

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND NINETEENTH LEGISLATURE

SECOND REGULAR SESSION
January 5, 2000 to May 12, 2000

THE GENERAL EFFECTIVE DATE FOR
SECOND REGULAR SESSION
NON-EMERGENCY LAWS IS
AUGUST 11, 2000

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
2000

services have been provided to the subscriber or customer.

Upon a showing of cause to any Justice of the Superior Court or Judge of the District Court, the justice or judge shall approve the demand. Showing of cause must be by the affidavit of any law enforcement officer.

3. Release of other information. An order approving a demand for ~~utility~~ records of utility services may include a provision prohibiting the ~~public utility provider of utility services~~ from releasing the fact of the request or that the records or information will be or have been supplied. The ~~public utility provider of utility services~~ may not release the fact or facts without obtaining a court order to that effect.

4. Production of records of utility services. Upon receipt of a demand, approved by a justice or judge, the ~~public utility provider of utility services~~ shall immediately deliver to the attorney, or the attorney's designee or agent, making the request all the records or information demanded. A ~~public utility provider of utility services~~ or employee of that ~~public utility provider of utility services~~ is not criminally or civilly liable for furnishing any records or information in compliance with the order approving the demand.

5. Orders permitted under federal law. The Attorney General, a deputy attorney general or a district attorney may, upon an affidavit of an investigating law enforcement officer, make application to any Justice of the Superior Court or any Judge of the District Court for any order permitted pursuant to 18 United States Code, Section 3122(a)(2).

6. Notification; extension. Within 60 days of approval of the demand under subsection 2, the Attorney General, deputy attorney general or district attorney making the demand shall notify the person receiving the services that the demand for utility service records has been made and approved. Upon showing of reasonable cause by the Attorney General, deputy attorney general or district attorney, the court may extend the period within which notice must be given for a definite period of time.

See title page for effective date.

CHAPTER 687

S.P. 996 - L.D. 2558

An Act to Improve the Regulation of Occupations and Professions

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

PART A

Sec. A-1. 3 MRSA §959, sub-§1, ¶C, as amended by PL 1999, c. 127, Pt. C, §§2 to 8, is further amended to read:

C. The joint standing committee of the Legislature having jurisdiction over business and economic development matters shall use the following list as a guideline for scheduling reviews:

- (1) Maine Development Foundation in 1997;
- ~~(2) Board of Examiners in Physical Therapy in 1997;~~
- ~~(3) Board of Examiners on Speech Pathology and Audiology in 1997;~~
- ~~(4) Board of Hearing Aid Dealers and Fitters in 1997;~~
- (5) Department of Professional and Financial Regulation, in conjunction with the joint standing committee of the Legislature having jurisdiction over banking and insurance matters, in 2007;
- ~~(6) Maine Athletic Commission in 1997;~~
- ~~(7) Manufactured Housing Board in 1997;~~
- ~~(8) Maine State Board for Licensure of Architects, Landscape Architects and Interior Designers in 1997;~~
- ~~(9) Oil and Solid Fuel Board in 1997;~~
- ~~(10) Plumbers' Examining Board in 1997;~~
- ~~(11) Real Estate Commission in 1997;~~
- ~~(12) Board of Barbering and Cosmetology in 1997;~~
- ~~(13) State Board of Certification for Geologists and Soil Scientists in 1997;~~
- ~~(15) State Board of Examiners of Psychologists in 1997;~~
- ~~(16) State Board of Funeral Service in 1997;~~
- ~~(17) State Board of Licensure for Professional Foresters in 1997;~~
- ~~(18) State Board of Alcohol and Drug Counselors in 1997;~~

- (19) Department of Economic and Community Development in 1997;
- ~~(21) Board of Occupational Therapy Practice in 1999;~~
- ~~(22) Board of Respiratory Care Practitioners in 1999;~~
- (23) Maine State Housing Authority in 1999;
- ~~(24) Radiologic Technology Board of Examiners in 1999;~~
- ~~(25) Arborist Examining Board in 1999;~~
- ~~(26) Board of Accountancy in 1999;~~
- ~~(27) Maine Board of Pharmacy in 1999;~~
- ~~(28) Electricians' Examining Board in 1999;~~
- ~~(29) State Board of Social Worker Licensure in 1999;~~
- ~~(30) Board of Counseling Professionals Licensure in 2001;~~
- ~~(31) Board of Real Estate Appraisers in 2001;~~
- (32) Finance Authority of Maine in 2001;
- (33) Petroleum Advisory Committee in 2001;
- ~~(34) State Board of Veterinary Medicine in 2001;~~
- ~~(35) Board of Chiropractic Licensure in 2003;~~
- (36) Board of Dental Examiners in 2003;
- (37) Board of Osteopathic Licensure in 2003;
- (38) Board of Licensure in Medicine in 2003;
- ~~(39) Board of Licensure of Podiatric Medicine in 2003;~~
- ~~(40) Nursing Home Administrators Licensing Board in 2003;~~
- (41) State Board of Nursing in 2003;
- (42) State Board of Optometry in 2003;
- ~~(43) Board of Licensure for Professional Land Surveyors in 2003;~~

- (45) State Board of Registration for Professional Engineers in 2003; and
- ~~(47) Board of Licensing of Auctioneers in 2005;~~
- ~~(48) Board of Licensing of Dietetic Practice in 2005;~~
- ~~(49) Board of Complementary Health Care Providers in 2007;~~
- (50) Maine Science and Technology Foundation in 2007; ;
- ~~(51) Board of Boiler Rules in 2007; and~~
- ~~(52) Board of Elevator and Tramway Safety in 2007.~~

PART B

Sec. B-1. 5 MRSA §12004-A, as amended by PL 1999, c. 84, §1, c. 146, §1, c. 185, §1, c. 355, §1 and c. 386, Pt. W, §1, is further amended to read:

§12004-A. Occupational and professional licensing boards

The primary responsibilities of occupational and professional licensing boards include the examination of applicants, issuance of licenses or certificates, registration of licenses and rules of licensees with respect to the practice of a particular occupation or profession. The primary powers of these boards include the authority to hold hearings, adopt rules, establish standards and procedures, issue licenses and initiate action for the revocation or suspension of occupational or professional licenses.

For purposes of any occupational or professional licensing boards which have a public member or members, "public member" means a person who has no financial interest in the profession regulated by the board to which that member has been appointed and who has never been licensed, certified or given a permit in this or any other state for the occupation or profession that member is appointed to regulate.

This classification includes the following.

NAME OF ORGANIZATION	RATE OF COMPENSATION	STATUTORY REFERENCE
1. Board of Accountancy	Legislative Per Diem <u>\$35/Day</u>	32 MRSA §3971
4. Maine State Board for Licensure of Architects,	\$35/Day	32 MRSA §211

Landscape Architects and Interior Designers			17. State Board of Licensure for Professional Foresters	\$30 <u>\$35/Day</u>	32 MRSA §5004
5. Board of Licensing of Auctioneers	\$30 <u>\$35/Day</u>	32 MRSA §288	18. State Board of Funeral Service	\$35/Day	32 MRSA §1451
5-A. Board of Bar Examiners	Set by Supreme Judicial Court	4 MRSA §801	19. State Board of Certification for Geologists and Soil Scientists	\$30 <u>\$35/Day</u>	32 MRSA §4907
6. Board of Barbering and Cosmetology	\$35/Day	32 MRSA §14211	20. Board of Hearing Aid Dealers and Fitters	\$35/Day	32 MRSA §1658
7. Board of Boilers and Pressure Vessels	Expenses Only <u>\$35/Day</u>	32 MRSA §15103	21. Board of Licensure for Professional Land Surveyors	\$35/Day	32 MRSA §13902
8. Board of Chiropractic Examination and Registration Licensure	\$25 <u>\$35/Day</u>	32 MRSA §501	22. Manufactured Housing Board	\$35/Day	10 MRSA §9003
8-A. Board of Complementary Health Care Providers	Expenses Only <u>\$35/Day</u>	32 MRSA §12502	23. Nursing Home Administrators Licensing Board	\$30 <u>\$35/Day</u>	32 MRSA §63-A
9-B. Board of Real Estate Appraisers	\$35/Day	32 MRSA §14011	24. Board of Registration Licensure in Medicine	\$1,250/Year - Member \$1,500/Year - Chair \$7,500/Year - Secretary	32 MRSA §3263
10. Board of Dental Examiners	<u>legislative</u> <u>Legislative per diem secretary-treasurer, as determined by board</u>	32 MRSA §1072	25. State Board of Nursing	Legislative Per Diem	32 MRSA §2151
11. Board of Licensing of Dietetic Practice	\$35/Day	32 MRSA §9903	26. Board of Occupational Therapy Practice	\$35/Day	32 MRSA §2273
13. Electricians' Examining Board	\$30 <u>\$35/Day</u>	32 MRSA §1151	27. Oil and Solid Fuel Board	\$30 <u>\$35/Day</u>	32 MRSA §2351
14. Board of Elevator and Tramway Safety	Expenses Only <u>\$35/Day</u>	32 MRSA §15205	28. State Board of Optometry	\$25 <u>\$35/Day</u>	32 MRSA §2415
15. Emergency Medical Services' Board	\$20/Day	32 MRSA §88	29. Board of Osteopathic Examination and Registration Licensure	Legislative Per Diem	32 MRSA §2561
16. State Board of Registration for Professional Engineers	Expenses Only <u>\$35/Day</u>	32 MRSA §1301			

30-A. Maine Board of Pharmacy	\$35/Day	32 MRSA §13711
31. Board of Examiners in Physical Therapy	\$25 <u>\$35/Day</u>	32 MRSA §3112
32. Plumbers' Examining Board	\$35/Day	32 MRSA §3401
33. Board of Examiners of Podiatrists <u>Licensure of Podiatric Medicine</u>	\$25 <u>\$35/Day</u>	32 MRSA §3601
33-A. Propane and Natural Gas Board	Expenses Only <u>\$35/Day</u>	32 MRSA §14803
34. State Board of Examiners of Psychologists	\$35/Day	32 MRSA §3821
35. Board of Respiratory Care Practitioners	\$35/Day	32 MRSA §9703
36. Radiologic Technology Board of Examiners	Expenses Only <u>\$35/Day</u>	32 MRSA §9853
37. Real Estate Commission	\$35/Day	32 MRSA §13062
38. State Board of Social Worker Licensure	\$35/Day	32 MRSA §7026
39. Board of Examiners on Speech <u>Speech-language</u> Pathology and Audiology	\$25 <u>\$35/Day</u>	32 MRSA §6010
40. Maine Pilotage Commission	Not Authorized	38 MRSA §89
41. State Board of Alcohol and Drug Counselors	\$35/Day Plus Expenses	32 MRSA §6201
42. State Board of Veterinary Medicine	Legislative Per Diem <u>\$35/Day</u>	32 MRSA §4854

43. Board of Underground Oil Storage Tank Installers	Expenses Only	32 MRSA §10001
44. Maine Athletic Commission	\$35/Day Plus Expenses	32 MRSA §13501
46. Board of Licensure of Water Treatment Plant Operators	Expenses Only	22 MRSA §2624-A

Sec. B-2. 5 MRSA §12015, sub-§1, as enacted by PL 1983, c. 814, is amended to read:

1. Membership; terms; vacancies. Each board ~~shall~~ may have no fewer than 3 members. Boards established after September 1, 2000 to regulate professions or occupations may have no more than 9 members, including at least 2 public members. Law establishing the board ~~shall~~ must provide for appointments, terms of office, qualifications and removal of its members. In the event of the death, resignation or removal of any member, the vacancy for ~~his~~ that member's unexpired term ~~shall~~ must be filled in the same manner as ~~his~~ that member's original appointment.

PART C

Sec. C-1. 10 MRSA §8001, first ¶, as amended by PL 1995, c. 502, Pt. H, §6, is further amended to read:

There is created and established the Department of Professional and Financial Regulation, in this chapter referred to as the "department," to regulate financial institutions, insurance companies, grantors of consumer credit and to license and regulate professions and occupations. The mission of the department is to encourage sound, ethical business practices through high-quality, impartial and efficient regulation of insurers, financial institutions, creditors, investment providers and numerous professions and occupations for the purpose of protecting consumers. The department is composed of the following:

Sec. C-2. 10 MRSA §8002, first ¶, as amended by PL 1997, c. 727, Pt. A, §3, is further amended to read:

The Commissioner of Professional and Financial Regulation, referred to in this chapter as the "commissioner," is the chief administrative officer of the department and is responsible for supervising the administration of the department. The commissioner is appointed by the Governor, subject to review by the joint standing committee of the Legislature having jurisdiction over banking and insurance matters, and to

confirmation by the Legislature. The commissioner serves at the pleasure of the Governor. Unless otherwise provided in law, the commissioner may not exercise or interfere with the exercise of discretionary regulatory authority granted by statute to the bureaus, offices, boards or commissions within and affiliated with the department. As chief administrative officer of the department, the commissioner has the following duties and authority to:

Sec. C-3. 10 MRSA §8002, sub-§10, as enacted by PL 1999, c. 184, §14, is amended to read:

10. Confidentiality of shared information.

Keep confidential any information provided by or to the commissioner that has been designated confidential by the agency, bureau, board or commission within or affiliated with the department that furnished the information and that is the property of the agency, bureau, board or commission that furnished the information. Any information provided pursuant to this subsection may not be disclosed by the recipient of the information unless disclosure has been authorized by the agency, bureau, board or commission that furnished the information.

Sec. C-4. 10 MRSA §8002, last ¶, as amended by PL 1995, c. 502, Pt. H, §9, is repealed.

Sec. C-5. 10 MRSA §8003, sub-§2, as amended by PL 1999, c. 184, §§15 to 17 and c. 386, Pt. B, §2, is repealed.

Sec. C-6. 10 MRSA §8003, sub-§2-A is enacted to read:

2-A. Office of Licensing and Registration.

There is created an Office of Licensing and Registration, referred to in this subsection as the "office," composed of the boards, commissions and regulatory functions set forth in section 8001, subsection 38. The commissioner may appoint a Director of the Office of Licensing and Registration and those clerical and technical assistants who are necessary to discharge the duties of the office and shall outline their duties and fix their compensation, subject to the Civil Service Law. Notwithstanding any other provision of law granting authority to a board or commission, the Director of the Office of Licensing and Registration has the following superseding powers, duties and functions:

A. To administer the office and maximize and direct the use of personnel and financial resources to regulate professionals in the best interest of the public;

B. To prepare and administer, with the advice of the boards and commissions, budgets necessary to carry out the regulatory purposes of the boards and commissions. The Director of the Office of

Licensing and Registration shall maintain one office budget that includes a separate account for each board or commission. The Director of the Office of Licensing and Registration has the authority to disapprove expenditures by boards and commissions that are not necessary to protect the public health and welfare or that would seriously jeopardize a board's or commission's fiscal well-being;

C. To provide all staffing necessary and appropriate to administer the office and carry out the statutory missions of the boards, commissions and regulatory functions. All clerks, technical support staff and supervisors must be assigned to the office and allocated by the director to perform functions on behalf of the various boards, commissions and regulatory functions according to need;

D. To establish by rule all fees necessary and appropriate for all boards, commissions and regulatory functions within the office, subject to any fee cap established by statute and applicable to that board, commission or regulatory function. The Director of the Office of Licensing and Registration shall set the criteria for all fees. The criteria must include, but are not limited to, the costs, statutory requirements, enforcement requirements and fees and expenses of each board, commission or regulatory function. Rules adopted pursuant to this paragraph are routine technical rules pursuant to Title 5, chapter 375, subchapter II-A;

E. To establish by rule, such processes and procedures necessary to administer the various boards, commissions and regulatory functions of the office, including, but not limited to, a uniform complaint procedure, a uniform procedure regarding protested checks, a uniform policy regarding the treatment of late renewals and a uniform procedure for substantiating continuing education requirements. Rules adopted pursuant to this paragraph are routine technical rules pursuant to Title 5, chapter 375, subchapter II-A;

F. To keep records of public meetings, proceedings and actions and to make those records available to the public at cost upon request, unless otherwise prohibited by state or federal law;

G. To enter into contracts to ensure the provision of goods and services necessary to perform regulatory functions and to fulfill statutory responsibilities. This authority includes the ability to employ and engage experts, professionals or other personnel of other state or federal regulatory agencies as necessary to assist the office in

carrying out its regulatory functions and to contract office staff to other state and federal regulatory agencies to assist those agencies in carrying out their regulatory functions;

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

I. To enter into cooperative agreements with other state, federal or foreign regulatory agencies to facilitate the regulatory functions of the office, including, but not limited to, information sharing, coordination of examinations or inspections and joint examinations or inspections. Any information furnished pursuant to this paragraph by or to the office that has been designated confidential by the agency furnishing the information remains confidential and the property of the agency furnishing the information and may not be disclosed by the recipient of the information unless disclosure has been authorized by the agency that furnished the information;

J. To direct staff to review and approve applications for licensure or renewal in accordance with criteria established in statute or in rules adopted by a board or commission. Licensing decisions made by staff may be appealed to the full board or commission;

K. To prepare and submit to the commissioner an annual report of the office's operations, activities and goals; and

L. 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. C-7. 10 MRSA §8003, sub-§5, ¶F is enacted to read:

F. A bureau, office, board or commission may establish, by rule, procedures for licensees in another state to be licensed in this State by written agreement with another state, by entering into written licensing compacts with other states or by any other method of license recognition considered appropriate that ensures the health, safety and welfare of the public. Rules adopted pursuant to this paragraph are routine technical rules pursuant to Title 5, chapter 375, subchapter II-A.

Sec. C-8. 10 MRSA §8003, sub-§6, as amended by PL 1995, c. 502, Pt. H, §10, is further amended to read:

6. Funding. The commissioner may assess each internal bureau, office, board or commission served by the commissioner's office, the Division of Adminis-

trative Services or by the Office of Licensing and Registration its reasonable share of an amount sufficient to cover the cost of operating those service agencies. The commissioner may assess any board affiliated with the department for the services the board receives from the department. The commissioner may assess other state agencies for licensing functions performed on behalf of those agencies by the Office of Licensing and Registration.

Sec. C-9. 10 MRSA §8003, sub-§9, as amended by PL 1995, c. 502, Pt. H, §10, is repealed.

Sec. C-10. 10 MRSA §8003-B, sub-§1 ¶B, as enacted by PL 1989, c. 173, is repealed.

Sec. C-11. 10 MRSA §8003-B, sub-§2-A, as enacted by PL 1993, c. 552, §1, is amended by amending the first paragraph to read:

2-A. Certain client records confidential. Notwithstanding subsections 1 and 2, a treatment record provided to a licensing board or commission within or affiliated with the department during investigation of a person licensed by the department in a medical, mental health, substance abuse, psychological or health field that contains information personally identifying a licensee's client or patient is confidential during the pendency of the investigation and remains confidential upon the conclusion of the investigation. A treatment record may be disclosed only if:

Sec. C-12. 10 MRSA §§8003-C to 8003-F are enacted to read:

§8003-C. Unlicensed practice

1. Complaints of unlicensed practice. A board or commission listed in section 8001, subsection 38 or section 8001-A may receive or initiate complaints of unlicensed practice.

2. Investigation of unlicensed practice. Complaints or allegations of unlicensed practice may be investigated by the Office of Licensing and Registration, the Attorney General's office or a board's or commission's complaint officer or inspector. If sufficient evidence of unlicensed practice is uncovered, the evidence must be compiled and presented to the Department of the Attorney General or the local district attorney's office for prosecution.

3. Unlicensed practice; criminal penalties. Notwithstanding any other provision of law, any person who practices or represents to the public that the person is authorized to practice a profession or trade and intentionally, knowingly or recklessly fails to obtain a license as required by this Title or intentionally, knowingly or recklessly practices or represents to the public that the person is authorized to practice after the license required by this Title has

expired or been suspended or revoked commits a Class E crime. Violation of this subsection is a Class D crime if the person has a prior conviction under this subsection. For purposes of this subsection, the date of the prior conviction must precede the commission of the offense being enhanced by no more than 3 years.

4. Unlicensed practice; civil penalties. Any person who practices or represents to the public that the person is authorized to practice a profession or trade without first obtaining a license as required by this Title or after the license has expired or has been suspended or revoked commits a civil violation punishable by a fine of not less than \$100 but not more than \$2,000 for each violation. An action under this subsection may be brought in District Court or, in combination with an action under subsection 5, in Superior Court.

5. Unlicensed practice; injunctions. The Attorney General may bring an action in Superior Court to enjoin any person from violating subsection 4 and to restore to any person who has suffered any ascertainable loss by reason of that violation any money or personal or real property that may have been acquired by means of that violation and to compel the return of compensation received for engaging in that unlawful conduct.

A person who violates the terms of an injunction issued under this subsection shall pay to the State a fine of not more than \$10,000 for each violation. In any action under this subsection, when a permanent injunction has been issued, the court may order the person against whom the permanent injunction is issued to pay to the General Fund the costs of the investigation of that person by the Attorney General and the costs of suit, including attorney's fees. In any action by the Attorney General brought against a person for violating the terms of an injunction issued under this subsection, the court may make the necessary orders or judgments to restore to any person who has suffered any ascertainable loss of money or personal or real property or to compel the return of compensation received by reason of such conduct found to be in violation of an injunction.

§8003-D. Investigations; enforcement duties; assessments

When there is a finding of a violation, a board or commission listed in section 8001, subsection 38 or section 8001-A may assess the licensed person or entity for all or part of the actual expenses incurred by the board, commission or its agents for investigations and enforcement duties performed.

"Actual expenses" include, but are not limited to, travel expenses and the proportionate part of the

salaries and other expenses of investigators or inspectors, hourly costs of hearing officers, costs associated with record retrieval and the costs of transcribing or reproducing the administrative record.

The board or commission, as soon as feasible after finding a violation, shall give the licensee notice of the assessment. The licensee shall pay the assessment in the time specified by the board or commission, which may not be less than 30 days.

§8003-E. Citations and fines

Any board or commission listed in section 8001, subsection 38 or section 8001-A may adopt by rule a list of violations for which citations may be issued by professional technical support staff. A violation may carry a fine not to exceed \$200. Citations issued by employees of the Office of Licensing and Registration or an affiliated board must expressly inform the licensee that the licensee may pay the fine or request a hearing before the board or commission regarding the violation.

§8003-F. Disposition of fees

All money received by the Office of Licensing and Registration on behalf of a board or commission listed in section 8001, subsection 38 or by the Office of Licensing and Registration to perform the regulatory functions listed in section 8001, subsection 38 must be paid to the Treasurer of State and credited to the account for that board, commission or regulatory function within the budget of the Office of Licensing and Registration.

Money received by the Office of Licensing and Registration on behalf of a board or commission listed in section 8001, subsection 38 or by the Office of Licensing and Registration to perform the regulatory functions listed in section 8001, subsection 38 must be used for the expenses of administering its statutory responsibilities, including, but not limited to, the costs of conducting investigations, taking testimony, procuring the attendance of witnesses, all legal proceedings initiated for enforcement and administering the office.

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.

Sec. C-13. 10 MRSA §8004, as enacted by PL 1975, c. 767, §9, is amended to read:

§8004. Annual reports

Notwithstanding any other provision of law, all annual reports or statements required of bureaus, boards and commissions and offices within the

department ~~shall~~ must be submitted to the commissioner not later than August 1st of each year and ~~shall~~ must summarize the operations and financial position of the bureau, ~~board or commission or office~~ for the preceding fiscal year ending June 30th. After reviewing such reports and statements, the commissioner shall compile them into a report for submission to the Governor, together with such analysis as the Governor may direct.

Sec. C-14. Rules in effect. Any rules adopted by a board or commission listed in the Maine Revised Statutes, Title 10, section 8001, subsection 38 that establish fees and are in effect on August 1, 2000 remain in effect until rules are adopted by the Director of the Office of Licensing and Registration as set forth by Title 10, section 8003, subsection 2-A, paragraph D.

PART D

Sec. D-1. 32 MRSA §60, first ¶, as enacted by PL 1993, c. 600, Pt. A, §26, is repealed.

Sec. D-2. 32 MRSA §60, 2nd ¶, as enacted by 1993, c. 600, Pt. A, §26, is amended to read:

Notwithstanding any other provision of law, upon expiration of a professional or occupational licensing board 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.

Sec. D-3. 32 MRSA §§60-B and 60-C, as amended by PL 1995, c. 502, Pt. H, §18, are repealed.

Sec. D-4. 32 MRSA §60-D, as amended by PL 1999, c. 386, Pt. D, §1, is repealed.

Sec. D-5. 32 MRSA §§60-E and 60-F, as amended by PL 1995, c. 502, Pt. H, §18, are repealed.

Sec. D-6. 32 MRSA §60-G, as amended by PL 1997, c. 727, Pt. C, §7, is repealed.

Sec. D-7. 32 MRSA §60-H, as amended by PL 1999, c. 386, Pt. D, §2, is repealed.

Sec. D-8. 32 MRSA §60-I, as amended by PL 1999, c. 386, Pt. D, §3, is repealed.

PART E

Sec. E-1. 10 MRSA §9005, sub-§3, as amended by PL 1977, c. 694, §192, is repealed.

Sec. E-2. 32 MRSA §211, first ¶, as amended by PL 1993, c. 389, §5, is further amended to read:

The Maine State Board for Licensure of Architects, Landscape Architects and Interior Designers, established by Title 5, section 12004-A, subsection 4, referred to in this chapter as the "board," shall administer this chapter. The board consists of ~~11~~ 9 members appointed by the Governor: Five must be licensed and practicing architects, one of whom may be a professor of architecture; ~~2~~ one must be a licensed and practicing landscape ~~architects~~ architect; ~~2~~ one must be a certified and practicing interior ~~designers~~ designer and 2 must be representatives of the public.

Sec. E-3. 32 MRSA §213, last ¶, as amended by PL 1993, c. 389, §7, is further amended to read:

The board shall annually elect a chair and a secretary. ~~Seven~~ Five members of the board constitute a quorum for all purposes. ~~A license or certificate may not be issued, except in an affirmative vote of at least 7 members of the board.~~

Sec. E-4. 32 MRSA §1660-A, sub-§2, as amended by PL 1993, c. 659, Pt. A, §4, is further amended to read:

2. Membership. Members of the board must be residents of the State. The board consists of the following ~~9~~ 7 members: ~~five~~ 4 licensed hearing aid dealers and fitters, ~~one licensed physician,~~ one licensed audiologist and 2 representatives of the public. Each hearing aid dealer and fitter on the board must have had not less than 5 years of experience and must hold a valid license as a hearing aid dealer and fitter, as provided under this chapter.

Sec. E-5. 32 MRSA §1660-C, as amended by PL 1983, c. 413, §85, is further amended to read:

§1660-C. Meetings of board

The board shall meet twice each year at a place, day and hour determined by the board. Additional meetings ~~shall~~ must be held as necessary to conduct the business of the board, and may be convened at the call of the ~~chairman~~ chair or ~~5~~ 4 of the board members. A quorum of the board ~~shall consist~~ consists of not less than ~~5~~ 4 members. The board shall keep correct records of all of its proceedings.

Sec. E-6. 32 MRSA §6010, first ¶, as amended by PL 1997, c. 379, §11, is further amended to read:

The Board of Examiners on Speech-language Pathology and Audiology, as established by Title 5, section 12004-A, subsection 39, consists of 7 members

appointed by the Governor. All members must have been residents of this State for at least one year immediately preceding their appointment. ~~Two~~ Three members must have been engaged full time in the practice of speech-language pathology for at least one year immediately preceding appointment. Two members must have been engaged full time in the practice of audiology for at least one year immediately preceding appointment. All such professional members at all times must be holders of valid licenses for the practice of speech-language pathology or audiology. The additional members consist of a ~~physician, licensed pursuant to chapter 48, with specialized training in the field of otolaryngology and~~ of 2 representatives of the public.

Sec. E-7. 32 MRSA §9853, first ¶, as amended by PL 1985, c. 295, §48, is further amended to read:

The Radiologic Technology Board of Examiners, as authorized by Title 5, chapter 379, shall administer this chapter. The board ~~shall consist~~ consists of ~~12~~ 9 members appointed by the Governor.

Sec. E-8. 32 MRSA §9853, sub-§1, as amended by PL 1985, c. 748, §42, is further amended to read:

1. Appointment and membership. The membership of the board ~~shall consist~~ consists of 2 radiologists; ~~3~~ 2 radiographers; one nuclear medicine technologist; one radiation therapy technologist; one radiation physicist; ~~2 licensed practitioners who are not radiologists; one representative of the Department of Professional and Financial Regulation who shall be the executive secretary and nonvoting member; and one~~ 2 public member members who ~~shall~~ are not be affiliated with the medical or any allied health profession. The Governor may appoint these members from lists submitted by the following organizations or their successors.

A. Radiologist members may be appointed from lists submitted by the Maine Radiological Society.

B. ~~Radiation~~ The radiation physicist member may be appointed from lists submitted by the Maine Radiological Society.

C. Radiologic technologist members may be appointed from lists submitted by the Maine Society of Radiologic Technologists, the Society of Nuclear Medicine Technologists and the New England Society of Radiation Therapy Technologists.

~~D. The Department of Professional and Financial Regulation member may be appointed from~~

~~lists submitted by the Commissioner of Professional and Financial Regulation.~~

~~E. The licensed practitioner members may be appointed from lists submitted by the Maine Chiropractic Association, Maine Medical Association, Maine Osteopathic Association and the Maine Podiatry Association.~~

The list submitted by each organization ~~shall include~~ must include at least 2 names for each position to be filled from that organization.

The consumer ~~member shall be~~ members are appointed by the Governor.

Sec. E-9. 32 MRSA §9853, sub-§2, as amended by PL 1993, c. 600, Pt. A, §261, is further amended to read:

2. Term of office. The term of office 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 and one public member 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 are appointed to terms of 2 years; and one radiologist and 2 radiographers are appointed to a term of one year.~~ Appointments of members must comply with section 60.

A member may be removed by the Governor for cause.

Sec. E-10. 32 MRSA §13852, sub-§2, as amended by PL 1991, c. 263, §2, is further amended to read:

2. Members. The board consists of ~~13~~ 9 members, ~~12~~ 8 of them appointed by the Governor. Each member must be a citizen of the United States and a resident of this State. ~~Eight~~ Six members must be licensed counseling professionals under this chapter, 2 of whom must be professional counselors, 2 must be clinical professional counselors, ~~2~~ one must be a marriage and family ~~therapists~~ therapist and ~~2~~ one must be a pastoral ~~counselors~~ counselor. ~~Two members must be registered counseling professionals who are not qualified for licensure.~~ Each counselor member must have been, for at least 5 years immediately preceding appointment, actively engaged as a practitioner, educator or researcher. Two members must be representatives of the general public and may not be currently practicing counseling or receiving compensation for counseling services. One of the 2 public members must be a consumer of counseling services. One member, appointed by the Chancellor of the University of Maine System, must be a member

of the university faculty involved in the training of counselors.

Sec. E-11. 32 MRSA §13852, sub-§3, as enacted by PL 1989, c. 465, §3, is amended to read:

3. Officers. ~~The Governor shall make initial appointments by January 1, 1990. The initial appointees, with the exception of the representatives of the general public, shall be licensed in accordance with this chapter following their appointment and qualification as members of the board. The board shall elect a chair and secretary at its first meeting of each year, provided that no person may serve as chair for more than 3 years. The commissioner shall call the first meeting of the board which shall take place within 30 days of the completion of the appointments of the initial members.~~

Sec. E-12. 32 MRSA §13852, sub-§4, as amended by PL 1993, c. 600, Pt. A, §273, is further 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 are appointed. Appointments are for terms of 3 years each. Appointments of members must comply with section 60.~~

Sec. E-13. 32 MRSA §13852, sub-§7, as amended by PL 1989, c. 895, §4, is further amended to read:

7. Meetings; quorum. The board shall hold at least 2 regular meetings each year. Additional meetings may be held upon the call of the chair or the secretary or upon the written request of any 2 board members. ~~Seven~~ Five members of the board constitute a quorum.

Sec. E-14. 32 MRSA §14211-A, sub-§1, as enacted by PL 1997, c. 771, §8, is amended to read:

1. Membership. The Board of Barbering and Cosmetology, as established by Title 5, section 12004-A, subsection 6, consists of ~~40~~ 9 members ~~including the Commissioner of Education or the commissioner's designee who is an ex officio and a nonvoting member appointed by the Governor. The Governor shall appoint the remaining 9 members, of whom 2~~ Two members must be representatives of the public; 3 must be licensed and practicing cosmetologists; 2 must be licensed and practicing barbers; one must be a licensed instructor having no affiliation with any school currently licensed in the State; and one must be the owner of a licensed barbering or cosmetology school.

Sec. E-15. 32 MRSA §15116, first ¶, as amended by PL 1999, c. 386, Pt. W, §26, is further amended to read:

When a boiler or pressure vessel is insured and inspected by a duly accredited insurance company licensed to do business in this State, a copy of the record of each ~~internal~~ certificate inspection of the boiler or pressure vessel must be filed with the board.

Sec. E-16. 32 MRSA §15117, first ¶, as amended by PL 1999, c. 386, Pt. W, §27, is further amended to read:

Each boiler or pressure vessel used or proposed for use within this State, except boilers or pressure vessels exempt under section 15102, must be thoroughly inspected by the chief inspector or one of the deputy inspectors or authorized inspectors, as to its design, construction, installation, condition and operation. The board shall adopt rules pursuant to the Maine Administrative Procedure Act specifying the method and frequency of inspection. When any boiler or pressure vessel inspected as specified by the board is found to be suitable and to conform to the rules of the board, the chief inspector shall issue to the owner or user of that boiler or pressure vessel, upon payment of a fee to the board, an inspection certificate for each boiler or pressure vessel. The fee must be set by the board and may not exceed \$100. Inspection certificates must specify the maximum pressure that the boiler or pressure vessel inspected is allowed to carry. The inspection certificate may be valid for not more than 14 months from its date in the case of boilers and 38 months from its date in the case of pressure vessels and must be posted under glass in the engine or boiler room containing the boiler or pressure vessel or an engine operated by it or, in the case of a portable boiler, in the office of the plant where it is temporarily located. The board may adopt rules setting forth criteria by which a temporary extension of an inspection certificate beyond 14 months in the case of boilers and beyond 38 months in the case of pressure vessels may be authorized. Rules adopted pursuant to this section are routine technical rules pursuant to Title 5, chapter 375, subchapter II-A.

Sec. E-17. 32 MRSA §15120, as amended by PL 1999, c. 386, Pt. W, §30, is further amended to read:

§15120. Authorized inspectors; duties

In addition to any deputy boiler inspectors certified and appointed under section 15106, the board shall, upon the request of any company authorized to insure against loss from explosion of boilers or pressure vessels in this State, issue to the boiler inspectors of the company certificates of authority as licensed inspectors. Each inspector before receiving a

certificate of authority must hold a certificate as an inspector of steam boilers for a state that has a standard of examination equal to that of this State or a certificate from the National Board of Boiler and Pressure Vessel Inspectors, or its successor organization. Licensed inspectors are not entitled to receive a salary from, nor may any of their expenses be paid by, the State. The continuance of a licensed inspector's certificate is conditioned upon the licensed inspector continuing in the employ of a boiler inspection and insurance company duly authorized and upon maintenance of the standards imposed by this chapter. Licensed inspectors shall inspect all boilers and pressure vessels insured by their respective companies, and the owners or users of those insured boilers are exempt from the payment of the fees provided for in section 15118. Each company employing licensed inspectors shall, within 30 days following each ~~annual~~ internal certificate inspection made by the inspectors, file a report of the inspection with the chief inspector.

Sec. E-18. Implementation of reduction in board membership. The reconfiguration of membership of the Maine State Board for Licensure of Architects, Landscape Architects and Interior Designers; the Board of Hearing Aid Dealers and Fitters; the Board of Examiners on Speech-language Pathology and Audiology; the Radiologic Technology Board of Examiners; the Board of Counseling Professionals Licensure; and the Board of Barbering and Cosmetology must be achieved by attrition. All appointments to positions eliminated by this Act that become vacant or expire after September 1, 2000 may not be filled.

PART F

Sec. F-1. 10 MRSA §9003, sub-§10, as repealed and replaced by PL 1995, c. 502, Pt. H, §12, is amended to read:

10. Manufactured housing account. All funds received by the board must be paid to the Treasurer of State and must be credited to the books to the board's manufactured housing account in accordance with ~~Title 32, section 60-C 8003-F.~~

Sec. F-2. 10 MRSA §9004, sub-§2, as repealed and replaced by PL 1995, c. 502, Pt. H, §13, is repealed.

Sec. F-3. 32 MRSA §289, sub-§2, as enacted by PL 1999, c. 146, §5, is amended to read:

2. Investigations. The board may adopt rules governing investigations ~~and filing and processing of complaints pursuant to section 60-G.~~ Rules adopted pursuant to this subsection are routine technical rules pursuant to Title 5, chapter 375, subchapter II-A.

Sec. F-4. 32 MRSA §290, sub-§1, as enacted by PL 1999, c. 146, §5, is amended to read:

1. Investigations. The board shall investigate or cause to be investigated all complaints made to it and all cases of noncompliance with or violation of this chapter. ~~The complaints must be filed pursuant to section 60-G.~~

Sec. F-5. 32 MRSA §5018, 2nd ¶, as amended by PL 1987, c. 395, Pt. A, §190, is further amended to read:

Any person may register a complaint of fraud, deceit, gross negligence, incompetency or misconduct against any licensee. ~~These complaints shall be in writing, shall be sworn to by the person making them and shall be filed with the board.~~

Sec. F-6. 32 MRSA §5018, 3rd ¶, as amended by PL 1995, c. 397, §75, is repealed.

Sec. F-7. 32 MRSA §5018, 4th ¶, as repealed and replaced by PL 1977, c. 694, §654, is amended to read:

Any person aggrieved by final board action ~~shall be~~ is entitled to judicial review thereof ~~in the Superior Court~~ in the manner provided in Title 5, chapter 375, subchapter VII.

Sec. F-8. 32 MRSA §13069, sub-§3, as repealed and replaced by PL 1995, c. 502, Pt. H, §43, is repealed.

Sec. F-9. 32 MRSA §13069, sub-§4-A, as enacted by PL 1995, c. 502, Pt. H, §45, is amended to read:

4-A. Real estate account. All funds received by the commission must be paid to the Treasurer of State and must be credited to the commission's account in accordance with Title 10, section 60-C 8003-F.

Sec. F-10. 32 MRSA §14013, sub-§3, as enacted by PL 1999, c. 185, §5, is amended to read:

3. Complaints. Any person may file a complaint with the board seeking disciplinary action against the holder of a license issued by the board. In addition, the board upon its own motion may file a complaint. ~~Complaints received by the board must be processed in a manner consistent with section 60-G.~~

Sec. F-11. 32 MRSA §15207, as enacted by PL 1995, c. 560, Pt. H, §14 and affected by §17, is repealed.

PART G

CHAPTER 688

Sec. G-1. Allocation. The following funds are allocated from Other Special Revenue funds to carry out the purposes of this Act.

S.P. 1060 - L.D. 2654

An Act to Amend the Laws Regarding the Board of Licensure of Water Treatment Plant Operators

2000-01

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

PROFESSIONAL AND FINANCIAL REGULATION, DEPARTMENT OF

Licensing and Enforcement

Positions - Legislative Count	(2,000)
Personal Services	\$88,785
All Other	9,500
TOTAL	\$98,285

Provides for the allocation of funds for one Health Board Investigator position and one Manufactured Housing Board Inspector position, related operational costs and funds to standardize the per diem compensation rate for certain boards.

Sec. 1. 22 MRSA §2601, sub-§5, as enacted by PL 1975, c. 751, §4, is amended to read:

5. Operator. "Operator" means ~~the individual who has direct management responsibility for the routine supervision and operation of a public water system or of a water treatment plant or collection, treatment, storage or distribution facility or structure that is a part of a system~~ an individual either employed or retained by a public water system who, as part of the individual's job duties, is assigned the responsibilities for operational activities that will have a direct impact on the quality or quantity of water provided to consumers. ~~Shift operators or other employees under the supervision of the operator in the performance of their duties are not operators.~~

Sec. 2. 22 MRSA §2621, sub-§1-A is enacted to read:

1-A. Board. "Board" means the Board of Licensure of Water Treatment Plant Operators.

Sec. 3. 22 MRSA §2622, first ¶, as amended by PL 1997, c. 705, §11, is further amended to read:

The board, with the advice of the department, shall classify all community public water systems, all noncommunity nontransient water systems and the water treatment plants or collection, treatment or storage facilities or structures that are part of a system with due regard to the size and type of facilities, the character of water to be treated and any other physical conditions affecting such system or part thereof and specify the qualifications the operator of the system or of a part of a system must have to supervise successfully the operation of the system or parts thereof so as to protect the public health or prevent nuisance conditions.

Sec. 4. 22 MRSA §2624-A, sub-§1, as enacted by PL 1995, c. 442, §2, is amended to read:

1. Membership; general qualifications. The board consists of ~~7~~ 9 members appointed by the Governor as follows: 3 water system or water treatment plant operators, one holding a Class II license, one holding a Class III license and one holding a Class IV license; one member of the public who is a registered professional engineer; one person

Board of Optometry

Personal Services	\$600
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Provides for the allocation of funds to standardize the per diem compensation rate for the State Board of Optometry.

Board of Registration for Professional Engineers

Personal Services	\$1,470
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Provides for the allocation of funds to standardize the per diem compensation rate for the State Board of Registration for Professional Engineers.

DEPARTMENT OF PROFESSIONAL AND FINANCIAL REGULATION

TOTAL	\$100,355
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See title page for effective date.