

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE

ONE HUNDRED AND TWENTY-SIXTH LEGISLATURE

FIRST REGULAR SESSION
December 5, 2012 to July 10, 2013

THE GENERAL EFFECTIVE DATE FOR
FIRST REGULAR SESSION
NON-EMERGENCY LAWS IS
OCTOBER 9, 2013

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

Augusta, Maine
2013

(a) Civil rights and health and safety requirements as described in paragraph A;

(b) Student assessment and accountability requirements as described in paragraph B;

(c) Conflict of interest and public records and proceedings requirements as described in paragraph C;

(d) Criminal history record checks and fingerprinting requirements as described in paragraph F; and

(e) Special education requirements as described in paragraph G.

(3) By February 1st of each year, the commissioner shall report the number of waivers requested and the number granted and the reason for each waiver request for the prior year to the joint standing committee of the Legislature having jurisdiction over education matters and post the report on the department's publicly accessible website.

See title page for effective date.

CHAPTER 217

S.P. 292 - L.D. 867

An Act To Streamline, Amend and Clarify Certain Professional and Occupational Licensing Statutes

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

PART A

Sec. A-1. 10 MRSA §8003, sub-§5-A, ¶F, as enacted by PL 2007, c. 402, Pt. C, §3, is amended to read:

F. The office, board or commission may issue a letter of guidance or concern to a licensee as part of the dismissal of a complaint against the 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 investiga-

tion 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.

Sec. A-2. 10 MRSA §8009, as enacted by PL 2007, c. 402, Pt. C, §6, is amended to read:

§8009. Standardized terms

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 and qualified. 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.

PART B

Sec. B-1. 10 MRSA §9003, sub-§2, ¶D, as repealed and replaced by PL 1995, c. 462, Pt. A, §26, is repealed and the following enacted in its place:

D. Two members who are dealers;

Sec. B-2. 10 MRSA §9003, sub-§2, ¶E, as repealed and replaced by PL 1995, c. 462, Pt. A, §26, is repealed.

Sec. B-3. 10 MRSA §9021, sub-§7, as enacted by PL 1993, c. 642, §25, is repealed.

PART C

Sec. C-1. 32 MRSA §220, sub-§1, ¶C, as enacted by PL 1991, c. 396, §11, is repealed.

Sec. C-2. 32 MRSA §220, sub-§2, ¶C, as repealed and replaced by PL 2007, c. 390, §1, is repealed.

Sec. C-3. 32 MRSA §220-C is enacted to read:

§220-C. License limited to individuals

A license under this subchapter may be issued only to an individual, and licensure must be determined on individual and personal qualifications. A firm, corporation, company, partnership or limited liability company may not be licensed under this chapter.

Sec. C-4. 32 MRSA §225, first ¶, as amended by PL 2007, c. 402, Pt. F, §21, is further amended to read:

Each licensed architect or landscape architect shall upon licensure obtain a seal of such design as the board authorizes and directs ~~and shall submit an impression of the seal to the board.~~ Technical submissions prepared by or under the direct supervision of a licensed architect or under the direct supervision of a licensed landscape architect must be stamped with the seal during the life of the licensee's license. It is unlawful for anyone to stamp or seal any documents with the seal after the license named on the seal has expired or has been revoked, unless the license has been renewed or reissued.

PART D

Sec. D-1. 32 MRSA §1451, first ¶, as amended by PL 2007, c. 402, Pt. J, §2, is further amended to read:

The State Board of Funeral Service, as established by Title 5, section 12004-A, subsection 18, consists of ~~8~~ 7 members, 5 of whom must be persons licensed for the practice of funeral service for 10 consecutive years or who have had 10 consecutive years' experience as a practitioner of funeral service in this State immediately preceding their appointment and ~~3~~ 2 of whom must be public members as defined in Title 5, section 12004-A. Members are appointed by the Governor for a term of 4 years. A national organization of retired persons may submit a list of applicants to the Governor for use in the selection process of one of the public members. Appointments of members must comply with Title 10, section 8009. A board member may be removed by the Governor for cause.

Sec. D-2. Appropriations and allocations. The following appropriations and allocations are made.

PROFESSIONAL AND FINANCIAL REGULATION, DEPARTMENT OF Licensing and Enforcement 0352

Initiative: Reduces Personal Services and All Other allocations due to the decrease in the number of members of the State Board of Funeral Services from 8 to 7.

OTHER SPECIAL REVENUE FUNDS	2013-14	2014-15
Personal Services	(\$175)	(\$210)
All Other	(\$291)	(\$438)
OTHER SPECIAL REVENUE FUNDS TOTAL	(\$466)	(\$648)

PART E

Sec. E-1. 32 MRSA §3113-B, sub-§4, as amended by PL 2007, c. 402, Pt. N, §4, is further amended to read:

4. Graduate physical therapist or assistant. The supervised practice of a graduate physical therapist or graduate physical therapist assistant, who is approved by the board to sit for examination, until ~~the results of the examination have been published 60 days after the publication of examination results.~~ The graduate must work in a facility employing at least one physical therapist licensed to practice in this State who assumes responsibility for patient-related activities of the applicant;

Sec. E-2. 32 MRSA §3114-A, sub-§2, as amended by PL 2003, c. 250, Pt. A, §2, is further amended to read:

2. Application. To qualify for examination or to apply for a license as a physical therapist or physical therapist assistant, an applicant shall:

- A. Submit ~~a written~~ an application with supporting documents to the board on forms provided by the board; and
- B. Pay ~~an application~~ a required fee as set under section 3116-A.

~~In case the application is denied and permission to take the examination refused, the examination fee only must be returned to the applicant. An applicant who fails to pass the examination is entitled to a reexamination within 6 months upon repayment of the examination fee only. If an applicant fails one section of the examination, that applicant must repeat the entire examination. An applicant may not take any part of the examination more than 3 times, unless that applicant submits evidence of having acquired additional formal education related to the previously failed examination section or sections.~~

PART F

Sec. F-1. 32 MRSA §3401, sub-§2, as enacted by PL 2003, c. 446, §1 and affected by §4, is amended to read:

2. Master plumbers. ~~Two~~ Three of the members of the board must be master plumbers as defined in section 3301, and one of those ~~2~~ 3 members must be a member of a bona fide labor organization.

Sec. F-2. 32 MRSA §3401, sub-§3-A, as amended by PL 2007, c. 402, Pt. O, §2, is repealed.

PART G

Sec. G-1. 32 MRSA §13857, sub-§2, ¶B, as enacted by PL 2003, c. 542, §1, is amended to read:

B. An applicant who is licensed in good standing at the time of application to the board under the laws of a jurisdiction that has not entered into a reciprocal agreement with the Board of Counseling Professionals Licensure may qualify for licensure by submitting evidence to the board that the applicant has ~~actively practiced with~~ held a sub-

stantially equivalent, valid license for at least 5 consecutive years immediately preceding application to the board at the level of licensure applied for in this State.

Sec. G-2. 32 MRSA §13857, sub-§2, ¶D, as enacted by PL 2003, c. 542, §1 and amended by PL 2011, c. 286, Pt. B, §5, is repealed.

PART H

Sec. H-1. 32 MRSA §14022, as amended by PL 2009, c. 112, Pt. A, §21, is further 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. 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~~ another jurisdiction.

Sec. H-2. 32 MRSA §14034, sub-§2, ¶A, as enacted by PL 1999, c. 185, §5, is amended to read:

A. Submit evidence that the applicant is licensed, in good standing under the laws of ~~the applicant's state of domicile~~ another jurisdiction;

PART I

Sec. I-1. 32 MRSA §18101, sub-§11, as enacted by PL 2009, c. 344, Pt. C, §3 and affected by Pt. E, §2, is amended to read:

11. Solid fuel. "Solid fuel" means coal, wood, pellets and other similar organic materials or any combination of them.

PART J

Sec. J-1. 32 MRSA §292, sub-§3, as amended by PL 2007, c. 402, Pt. G, §8, is further amended to read:

3. Reputation. The applicant must have a good reputation for honesty, fair dealing and competency. ~~The applicant shall furnish recommendations from at least 2 references who have known the applicant for at least one year and by their signature attest that the applicant has such a reputation.~~

Sec. J-2. 32 MRSA §2279, sub-§2-A, as enacted by PL 1997, c. 294, §6, is repealed.

Sec. J-3. 32 MRSA §2281, as amended by PL 1997, c. 294, §9, is further amended to read:

§2281. Waiver of requirements for licensure

The board shall grant a license to any person who, prior to July 25, 1984, successfully completed an examination administered by the Psychological Corporation under contract with the American Occupational Therapy Certification Board if that person meets the

requirements of section 2279, subsections 1, ~~2-A~~ and 3.

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

B. Any documentation as required by the board, which may include, but is not limited to:

(1) Evidence of employment in a social service delivery field; and

(2) Evidence of an arrangement of consultation to be provided in accordance with subsection 3-C, paragraph B; and

~~(3) Letters of professional recommendation.~~

Sec. J-5. 32 MRSA §13191, sub-§5, as amended by PL 2007, c. 402, Pt. BB, §21, is further amended to read:

5. Reputation. The applicant must have a good reputation for honesty, truthfulness, fair dealing and competency. ~~The applicant must furnish recommendations from at least 3 persons not related to the applicant who have known the applicant for at least one year immediately preceding the date of the application and by their signature attest that the applicant has such a reputation.~~

Sec. J-6. 32 MRSA §14021, sub-§5, as amended by PL 2007, c. 402, Pt. GG, §9, is further amended to read:

5. Reputation. The applicant must have a good reputation for honesty, truthfulness, fair dealing and competency. ~~The applicant shall furnish recommendations from at least 3 persons not related to the applicant who have known the applicant for at least one year immediately preceding the date of the application and by their signature attest that the applicant has such a reputation.~~

PART K

Sec. K-1. 32 MRSA §294, sub-§1, ¶B, as enacted by PL 1999, c. 146, §5 and amended by PL 2011, c. 286, Pt. B, §5, is repealed.

Sec. K-2. 32 MRSA §12232, sub-§3, ¶B, as enacted by PL 2009, c. 242, §13, is amended to read:

B. To comply with the provisions of this chapter and the board's rules; and

Sec. K-3. 32 MRSA §12232, sub-§3, ¶C, as enacted by PL 2009, c. 242, §13, is amended to read:

C. To the stipulation that, in the event the license from the state of the individual's principal place of business is no longer valid, the individual will cease offering or rendering professional services in the State individually and on behalf of a firm; and

Sec. K-4. 32 MRSA §12232, sub-§3, ¶D, as enacted by PL 2009, c. 242, §13, is repealed.

Sec. K-5. 32 MRSA §12263, as amended by PL 2009, c. 242, §22, is repealed.

Sec. K-6. 32 MRSA §13173, sub-§4, ¶B, as enacted by PL 1987, c. 395, Pt. A, §212, is repealed.

Sec. K-7. 32 MRSA §13193, as enacted by PL 1987, c. 395, Pt. A, §212, is amended to read:

§13193. Nonresidents

~~All nonresident license applicants shall be required to file a properly completed irrevocable consent to service, as described for agencies in section 13173, subsection 4, paragraph B.~~ In lieu of education and experience requirements, nonresident original license applicants must hold a similar active license in good standing in their place of legal residence and shall appear at such time and place as the director may designate for the purpose of written examination pertaining to Maine real estate laws.

Sec. K-8. 32 MRSA §13857, sub-§2, ¶D, as enacted by PL 2003, c. 542, §1 and amended by PL 2011, c. 286, Pt. B, §5, is repealed.

Sec. K-9. 32 MRSA §14024, sub-§1, as enacted by PL 1999, c. 185, §5, is repealed.

Sec. K-10. 32 MRSA §14034, sub-§2, ¶A, as enacted by PL 1999, c. 185, §5, is amended to read:

A. Submit evidence that the applicant is licensed; in good standing under the laws of the applicant's state of domicile; and

Sec. K-11. 32 MRSA §14034, sub-§2, ¶B, as enacted by PL 1999, c. 185, §5, is repealed.

Sec. K-12. 32 MRSA §14510, as enacted by PL 1993, c. 444, §1, is repealed.

Sec. K-13. 32 MRSA §14714, as enacted by PL 2001, c. 324, §12, is repealed.

PART L

Sec. L-1. 32 MRSA §3656, last ¶, as enacted by PL 2007, c. 402, Pt. P, §14, is repealed.

See title page for effective date.

CHAPTER 218

S.P. 474 - L.D. 1355

An Act To Increase the Monetary Limit for Card Games

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

Sec. 1. 17 MRSA §1834, sub-§4, as enacted by PL 2009, c. 487, Pt. A, §2, is amended to read:

4. Games of cards. The fee for a license issued to an organization to operate a game of cards, when the organization charges no more than a ~~\$\$~~ \$10 daily entry fee for participation in the games of cards and when no money or valuable thing other than the ~~\$\$~~ \$10 daily entry fee is gambled by any person in connection with the game of cards, is \$30 for each calendar year or portion of a calendar year. For card games that are played by placing the maximum bet of \$1 per hand or deal, the license fee is the same as provided in subsection 2.

Sec. 2. 17 MRSA §1835, sub-§1, ¶B, as amended by PL 2009, c. 652, Pt. C, §3 and affected by §4, is further amended to read:

B. Licensed card games that award part or all of the entry fees paid to participate in the game as prize money and in which no money or thing of value is wagered except for the entry fee are limited to a ~~\$\$~~ \$10 daily entry fee and no more than ~~50~~ 60 players at any one time at any one location.

See title page for effective date.

CHAPTER 219

S.P. 479 - L.D. 1360

An Act To Amend the Motor Fuel Distribution and Sales Act

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

Sec. 1. 10 MRSA §1453, sub-§1-C is enacted to read:

1-C. Consignment. "Consignment" means a written or oral agreement between a franchisor and a franchisee whereby the franchisor maintains ownership of motor fuel provided to the franchisee and the franchisee sells the motor fuel on behalf of the franchisor at a price determined by the franchisor.

Sec. 2. 10 MRSA §1453, sub-§4, as enacted by PL 1975, c. 549, is amended to read:

4. Franchise agreement. "Franchise agreement" ~~shall mean any~~ means a written or oral agreement, for a definite or indefinite period, between a refiner and a retail dealer or between a distributor and a retail dealer or between a refiner and a distributor under which:

A. A retail dealer or a distributor promises to sell or distribute ~~the~~ any petroleum product or products of ~~the a~~ a refiner; ~~or~~

B. A retail dealer or a distributor is granted the right to use a trademark, trade name, service mark