

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTY-FOURTH LEGISLATURE

FIRST REGULAR SESSION
December 3, 2008 to June 13, 2009

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
SEPTEMBER 12, 2009

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

Augusta, Maine
2009

Sec. 3. Report; legislation. No later than January 15, 2010, the Director of the Maine Land Use Regulation Commission shall report to the Joint Standing Committee on Agriculture, Conservation and Forestry on revisions to the commission's rules to implement permitting for normal maintenance and repair of structures located in areas of special flood hazard. The Joint Standing Committee on Agriculture, Conservation and Forestry may submit legislation pertaining to the permitting of structures in flood hazard areas within the jurisdiction of the commission to the Second Regular Session of the 124th Legislature.

See title page for effective date.

CHAPTER 112

H.P. 444 - L.D. 630

An Act To Update and Streamline State Licensing Laws and Clarify the Process for Appealing Final Decisions of Certain Licensing Entities

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

PART A

Sec. A-1. 9 MRSA §5004, sub-§1, ¶C, as amended by PL 2007, c. 402, Pt. A, §3, is further amended to read:

C. Before issuance of a license by the office ~~in accordance with section 5008~~, a charitable organization that is required to file an initial license application or annual renewal application may not solicit, accept or obtain contributions or have contributions solicited, accepted or obtained on its behalf by any other person, charitable organization, commercial co-venturer or professional solicitor, or participate in charitable sales promotion.

Sec. A-2. 10 MRSA §8003, sub-§8, as amended by PL 1995, c. 502, Pt. H, §10, is repealed.

Sec. A-3. 32 MRSA §554, as amended by PL 2007, c. 402, Pt. H, §12, is further amended to read:

§554. Display of license; rights

When the board grants to an individual the license mentioned in section 552, the license must designate the holder as a doctor of chiropractic or a chiropractor ~~and must be publicly displayed at the individual's principal place of business so long as that individual continues to practice chiropractic for gain or hire~~. The license entitles the individual to whom it is granted to practice chiropractic in this State in all of its branches of discipline, except obstetrics, so far as the same relates to parturition, the administering of drugs and the

performance of surgical operations with the use of instruments, except as allowed by law. This section may not be construed to prohibit a legally licensed doctor of chiropractic in this State from practicing surgery after having passed a satisfactory examination before the State Board of Licensure in Medicine.

Sec. A-4. 32 MRSA §1104, as amended by PL 1999, c. 657, §14, is repealed and the following enacted in its place:

§1104. State electrical inspectors

1. Inspection. State electrical inspectors, upon an oral complaint of imminent danger or upon written complaint of any owner, lessee or tenant of a building, state fire inspector, fire chief, fire department inspector, personnel of a transmission and distribution utility or local electrical inspector or whenever they determine it necessary at all reasonable hours, for purposes of examination, may enter into and upon all buildings or premises within their jurisdiction and inspect the same. They may enter any building only with the permission of the person having control thereof or, after hearing, upon order of court. Whenever any state electrical inspector finds any electrical installation in any building or structure that does not comply with this chapter, that inspector shall order the same to be removed or remedied and the order must forthwith be complied with by the owner or occupant of the premises or buildings or the electrician that performed the work. Whenever any state electrical inspector finds any electrical installation in any building or structure that creates a danger to other property or to the public, the inspector may forbid use of the building or structure by serving a written order upon the owner and the occupant, if any, to vacate within a reasonable period of time to be stated in the order.

2. Order to correct deficiency; appeal. Any person ordered by a state electrical inspector to correct an electrical deficiency or to vacate a building or structure may appeal the order to the Electricians' Examining Board by filing with that board within 30 days of receipt of the order a written notice of appeal. The board shall review that appeal and issue its written decision thereof within a reasonable time after receipt of the notice of appeal. If the board upholds the inspector's order, it shall prescribe the time period for the requisite correction specified in its written decision or the time within which that person must vacate the building or structure. The decision must be complied with unless appealed as provided. Any person ordered by the board to correct an electrical deficiency or to vacate a building or structure may appeal the order to the Superior Court in accordance with Title 5, chapter 375, subchapter 7 by filing a petition for review within 48 hours of receipt of the order. The court shall issue its written decision within 20 days after receipt of the petition for review.

The decision of the Superior Court on an appeal as provided is final. An order by a state electrical inspector or an order by the Electricians' Examining Board is final and subject to no further appeal upon failure to file a timely, written appeal therefrom as provided.

Upon the failure of any person to carry out a final order as provided, the Electricians' Examining Board may petition the Superior Court for the county in which the building or premises are located for an injunction to enforce that order. If the court determines upon hearing the petition that a lawful final order was issued, it shall order compliance.

Sec. A-5. 32 MRSA §1202, sub-§1, ¶C, as amended by PL 1999, c. 386, Pt. F, §14 and PL 2003, c. 20, Pt. OO, §2 and affected by §4, is further amended to read:

C. For a limited electrician's license, a person must meet the following requirements.

(1) A limited electrician in water pumps must have 135 hours of electrical education as approved by the Electricians' Examining Board or from an accredited institution and 2,000 hours of experience. The privileges of practice are restricted to electrical work between the branch circuits and power supplies.

(2) A limited electrician in outdoor signs, including sign lighting, must have 135 hours of electrical education as approved by the Electricians' Examining Board or from an accredited institution and 2,000 hours of experience. The privileges of practice do not include branch circuit wiring.

(3) A limited electrician in gasoline dispensing must have 135 hours of electrical education as approved by the Electricians' Examining Board or from an accredited institution and 2,000 hours of experience. The privileges of practice are restricted to electrical work between the branch circuit and the power supply.

(4) A limited electrician in traffic signals, including outdoor lighting of traffic signals, must have 135 hours of electrical education as approved by the Electricians' Examining Board or from an accredited institution and 2,000 hours of experience.

(5) A limited electrician in house wiring must have 225 hours of electrical education as approved by the Electricians' Examining Board or from an accredited institution and 4,000 hours of experience. Privileges of practice are restricted to one-family and 2-family dwellings, including modular and mobile homes. Any person having a limited license

in mobile homes prior to the effective date of this section is automatically licensed as a limited electrician in house wiring.

(6) A limited electrician in refrigeration must have 270 hours of electrical education as approved by the Electricians' Examining Board or from an accredited institution and 6,000 hours of experience. Graduates of a Maine community college electrical program in refrigeration approved by the Electricians' Examining Board or from an accredited institution are credited with 4,000 hours of experience upon graduation. Privileges of practice are restricted to all associated wire from the loadside of distribution.

(7) A limited electrician in low energy, including fire alarms, must have 270 hours of electrical education as approved by the Electricians' Examining Board or from an accredited institution and 4,000 hours of experience. Any person having a limited license in fire alarms or experience in the installation of low-energy electronics, ~~as defined by the National Electrical Code~~, prior to the effective date of this section, qualifies to be licensed as a limited electrician in low energy.

(8) A crane technician must have 135 hours of electrical education as approved by the Electricians' Examining Board or from an accredited institution and 2,000 hours of experience. Any person having work experience in the installation of cranes and hoists, as defined by the National Electrical Code, prior to the effective date of this subparagraph, qualifies to be licensed as a crane technician. This covers the installation of electrical equipment and wiring used in connection with cranes, monorail hoists, hoists and runways.

Sec. A-6. 32 MRSA §1524-B, sub-§1, as enacted by PL 1999, c. 399, §11 and affected by §20, is amended to read:

1. High school diploma. Proof of a high school diploma or the equivalent; and

Sec. A-7. 32 MRSA §1524-B, sub-§2, as enacted by PL 1999, c. 399, §11 and affected by §20, is repealed.

Sec. A-8. 32 MRSA §3115, as amended by PL 2007, c. 402, Pt. N, §7, is further amended to read:

§3115. Licensure

The board shall license an applicant who meets the requirements of this chapter and pays the biennial licensure fee as set under section 3116-A. ~~The license must be conspicuously displayed by the licensee at the place of employment.~~ Licensure as a physical therapist entitles the person to whom it is granted to engage

in the practice of physical therapy anywhere in this State and to use the words "physical therapist" or letters "P.T." to indicate that the person is licensed in this State. Licensure as a physical therapist assistant entitles the person to whom it is granted to act as a physical therapist assistant and to use the words "physical therapist assistant" or letters "P.T.A." to indicate that the person is licensed in this State.

Sec. A-9. 32 MRSA §3552-A, sub-§1, as enacted by PL 2005, c. 77, §1, is amended to read:

1. Podiatric assistants permitted. ~~This chapter may not be construed to prohibit a podiatric assistant from rendering podiatric medical services if these services are rendered under the supervision and control of a podiatrist and if that podiatric assistant is in a training program approved by the board or has satisfactorily completed training and a competency evaluation approved by the board. "Supervision and control" may not be construed to require the personal presence of the supervising and controlling podiatrist at the place where these services are rendered, unless a physical presence is necessary to provide patient care of the same quality as provided by the podiatrist.~~ This chapter may not be construed to prohibit a podiatrist from delegating to a podiatric assistant certain activities relating to medical care and treatment that are delegated by custom and usage, as long as those activities are under the supervision or control of the podiatrist, who must be present on the premises at the time the activities are performed. This section may not be construed to require the presence of the supervising and controlling podiatrist during the rendering of nondiagnostic or nontherapeutic services.

Sec. A-10. 32 MRSA §3653, as amended by PL 1993, c. 600, Pt. A, §246, is further amended to read:

§3653. Use of title

An applicant who satisfactorily meets the requirements for license to practice podiatry, as provided in this chapter, may be granted a license by the board ~~signed by the chair, which that~~ entitles the individual to whom it is granted to practice podiatry in this State. ~~The license must be conspicuously displayed at the place of practice of the podiatrist.~~ A podiatrist licensed in accordance with this chapter may use the word "Doctor" or the letters "Dr." when followed by the word "Podiatrist" or "Chiroprapist," or the designation of the degree "D.P.M."

Sec. A-11. 32 MRSA §3812-A is enacted to read:

§3812-A. Delegation authorized

1. Delegation authorized. This chapter may not be construed to prohibit a psychologist from delegating to an individual the administration and observation of tests and certain activities relating to the practice of

psychology, as long as those activities are under the supervision and control of the psychologist. "Supervision and control" may not be construed to require the personal presence of the supervising and controlling psychologist at the place where those activities take place, unless a physical presence is necessary to provide patient care of the same quality as provided by the psychologist. The board may adopt rules identifying delegated activities and appropriate levels of supervision in the practice setting. Rules adopted pursuant to this subsection are routine technical rules as defined by Title 5, chapter 375, subchapter 2-A. The activities delegated by a psychologist under this subsection may not include the interpretation of test results and diagnosing and treating mental, emotional and psychological illnesses and disorders.

2. Responsibility. A psychologist who delegates activities as described in subsection 1 to an individual is legally and ethically responsible for all of the professional activities of that individual, and the individual in this relationship is considered the psychologist's agent. This subsection may not be construed to apply to an individual acting under a separate license accepted by the State to render services independently.

Sec. A-12. 32 MRSA §6210, as amended by PL 2007, c. 402, Pt. U, §6, is further amended to read:

§6210. Meetings; chair; quorum

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

Sec. A-13. 32 MRSA §7053, sub-§3, ¶A, as amended by PL 2001, c. 316, §2, is further amended to read:

A. The applicant must have received a bachelor's degree or higher in social work or social welfare from an accredited educational institution; demonstrated to the satisfaction of the board adherence to the ethics of the social worker profession; and successfully completed the examination prescribed by the board; or

Sec. A-14. 32 MRSA §7053, sub-§3-B, ¶A, as enacted by PL 2003, c. 429, §4 and affected by §7, is amended to read:

A. Documented proof of a bachelor's degree or higher in a field that is sufficiently related to social work or social welfare, as determined by the board; and

Sec. A-15. 32 MRSA §9854, sub-§1, as amended by PL 2005, c. 511, §5, is further amended to read:

1. License required. A person may not practice or profess to be authorized to practice after September 1, 1984, as a radiographer, a nuclear medicine technologist or a radiation therapist unless that person is licensed in accordance with the provisions of this chapter. ~~A license issued by the board must be displayed conspicuously in each place of regular employment of the licensee.~~

Sec. A-16. 32 MRSA §9855, sub-§3, ¶C, as amended by PL 2007, c. 402, Pt. X, §2, is further amended to read:

C. Either have successfully completed a course in ~~radiologic~~ radiation therapy technology and an examination that is approved by the board or possess valid certification and current registration from the American Registry of Radiologic Technologists or its successor or other organization or another certification program approved by the board to practice as a radiation therapist.

Sec. A-17. 32 MRSA §13198, sub-§2, as enacted by PL 1987, c. 395, Pt. A, §212, is repealed and the following enacted in its place:

2. Professional qualifications. An applicant for a broker license must meet the qualifications under paragraphs A and B.

A. The applicant must have been licensed as an associate broker affiliated with a real estate brokerage agency for 2 years within the 5 years immediately preceding the date of application.

B. The applicant must satisfactorily complete the course of study meeting guidelines established by the commission.

Sec. A-18. 32 MRSA §13199, sub-§2-A, as enacted by PL 2005, c. 378, §10 and affected by §29, is amended to read:

2-A. Professional qualifications. An applicant for an associate broker license must have ~~practiced~~ been licensed as a real estate sales agent affiliated with a real estate brokerage agency for 2 years within the 5 years immediately preceding the date of application and satisfactorily completed a course of study meeting guidelines established by the commission. The commission may not issue a license under this section until an individual has completed 2 years as a licensed real estate sales agent.

Sec. A-19. 32 MRSA §13852, sub-§7, as amended by PL 2007, c. 621, §15, is further amended to read:

7. Meetings; chair; quorum. The board shall meet at least once a year to conduct its business and to elect a chair. Additional meetings must be held as necessary to conduct the business of the board and may be convened at the call of the chair or a majority

of the board members. ~~Four~~ Five members of the board constitute a quorum.

Sec. A-20. 32 MRSA §14002, sub-§9, as enacted by PL 1999, c. 185, §5, is repealed and the following enacted in its place:

9. Federally related transaction. "Federally related transaction" means any financial transaction related to real estate that:

A. A federal financial institution's regulatory agency or the Resolution Trust Corporation or its successor agency engages in, contracts for or regulates; and

B. Requires the services of a real estate appraiser.

Sec. A-21. 32 MRSA §14022, as enacted by PL 1999, c. 185, §5, is amended to read:

§14022. Place of business

A licensee shall designate and maintain a principal place of business where real estate appraisal records may be inspected for purposes consistent with this chapter ~~and shall conspicuously display the license in the principal place of business.~~ A nonresident is not required to maintain a place of business in this State if the nonresident maintains an active place of business in the state of domicile.

Sec. A-22. 32 MRSA §14036, sub-§2, ¶D, as enacted by PL 2005, c. 518, §7, is amended to read:

D. Hold a valid license under this chapter and demonstrate 2,500 hours of appraisal experience obtained during no fewer than 24 months, including complex residential property appraisals completed under the supervision of a certified residential real property appraiser or a certified general real property appraiser under section 14035.

Sec. A-23. 32 MRSA §17104-A is enacted to read:

§17104-A. Delegation authorized

1. Delegation authorized. This chapter may not be construed to prohibit an audiologist from delegating to an individual certain activities relating to the practice of audiology, as long as those activities are under the supervision and control of the audiologist. "Supervision and control" may not be construed to require the personal presence of the supervising and controlling audiologist at the place where those activities take place, unless a physical presence is necessary to provide patient care of the same quality as provided by the audiologist. The board may adopt rules identifying delegated activities and appropriate levels of supervision in the practice setting. Rules adopted pursuant to this subsection are routine technical rules as defined by Title 5, chapter 375, subchapter 2-A. The activities delegated by an audiologist under this subsection may not include the assessment and treatment of hearing

and balance disorders or the dispensing of hearing aids.

2. Responsibility. An audiologist who delegates activities as described in subsection 1 to an individual is legally and ethically responsible for all of the professional activities of that individual, and the individual in this relationship is considered the audiologist's agent. This subsection may not be construed to apply to an individual acting under a separate license accepted by the State to render services independently.

PART B

Sec. B-1. 4 MRSA §152, sub-§9, as amended by PL 2005, c. 65, Pt. C, §1, is further amended to read:

9. Licensing jurisdiction. Except as provided in Title 5, section 10004; Title 8, section 279-B; Title 10, section 8003, ~~subsection 5~~; Title 20-A, sections 10712 and 10713; Title 29-A; Title 32, chapters 2-B, 114 and 135; and Title 35-A, section 3132, exclusive jurisdiction upon complaint of an agency or, if the licensing agency fails or refuses to act within a reasonable time, upon complaint of the Attorney General to revoke or suspend licenses issued by the agency. The District Court has original jurisdiction upon complaint of a licensing agency to determine whether renewal or reissuance of a license of that agency may be refused. The District Court has original concurrent jurisdiction to grant equitable relief in proceedings initiated by an agency or the Department of the Attorney General alleging any violation of a license or licensing laws or rules.

Notwithstanding any other provisions of law, a licensing agency may not reinstate or otherwise affect a license suspended, revoked or modified by the District Court pursuant to a complaint filed by the Attorney General without the approval of the Attorney General;

Sec. B-2. 4 MRSA §152, sub-§10, as amended by PL 1999, c. 731, Pt. ZZZ, §4 and affected by §42, is repealed.

Sec. B-3. 5 MRSA §10051, sub-§3, as amended by PL 2003, c. 451, Pt. T, §3, is further amended to read:

3. Appellate jurisdiction. The District Court has exclusive jurisdiction to review ~~disciplinary decisions of occupational licensing boards and commissions taken pursuant to Title 10, section 8003 and~~ licensing decisions of the Department of Public Safety taken pursuant to Title 28-A, sections 453-A, 458 and 653. Chapter 375, subchapter 7 governs these proceedings as far as applicable, substituting "District Court" for "Superior Court."

Sec. B-4. 10 MRSA §8003, sub-§5-A, as amended by PL 2007, c. 621, §§2 and 3, is further amended to read:

5-A. Authority of Office of Licensing and Registration. In addition to authority otherwise conferred, unless expressly precluded by language of denial in its own governing law, the Office of Licensing and Registration, referred to in this subsection as "the office," including the licensing boards and commissions and regulatory functions within the office, have the following authority.

A. The office, board or commission may deny or refuse to renew a license, may suspend or revoke a license and may impose other discipline as authorized in this subsection for any of the following reasons:

- (1) The practice of fraud, deceit or misrepresentation in obtaining a license from a bureau, office, board or commission, or in connection with services rendered while engaged in the occupation or profession for which the person is licensed;
- (2) Any gross negligence, incompetence, misconduct or violation of an applicable code of ethics or standard of practice while engaged in the occupation or profession for which the person is licensed;
- (3) ~~Subject to the limitations of Title 5, chapter 341, conviction of a Class A, B or C crime or Conviction of a crime that bears directly on the licensed profession or occupation to the extent permitted by Title 5, chapter 341;~~
- (4) Any violation of the governing law of an office, board or commission;
- (5) Any violation of the rules of an office, board or commission;
- (6) Engaging in any activity requiring a license under the governing law of an office, board or commission that is beyond the scope of acts authorized by the license held;
- (7) Continuing to act in a capacity requiring a license under the governing law of an office, board or commission after expiration, suspension or revocation of that license;
- (8) Aiding or abetting unlicensed practice by a person who is not licensed as required by the governing law of an office, board or commission;
- (9) Noncompliance with an order or consent agreement of an office, board or commission;
- (10) Failure to produce any requested documents in the licensee's possession or under the licensee's control concerning a pending complaint or proceeding or any matter under investigation; or

(11) Any violation of a requirement imposed pursuant to section 8003-G.

B. The office, board or commission may impose the following forms of discipline upon a licensee or applicant for licensure:

(1) Denial or refusal to renew a license, or issuance of a license in conjunction with the imposition of other discipline;

(2) Issuance of warning, censure or reprimand. Each warning, censure or reprimand issued must be based upon violation of a single applicable law, rules or condition of licensure or must be based upon a single instance of actionable conduct or activity;

(3) Suspension of a license for up to 90 days for each violation of applicable laws, rules or conditions of licensure or for each instance of actionable conduct or activity. Suspensions may be set to run concurrently or consecutively. Execution of all or any portion of a term of suspension may be stayed pending successful completion of conditions of probation, although the suspension remains part of the licensee's record;

(4) Revocation of a license;

(5) Imposition of civil penalties of up to \$1,500, or such greater amount as may be authorized by statute, for each violation of applicable laws, rules or conditions of licensure or for each instance of actionable conduct or activity; or

(6) Imposition of conditions of probation upon an applicant or licensee. Probation may run for such time period as the office, board or commission determines appropriate. Probation may include conditions such as: additional continuing education; medical, psychiatric or mental health consultations or evaluations; mandatory professional or occupational supervision of the applicant or licensee; practice restrictions; and other conditions as the office, board or commission determines appropriate. Costs incurred in the performance of terms of probation are borne by the applicant or licensee. Failure to comply with the conditions of probation is a ground for disciplinary action against a licensee.

C. The office, board or commission may execute a consent agreement that resolves a complaint or investigation without further proceedings. Consent agreements may be entered into only with the consent of the applicant or licensee; the office, board or commission; and the Department of the Attorney General. Any remedy, penalty or fine that is otherwise available by law, even if only in

the jurisdiction of the Superior Court, may be achieved by consent agreement, including long-term suspension and permanent revocation of a professional or occupational license. A consent agreement is not subject to review or appeal and may be modified only by a writing executed by all parties to the original consent agreement. A consent agreement is enforceable by an action in Superior Court.

D. The office, board or commission may:

(3) Except as provided in Title 37-B, section 390-A, adopt rules requiring continuing professional or occupational education and require applicants for license renewal to present proof of satisfactory completion of continuing professional or occupational education in accordance with such rules. Failure to comply with the continuing education rules is punishable by nonrenewal of the license and other discipline authorized by this subsection. Notwithstanding any contrary provision set forth in the governing law of an office, board or commission, continuing education requirements may coincide with the license renewal period. Rules adopted pursuant to this subparagraph are routine technical rules as described in Title 5, chapter 375, subchapter 2-A;

(4) Issue continuing education deferments in cases of undue hardship;

(5) Grant inactive status licenses to licensees in accordance with rules that may be adopted by each office, board or commission. The fee for an inactive status license may not exceed the statutory fee cap for license renewal set forth in the governing law of the office, board or commission. Licensees in inactive status are required to pay license renewal fees for renewal of an inactive status license and may be required to pay a reinstatement fee as set by the Director of the Office of Licensing and Registration if the license is reactivated on a date other than the ordinary renewal date of the license. Any rules of an office, board or commission regulating inactive status licensure must describe the obligations of an inactive status licensee with respect to any ongoing continuing education requirement in effect for licensees of the office, board or commission and must set forth any requirements for reinstatement to active status, which requirements may include continuing education. Rules adopted pursuant to this subparagraph are routine technical rules as described in Title 5, chapter 375, subchapter 2-A; and

(6) Delegate to staff the authority to review and approve applications for licensure pursuant to procedures and criteria established by rule. Rules adopted pursuant to this subparagraph are routine technical rules as described in Title 5, chapter 375, subchapter 2-A.

E. The office, board or commission may require surrender of licenses. In order for a licensee's surrender of a license to be effective, a surrender must first be accepted by vote of the office, board or commission. The office, board or commission may refuse to accept surrender of a license if the licensee is under investigation or is the subject of a pending complaint or proceeding, unless a consent agreement is first entered into pursuant to this subsection. The consent agreement may include terms and conditions for reinstatement.

F. The office, board or commission may issue a letter of guidance or concern to a licensee. A letter of guidance or concern may be used to educate, reinforce knowledge regarding legal or professional obligations or express concern over action or inaction by the licensee that does not rise to the level of misconduct sufficient to merit disciplinary action. The issuance of a letter of guidance or concern is not a formal proceeding and does not constitute an adverse disciplinary action of any form. Notwithstanding any other provision of law, letters of guidance or concern are not confidential. The office, board or commission may place letters of guidance or concern, together with any underlying complaint, report and investigation materials, in a licensee's file for a specified period of time, not to exceed 10 years. Any letters, complaints and materials placed on file may be accessed and considered by the office, board or commission in any subsequent action commenced against the licensee within the specified time frame. Complaints, reports and investigation materials placed on file are confidential only to the extent that confidentiality is required pursuant to Title 24, chapter 21.

G. The 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 2-A.

The jurisdiction to ~~suspend and revoke~~ impose discipline against occupational and professional licenses conferred by this subsection is concurrent with that of the District Court. Civil penalties must be paid to the Treasurer of State.

Any nonconsensual disciplinary action taken under authority of this subsection other than denial or nonrenewal of a license may be imposed only after a hearing conforming to the requirements of Title 5, chapter 375, subchapter 4, and, ~~except for revocation actions~~, is subject to judicial review exclusively in the Superior Court in accordance with Title 5, chapter 375, subchapter 7.

The office, board or commission shall hold a hearing conforming to the requirements of Title 5, chapter 375, subchapter 4 at the written request of any person who is denied an initial or renewal license without a hearing for any reason other than failure to pay a fee, provided that the request for hearing is received by the office, board or commission within 30 days of the applicant's receipt of written notice of the denial of the application, the reasons for the denial and the applicant's right to request a hearing.

The office, board or commission may subpoena witnesses, records and documents in any adjudicatory hearing it conducts.

~~Any nonconsensual revocation of a professional or occupational license taken under authority of this subsection is subject to, upon appeal within the time frames provided in Title 5, section 11002, subsection 3, de novo judicial review exclusively in District Court. Rules adopted to govern judicial appeals from agency action apply to cases brought under this subsection.~~

See title page for effective date.

CHAPTER 113

H.P. 498 - L.D. 715

An Act To Enable the Use of Credit Cards for Governmental Transactions

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

Sec. 1. 9-A MRSA §8-303, sub-§2-A is enacted to read:

2-A. Notwithstanding subsection 2, a governmental entity may impose a surcharge for payments made with a credit card or debit card for taxes, fines, charges, utility fees, regulatory fees, license or permit fees or the provision of a specific service provided by that governmental entity if the surcharge:

A. Is disclosed clearly to the consumer prior to payment; and

B. Does not exceed the costs associated with providing the credit card or debit card service that are directly incurred by the governmental entity or assessed by an authorized 3rd-party payment service