

# MAINE STATE LEGISLATURE

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

**AS PASSED BY THE**

**ONE HUNDRED AND NINETEENTH LEGISLATURE**

**FIRST REGULAR SESSION**  
**December 2, 1998 to June 19, 1999**

**THE GENERAL EFFECTIVE DATE FOR**  
**FIRST REGULAR SESSION**  
**NON-EMERGENCY LAWS IS**  
**SEPTEMBER 18, 1999**

**PUBLISHED BY THE REVISOR OF STATUTES**  
**IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,**  
**TITLE 3, SECTION 163-A, SUBSECTION 4.**

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**J.S. McCarthy Company**  
**Augusta, Maine**  
**1999**

(2) Notice of the transferee's name and address; and

(3) A copy of the accounting of the amount of the security deposit transferred; or

B. Return the funds or any remainder after lawful deductions under this section to the tenant.

**Sec. 2. 14 MRSA §6038**, as amended by PL 1981, c. 428, §12, is further amended to read:

**§6038. Treatment of security deposit**

During the term of a tenancy, a security deposit given to a landlord as part of a residential rental agreement ~~shall may~~ not be treated as an asset to be commingled with the assets of the landlord. All security deposits received after October 1, 1979, ~~shall~~ must be held in an account of a bank or other financial institution under ~~such terms as will~~ that place the security deposit beyond the claim of creditors of the landlord, including a foreclosing mortgagee or trustee in bankruptcy, and ~~as will that~~ provide for transfer of the security deposit to a subsequent owner of the dwelling unit or to the tenant in accordance with section 6035. Upon the transfer of the dwelling unit, the new owner shall assume all responsibility for maintaining and returning to tenants all security deposits accounted for and transferred pursuant to section 6035. Upon request by ~~his a~~ a tenant, a landlord shall disclose the name of the institution and the account number where the security deposit is being held. A landlord may use a single escrow account to hold security deposits from all of ~~his~~ the tenants.

See title page for effective date.

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**CHAPTER 214**

**S.P. 784 - L.D. 2199**

**An Act Concerning Licensure of  
Chiropractors**

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

**Whereas**, an opinion of the Department of the Attorney General dated February 18, 1999 concludes that acupuncture is not within the scope of chiropractic practice; and

**Whereas**, this opinion has created considerable confusion as to whether chiropractors may continue to use acupuncture as a method of treatment; and

**Whereas**, in the judgment of the Legislature, these facts create an emergency within the meaning of

the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

**Sec. 1. 32 MRSA §451, sub-§1**, as enacted by PL 1983, c. 113, §1, is amended to read:

**1. Chiropractic.** "Chiropractic" means the art and science of identification and correction of subluxation and the accompanying physiological or mechanical abnormalities. The term subluxation, as utilized within the chiropractic health care system, means a structural or functional impairment of an intact articular unit. "Chiropractic" includes chiropractic acupuncture. Chiropractic recognizes the inherent recuperative capability of the human body as it relates to the spinal column, musculo-skeletal and nervous system.

**Sec. 2. 32 MRSA §451, sub-§1-A** is enacted to read:

**1-A. Chiropractic acupuncture.** "Chiropractic acupuncture" means the insertion of acupuncture needles through the skin at specific points. It is a chiropractic methodology used for the correction of the soft tissue components contributing to subluxation and the accompanying physiological or mechanical abnormalities. Except as provided in section 502, chiropractic acupuncture may only be practiced by a licensee who has received a chiropractic acupuncture certification from the board.

**Sec. 3. 32 MRSA §502, first ¶**, as repealed and replaced by PL 1991, c. 392, §3, is amended to read:

The board shall meet at least twice each year at such times and places as its chair may designate to consider applications, examine applicants and consider such other business as may properly come before the board. At its first meeting in each calendar year, the board shall elect one of its members as chair for a term of one year and one of its members as secretary to hold office at the pleasure of the board. Special meetings may be called at the pleasure of the chair and, in case of the death or inability of the chair, the secretary may call special meetings. The board shall keep correct records of all proceedings. The chair and secretary are empowered to administer oaths in matters connected with the duties of the board. The records, or duplicates of the records, must be open to inspection and are prima facie evidence of all matters recorded in the records. Four members of the board constitute a quorum for the transaction of business, but a license to practice chiropractic may not be granted except on an affirmative vote of at least 4 members of

the board. The board has the power to make and adopt rules and a code of ethics consistent with law necessary for the enforcement of its authority, the performance of its duties and the governing of the practice of chiropractic, but a rule or code of ethics may not be made that is unreasonable or contravenes this chapter. The board shall adopt rules, which are routine technical rules pursuant to Title 5, chapter 375, subchapter II-A, authorizing and governing the use of chiropractic acupuncture by certified licensees. The rules must set forth the requirements for chiropractic acupuncture certification, which must include, but are not limited to, a minimum number of classroom hours of education in acupuncture theory and techniques; a component of supervised clinical acupuncture training or documented clinical acupuncture experience for licensees practicing chiropractic acupuncture prior to April 30, 1999; and instruction in exposure control for blood-borne pathogens and registration as a biomedical waste generator pursuant to Title 38, section 1319-O, subsection 3. Licensees who can prove to the satisfaction of the board that they were engaged in the practice of chiropractic acupuncture prior to April 30, 1999 may continue to practice chiropractic acupuncture but must comply with all of the certification requirements set forth in board rules within 2 years from the adoption of the rules. In establishing the rules and code of ethics, the board must, in addition to the standards set forth in this chapter, be guided by the following standards setting forth conduct deemed unprofessional:

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

Effective May 17, 1999.

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**CHAPTER 215**

**H.P. 969 - L.D. 1367**

**An Act Regarding Notification to Parties Affected by Marine Construction**

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

**Sec. 1. 38 MRSA §1022, first ¶,** as affected by PL 1989, c. 890, Pt. A, §40 and amended by Pt. B, §206, is further amended to read:

Any person intending to build or extend any wharf, fish weir or trap in tidewaters, within the limits of any city or town, ~~may~~ shall apply in writing to the municipal officers ~~thereof of the city or town,~~ stating the location of the weir, the boundaries of the cove in which the weir will be constructed as identified on a

map prepared by the Commissioner of Marine Resources, limits and boundaries, as nearly as may be, of the intended erection or extension, and asking license ~~therefor for the intended erection or extension.~~ The applicant must notify all parties that may be directly affected by the proposed construction. Upon receiving an application, the officers shall give at least 3 days' public notice ~~thereof of the application~~ in a newspaper, published in the town, or, if there is no newspaper published in the town, in a newspaper published within the county, and shall ~~therein~~ designate in the notice a day and time on which they or their designee will meet on or near the premises described, to examine the same and hear all parties interested. If, ~~upon following~~ such examination and hearing of all parties interested, the officers decide that such erection or extension would not be an obstruction to navigation or injury to the rights of others, and determine to allow the same, they shall issue a license under their hands to the applicant, authorizing the applicant to make such an erection or extension, and to maintain the same within the limits mentioned in such license. The applicant for license to build or extend a fish weir or trap shall first give bond to the town, with sureties, in the sum of \$5,000, conditioned that upon the termination of such license the applicant shall remove all stakes and brush from the location therein described. The municipal officers shall, within 10 days after the date of hearing, give written notice by ~~registered~~ mail of their decision to all parties interested. Any person aggrieved by the decision of the municipal officers, in either granting or refusing to grant a license as provided, may appeal to the Superior Court within 10 days after the mailing of such written notice. The court shall set a time and place for hearing and give notice thereof in the same manner as provided for a hearing before the municipal officers. The decision of the court must be communicated within 10 days after the date of hearing to the appellant and to the municipal officers of the town in which the proposed wharf, weir or trap is to be located. This decision is binding on the municipal officers, who shall issue a license, if so directed by the decision of the court, within 3 days after the decision has been communicated to them. If the appeal is sustained by the court in whole or in part, the appellant will have costs against the appellee. If the appeal is not so sustained, the appellee will have costs against the appellant. If any owner to whom a license has been issued, or the owner's heirs or assigns, fail to remove all stakes and brush within a period of one year after the termination of the license, as provided in section 1023, any person can remove the same without charge against the owner or the owner's heirs or assigns.

See title page for effective date.

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