32 MRSA §14203, sub-§1, ¶G is enacted to read:

G. Persons licensed under chapter 21 who practice the funeral service profession on human remains in a licensed funeral establishment.

Sec. 18. 32 MRSA §14203, sub-§2, ¶G, as amended by PL 1991, c. 728, §1, is further amended to read:

G. On persons in their residences; ~~and~~

Sec. 19. 32 MRSA §14203, sub-§2, ¶H, as enacted by PL 1991, c. 397, §6, is amended to read:

H. On persons in their private businesses; ~~and~~

Sec. 20. 32 MRSA §14203, sub-§2, ¶I is enacted to read:

I. On human remains in licensed funeral establishments.

Sec. 21. 32 MRSA §14204, 2nd and 3rd ¶¶, as enacted by PL 1991, c. 397, §6, are amended to read:

The board ~~and the Department of Education~~ shall adopt rules for the qualification and examination of applicants for licensure as instructors of barbering or cosmetology in accordance with Title 5, chapter 375, subchapter II.

~~Examination applications must be furnished by the board. The application must be filed with the board and be accompanied by an examination fee as determined by the board. Upon satisfactory completion of the an examination, the applicant must pay a fee to receive the initial instructor license, which is valid until the next renewal period.~~

Sec. 22. 32 MRSA §14212, sub-§4, as enacted by PL 1991, c. 397, §6, is amended to read:

4. Diseases. A person who has a communicable disease may not give service to members of the public, including service within licensed establishments or schools licensed by the ~~Department of Education~~

board. The board has the right to require the physical examination of any person who is suspected of having any communicable disease. Failure to submit to such an examination is grounds for suspension or revocation of the person's registration, certification, permit or license.

Sec. 23. 32 MRSA §14212, sub-§10, as enacted by PL 1991, c. 397, §6, is repealed.

Sec. 24. 32 MRSA §14226, sub-§3, as amended by PL 1993, c. 630, Pt. B, §16, is further amended to read:

3. Training. ~~Within the immediately preceding 3 years, has~~ Has satisfactorily completed a course of instruction in cosmetology of 1,500 hours in not less than 9 months in a school licensed by the ~~Commissioner of Education~~ board or has experience in the practice of cosmetology as a trainee of 2,500 hours distributed over a period of at least 18 months; and

Sec. 25. 32 MRSA §14226, sub-§4, ¶A, as enacted by PL 1991, c. 397, §6, is repealed.

Sec. 26. 32 MRSA §14226, sub-§4, ¶B, as enacted by PL 1991, c. 397, §6, is amended to read:

B. Within 90 days of notification of passing an examination, the applicant must pay a fee established by the board to receive a first license. The first license is valid until the next renewal period. The board has the authority to waive the 90-day time period for extenuating circumstances. If not successful, ~~upon filing the appropriate application and fees,~~ the applicant may take subsequent examinations held ~~by the board~~ within a period of one year from the date of the applicant's first examination. An applicant who fails to pass an examination within one year from the applicant's first examination may take another examination at a time and under the conditions that the board determines.

Sec. 27. 32 MRSA §14226, last ¶, as amended by PL 1993, c. 630, Pt. B, §17, is further amended to read:

Any person licensed as a barber pursuant to this chapter and who has satisfactorily completed a course of instruction in cosmetology of at least 500 hours in a school licensed by the ~~Commissioner of Education~~ board or has experience in the practice of cosmetology as a trainee of at least 900 hours ~~may take the~~ is eligible for examination upon submitting an appropriate application and payment of the fees prescribed in this chapter.

Sec. 28. 32 MRSA §14227, sub-§3, as amended by PL 1993, c. 630, Pt. B, §18, is further amended to read:

3. Training. ~~Within the immediately preceding 3 years, has~~ Has satisfactorily completed a course of instruction in barbering of 1,500 hours in not less than 9 months in a school licensed by the ~~Commissioner of Education board~~ or has experience in the practice of barbering as a trainee of 2,500 hours distributed over a period of at least 18 months; and

Sec. 29. 32 MRSA §14227, sub-§4, ¶A, as enacted by PL 1991, c. 397, §6, is repealed.

Sec. 30. 32 MRSA §14227, sub-§4, ¶B, as enacted by PL 1991, c. 397, §6, is amended to read:

B. Within 90 days of notification of passing an examination, the applicant must pay a fee established by the board to receive a first license. The first license is valid until the next renewal period. The board has the authority to waive the 90-day time period for extenuating circumstances. If not successful, the applicant, ~~upon filing the appropriate application and fees,~~ may take subsequent examinations held ~~by the board~~ within a period of one year from the date of the applicant's first examination. Any applicant who fails to pass an examination within one year from the applicant's first examination may take another examination at a time and under the conditions that the board determines.

Sec. 31. 32 MRSA §14227, last ¶, as amended by PL 1993, c. 630, Pt. B, §19, is further amended to read:

Any person licensed as a cosmetologist pursuant to this chapter and who has satisfactorily completed a course of instruction in barbering of at least 500 hours in a school licensed by the ~~Commissioner of Education board~~ or has experience in the practice of barbering as a trainee of at least 900 hours ~~may take the is eligible for examination upon submitting an appropriate application and payment of the fees prescribed in this chapter.~~

Sec. 32. 32 MRSA §14228, sub-§3, as amended by PL 1993, c. 630, Pt. B, §20, is further amended to read:

3. Training. ~~Within the immediately preceding 3 years, has~~ Has satisfactorily completed a course of instruction in aesthetics of 750 hours in not less than 5 months in a school licensed by the ~~Commissioner of Education board~~ or has experience in the practice of aesthetics as a trainee of 1,250 hours distributed over a period of at least 7 months; and

Sec. 33. 32 MRSA §14228, sub-§4, ¶A, as enacted by PL 1991, c. 397, §6, is repealed.

Sec. 34. 32 MRSA §14228, sub-§4, ¶B, as enacted by PL 1991, c. 397, §6, is amended to read:

B. Within 90 days of notification of passing an examination, the applicant must pay a fee established by the board to receive a first license. The first license is valid until the next renewal period. The board has the authority to waive the 90-day time period for extenuating circumstances. If not successful, the applicant, ~~upon filing the appropriate application and fees,~~ may take subsequent examinations held ~~by the board~~ within a period of one year from the date of the applicant's first examination. Any applicant who fails to pass an examination within one year from the applicant's first examination may take another examination at a time and under the conditions that the board determines.

Sec. 35. 32 MRSA §14229, sub-§3, as amended by PL 1993, c. 630, Pt. B, §21, is further amended to read:

3. Training. ~~Within the immediately preceding 3 years, has~~ Has satisfactorily completed a course of instruction in manicuring of 200 hours in not less than 5 weeks in a school licensed by the ~~Commissioner of Education board~~ or has experience in the practice of manicuring as a trainee of 400 hours distributed over a period of at least 10 weeks; and

Sec. 36. 32 MRSA §14229, sub-§4, ¶A, as enacted by PL 1991, c. 397, §6, is repealed.

Sec. 37. 32 MRSA §14229, sub-§4, ¶B, as enacted by PL 1991, c. 397, §6, is amended to read:

B. Within 90 days of notification of passing an examination, the applicant must pay a fee established by the board to receive a first license. The first license is valid until the next renewal period. The board has the authority to waive the 90-day time period for extenuating circumstances. If not successful, the applicant, ~~upon filing the appropriate application and fees,~~ may take subsequent examinations held ~~by the board~~ within a period of one year from the date of the applicant's first examination. Any applicant who fails to pass an examination within one year from the applicant's first examination may take another examination at a time and under the conditions that the board determines.

Sec. 38. 32 MRSA §14230, as amended by PL 1993, Pt. B, §22, is further amended to read:

§14230. Temporary permit

If an applicant to practice cosmetology, barbering, manicuring or aesthetics qualifies for examination, the board may issue to that applicant a permit to practice under the direct supervision of a qualified supervisor, as determined by board rules, within a licensed shop. The applicant must pay a permit fee in

an amount established by the board. ~~Permits expire 5 weeks. A permit expires 6 months from the date of the applicant's scheduled examination issuance and is not renewable. Only 2 such permits may be issued to any person eligible for examination.~~ The applicant is not considered a trainee.

Sec. 39. 32 MRSA §14233, 2nd ¶, as enacted by PL 1991, c. 397, §6, is amended to read:

To be eligible for a student permit, a student must be at least 16 years of age and have satisfactorily completed the 10th grade or its equivalent. The application must include evidence of the student's enrollment in a school licensed by the ~~Commissioner of Education board.~~

Sec. 40. Maine Revised Statutes amended; revision clause. Wherever in the Maine Revised Statutes, Title 32, chapter 21 the words "dead human body" or "human dead" appear or reference is made to these words, they are amended to read and mean "human remains" and the Revisor of Statutes shall implement this revision when updating, publishing or republishing the statutes.

See title page for effective date.

CHAPTER 211

H.P. 921 - L.D. 1264

An Act to Extend the Lobster Promotion Council and Its Personnel Requirements

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

Sec. 1. 12 MRSA §6455, sub-§3-A, as amended by PL 1993, c. 545, §3, is further amended to read:

3-A. Employees. The council shall hire a full-time executive director and may hire ~~clerical~~ staff as needed to perform its duties. Employees of the Lobster Promotion Council serve at the pleasure of the council. The salary and benefits for employees of the council are determined by the council.

Sec. 2. 12 MRSA §6455, sub-§4, ¶E, as amended by PL 1993, c. 545, §4, is further amended to read:

E. Make expenditures from the Lobster Promotion Fund to carry out the purposes of this subchapter. Money in the fund may be used only for the following purposes:

(1) Promotion, advertising and marketing development. The council may implement programs and activities to promote, advertise and develop markets for lobster and make or enter into contracts with any local, state, federal or private agency, department, firm, corporation, entity or person for those purposes. ~~At least 50% of the money expended from the fund annually must be expended for the purposes set forth in this subparagraph; and~~

(2) The hiring of staff and the payment of compensation for employees, payment of per diem and reimbursement of expenses for members pursuant to Title 5, section 12004-H and payment of administrative and overhead costs associated with the business of the council; and

Sec. 3. 12 MRSA §6455, sub-§5, as amended by PL 1993, c. 545, §5, is further amended by amending the first paragraph to read:

5. Fund established; license surcharge assessed. The Lobster Promotion Fund, referred to in this subchapter as the "fund," is established to carry out the purposes of this subchapter. The department shall pay to the fund all money appropriated or received by the department for the purposes of this subchapter, except that the department may retain funds necessary to reimburse the department for the actual cost of collecting the license surcharges established in this subsection. The fund is capitalized from the following annual surcharges assessed on the following licenses issued by the department for calendar years 1992, 1993, 1994, 1995, 1996 ~~and~~ 1997, 1998, 1999, 2000 and 2001:

See title page for effective date.

CHAPTER 212

H.P. 518 - L.D. 709

An Act to Define the Term "Occupational Therapy Practitioner" in the Laws Regulating Professions and Occupations

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

Sec. 1. 32 MRSA §2272, sub-§7-A is enacted to read:

7-A. Occupational therapy practitioner. "Occupational therapy practitioner" means an individual who is licensed as an occupational therapist registered or a certified occupational therapy assistant.