

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND EIGHTEENTH LEGISLATURE

SECOND REGULAR SESSION
January 7, 1998 to March 31, 1998

SECOND SPECIAL SESSION
April 1, 1998 to April 9, 1998

THE GENERAL EFFECTIVE DATE FOR
SECOND REGULAR SESSION
NON-EMERGENCY LAWS IS
JUNE 30, 1998

SECOND SPECIAL SESSION
NON-EMERGENCY LAWS IS
JULY 9, 1998

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

CHAPTER 681

S.P. 494 - L.D. 1525

An Act to License Massage Therapists

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

Sec. 1. 32 MRSA §14301, sub-§3, as amended by PL 1993, c. 245, §1, is further amended to read:

3. Massage therapist or massage practitioner. "Massage therapist" or "massage practitioner" means a person who provides or offers to provide massage therapy for a fee, monetary or otherwise. ~~This definition includes the use of different forms of the term "massage therapist" or "massage practitioner," such as "masseuse" or "masseur."~~

Sec. 2. 32 MRSA §14302, sub-§§5 and 6, as enacted by PL 1991, c. 403, §1, are amended to read:

5. Register. The commissioner shall make available, at cost, a register that contains the names of all individuals ~~registered~~ licensed under this chapter.

6. Hearings. The commissioner may conduct hearings to assist with investigations and to determine whether grounds exist for denial of ~~re~~registration license renewal, suspension of ~~registration~~ license or other action necessary to the fulfillment of the commissioner's responsibilities under this chapter.

Sec. 3. 32 MRSA §14302, sub-§7, as amended by PL 1993, c. 245, §2, is further amended to read:

7. Advisory council. The commissioner, as necessary, may select members of the profession and other interested parties to serve on an advisory council to advise and consult with the commissioner concerning the regulation of massage therapists ~~and massage practitioners~~. Service on the council is not in itself a conflict of interest regardless of the occupations or associations of the members.

Sec. 4. 32 MRSA §14304, as amended by PL 1993, c. 245, §3, is repealed.

Sec. 5. 32 MRSA §14305, as amended by PL 1993, c. 245, §§4 and 5, is repealed.

Sec. 6. 32 MRSA §§14306-A and 14306-B, as enacted by PL 1993, c. 245, §7, are repealed.

Sec. 7. 32 MRSA §§14306-C to 14306-F are enacted to read:

§14306-C. Licensing

1. License required. Beginning on the effective date of this section, a person may not, unless specifically exempted by this chapter, claim to be a massage therapist or a massage practitioner unless licensed in accordance with this chapter.

2. Individual licensing. Only an individual who is qualified under this chapter may be issued a license to practice massage therapy.

§14306-D. Requirements for licensure; massage therapists

Each applicant for licensure must demonstrate competence to engage in the practice of massage therapy in a manner that safeguards the interests of the public.

1. Requirements. The following requirements are considered minimum evidence satisfactory to the department that an applicant is qualified for licensure under this chapter. An applicant must:

A. Pass the National Certification Examination for Therapeutic Massage and Bodywork administered by the Psychological Corporation or its successor organization; or demonstrate completion of a course of training consisting of 500 or more hours approved by the department;

B. Be 18 years of age or older;

C. Possess a high school diploma or its equivalent;

D. Furnish to the department a signed photograph of the applicant. The photograph must be a minimum of 5 inches by 3 inches; and

E. Pay a one time application fee of \$25 and a yearly licensing fee of \$100. All fees are non-refundable.

2. Existing certified massage therapists. Upon renewal of duly issued certification as a massage therapist, a person who remits appropriate fees within one year after the effective date of this section may be issued a license by the department.

§14306-E. Requirements for licensure; registered massage practitioners

1. Use of "registered massage practitioner" title until December 31, 2001. A massage practitioner who is registered by the State as of the effective date of this section may use the title "registered massage practitioner" to practice massage therapy pursuant to the renewal process until December 31, 2001. After December 31, 2001, only licensed massage therapists may use the title "massage

therapist" or the term "massage therapy" to identify the nature of their professional service.

2. Transition provisions. Prior to December 31, 2001, a massage practitioner registered as of the effective date of this section qualifies for licensure as a massage therapist if that person:

A. Demonstrates that the person has actively practiced massage therapy for a period of 5 years and has completed a minimum of 250 hours of formal education relevant to the profession of massage therapy; or

B. Demonstrates that the person has actively practiced massage therapy for a period of 10 years.

3. Registration fee. Until December 31, 2001, massage practitioners who maintain their status as registered massage practitioners must pay a yearly registration fee of \$100.

4. Effect of revocation or suspension. An individual may not be licensed under this chapter when the individual's license to practice massage therapy or any other professional health care license has been revoked or suspended in this State or any other state unless the period of revocation or suspension has been completed and the department has determined that an acceptable degree of rehabilitation has been accomplished.

5. Disciplinary actions; registered massage practitioners. Registered massage practitioners are subject to the same disciplinary provisions of section 14308 as are licensed massage therapists.

§14306-F. Terms of license

1. Renewal. Each individual who applies for licensure must fill out a form designated by the department. A license expires yearly on the date of the individual's initial licensure or on such other date as the commissioner determines. Notice of expiration must be mailed to a licensed massage therapist's last known address at least 30 days before the expiration of the license. The notice must include requests for any information necessary for renewal. A late fee of \$10 is assessed on any license renewal that is postmarked later than the anniversary date of the individual's initial licensure. If, after 90 days from the anniversary date, an individual has not renewed the license, the individual must reapply for licensure.

2. Continuing education and supervision. The department, by rule, may establish continuing education and supervision requirements. An applicant for a renewal of a license must show proof of satisfying the continuing education requirements set forth by the department. Rules adopted pursuant to this subsection

are routine technical rules as defined in Title 5, chapter 375, subchapter II-A.

Sec. 8. 32 MRSA §14308, as amended by PL 1993, c. 600, Pt. A, §278, is further amended to read:

§14308. Disciplinary action; grounds; procedure; complaints

1. Grounds. The commissioner may suspend, revoke or refuse to renew ~~registration or certification a~~ license under the same grounds as contained in Title 5, section 10004. In addition, the commissioner may take the same action granted to bureaus, boards and commissions pursuant to Title 10, section 8003, subsection 5. The commissioner's actions may be based on any of the following grounds:

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

B. Habitual substance abuse that has resulted or is foreseeably likely to result in the regulated person performing services in a manner that endangers the health or safety of clients;

C. A current medical finding of mental incompetence that affects the ~~registrant's or certified~~ the licensed person's ability to perform that person's occupation in a healthy and safe manner;

D. Aiding or abetting persons not duly ~~registered or certified~~ licensed under this chapter who profess to be ~~registered or certified~~ licensed;

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

F. Revocation in any state of a professional or occupational license, certification or registration for disciplinary reasons, or rejection of any application for reasons related to untrustworthiness, within 3 years of the date of application; and

G. Violating any provisions of this chapter or any rule of the department.

2. Procedure. Except as provided in Title 5, section 10004, a ~~registration or certification~~ license may not be denied, suspended, revoked or refused for renewal for the reasons set forth in subsection 1 without prior written notice and opportunity for hearing on that denial, suspension or revocation. A ~~registration or certification~~ license may not be denied,

suspended or revoked under this section except by a decision of the commissioner or the commissioner's designee.

3. Complaints. Any person may file a complaint with the commissioner seeking disciplinary action against a massage therapist or massage practitioner concerning violations of this chapter or rules adopted by the department. Complaints must be in writing. If the commissioner determines that a complaint alleges facts that, if true, would require denial, revocation, suspension or nonrenewal of the license or other disciplinary action of a ~~registered practitioner or certified licensed massage therapist,~~ the commissioner or the commissioner's designee may conduct a hearing pursuant to the Maine Administrative Procedure Act. Whenever the commissioner establishes that a complaint does not state facts that warrant action, the complaint may be dismissed.

The commissioner shall conduct proceedings under this subsection in accordance with the provisions of Title 5, chapter 375, subchapter IV.

See title page for effective date.

CHAPTER 682

H.P. 1410 - L.D. 1974

An Act Regarding Maintenance of Private Ways

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

Sec. 1. 23 MRSA §3101, as amended by PL 1995, c. 227, §1, is further amended to read:

§3101. Call of meetings

~~When~~ Except as provided in this section, when 4 or more persons are owners and occupants of parcels of land are benefited by a private way or bridge, as an appurtenant easement or by fee ownership of the way or bridge, the owners of any 3 or more of them the parcels, as long as at least 3 of the parcels are owned by different persons, may make written application to a notary public to call a meeting, who may issue a warrant setting forth the time, place and purpose of the meeting, ~~a copy~~ copies of which must be posted at some public place in the town ~~7~~ and mailed to the owners of all the parcels benefited by the way at the addresses set forth in the municipal tax records, at least 30 days before such time. When so assembled, they may choose a clerk and a surveyor a commissioner, to be sworn, and they may determine what repairs are necessary and the materials to be furnished or amount of money to be paid by each owner for the repairs and the manner of calling future

meetings. This section does not apply to ways constructed or primarily used for commercial or forest management purposes.

Sec. 2. 23 MRSA §§3102 to 3104 are amended to read:

§3102. Commissioner's duties; neglect of owners to pay

The ~~surveyor~~ commissioner chosen under section 3101, with respect to ~~such the~~ way or bridge, has the powers of a road commissioner. ~~For refusing to accept the trust or to take the oath, he forfeits \$4, to be recovered as provided in section 3104.~~ If any owner or occupant, on requirement of the ~~surveyor~~ commissioner, neglects to furnish ~~his that~~ owner's proportion of labor, materials or money, the same may be furnished by the other owners and occupants and recovered of ~~him~~ the owner neglecting to pay in a civil action, together with costs of suit and reasonable attorney's fees.

§3103. Contracts for repair; assessments

The owners, at ~~such a~~ meeting held under section 3101, may authorize a contract to be made for making and keeping ~~such the~~ way or bridge in repair by the year or for a less time; may raise money for that purpose and choose assessors to assess it on ~~such the~~ owners and occupants in proportion to their interests, who shall deliver their assessment with a warrant for its collection to the ~~surveyor~~ commissioner. ~~Such warrant shall~~ The warrant must be in substance such as is prescribed for collection of town taxes. The ~~surveyor~~ commissioner shall collect the same as town taxes are collected, and be liable for neglect of duty as town collectors are for similar neglects.

§3104. Penalties and process

Money recovered under sections 3102 and 3103 is for the use of such owners. In any process for its recovery, a description of ~~them the~~ owners in general terms as ~~proprietors and occupants of~~ owners of parcels of land benefited by the way or bridge, clearly describing it therein the way or bridge, is sufficient. Such process is not abated by the death of any owner or by the transfer of ~~his any~~ owner's interest.

Sec. 3. Application. Before July 1, 1999, only owners who are members of road associations incorporated as of March 1, 1998 may utilize the process set forth in this Act.

See title page for effective date.
