

MAINE STATE LEGISLATURE

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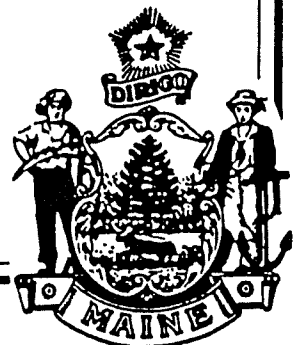


Review of

DEPARTMENT OF CORRECTIONS
BOARD OF CHIROPRACTIC LICENSURE
BOARD OF DENTAL EXAMINERS
BOARD OF LICENSURE IN MEDICINE
MAINE STATE BOARD OF NURSING
NURSING HOME ADMINISTRATORS LICENSING BOARD
STATE BOARD OF OPTOMETRY
BOARD OF OSTEOPATHIC LICENSURE
BOARD OF LICENSURE OF PODIATRIC MEDICINE
MAINE CHILDREN'S TRUST INCORPORATED
GOVERNOR'S COMMITTEE ON EMPLOYMENT OF PEOPLE WITH DISABILITIES
MAINE DEVELOPMENTAL DISABILITIES COUNCIL
MAINE INDIAN TRIBAL-STATE COMMISSION
MAINE MEDICAL LABORATORY COMMISSION

Joint Standing Committee on Audit and Program Review

1993 - 1994



SENATE

JOHN J. CLEVELAND, DISTRICT 22, CHAIR
M. IDA LUTHER, DISTRICT 8
CHARLES M. BEGLEY, DISTRICT 20



HOUSE

PHYLLIS R. ERWIN, RUMFORD, CHAIR
BEVERLY C. DAGGETT, AUGUSTA
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ALVIN L. BARTH, JR., BETHEL
EDWARD L. DEXTER, KINGFIELD

STATE OF MAINE
ONE HUNDRED AND SIXTEENTH LEGISLATURE
COMMITTEE ON AUDIT AND PROGRAM REVIEW

The Honorable Dan A. Gwadosky, Chair
The Honorable Dennis L. Dutremble, Vice-Chair
Members of the Legislative Council:

Pursuant to 3 MRSA §927, we are submitting to the Legislature the final findings and recommendations required to implement the Committee's 1993-1994 reviews of the following agencies:

Maine Department of Corrections

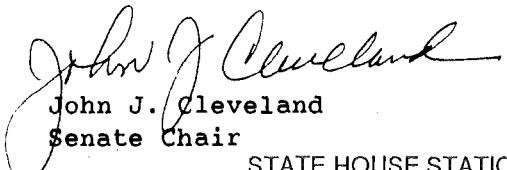
**Board of Chiropractic Licensure;
Board of Osteopathic Licensure;
Board of Dental Examiners;
Nursing Home Administrators Licensing Board;
State Board of Nursing;
State Board of Optometry;
Board of Licensure in Medicine; and
Board of Licensure of Podiatric Medicine.**

**Maine Indian Tribal-State Commission;
Maine Medical Laboratory Commission;
Governor's Committee on Employment of People with Disabilities;
Maine Children's Trust Incorporated; and the
Maine Developmental Disabilities Council.**

The Committee's efforts are based on extensive review of written data submitted by each agency and prepared by staff, in-depth discussion of issues, and consideration of testimony provided by a full-range of interested parties. As a result, the Committee made 152 recommendations for change regarding the Department and boards and commissions subject to review this year.

As Chairs, we thank members of the Committee for their hard work and diligence, as well as the adjunct members who served from other committees of the Legislature; their expertise enriched and strengthened our review process.

Sincerely,


John J. Cleveland
Senate Chair


Phyllis R. Erwin
House Chair

STATE HOUSE STATION 5, AUGUSTA, MAINE 04333 TELEPHONE: 207-287-1635

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Committee Organization

MEMBERS:

Senator John J. Cleveland, Chair
Senator M. Ida Luther
Senator Charles M. Begley
Representative Phyllis R. Erwin, Chair
Representative Beverly C. Daggett
Representative George A. Townsend
Representative William Lemke
Representative Mona Walker Hale
Representative Eleanor M. Murphy
Representative Wesley Farnum
Representative Albert G. Stevens, Jr.
Representative Alvin L. Barth, Jr.
Representative Edward L. Dexter

ADJUNCT MEMBERS:

Representative Robert A. Cameron
Joint Standing Committee on Business
Legislation
Representative Anne M. Larrivee
Joint Select Committee on Corrections
Representative Hugh A. Morrison
Joint Select Committee on Corrections

AUDIT & PROGRAM REVIEW COMMITTEE Review Assignment

- **MAINE DEPARTMENT OF CORRECTIONS**
- Board of Chiropractic Licensure;
- Board of Dental Examiners;
- Board of Licensure in Medicine;
- Maine State Board of Nursing;
- Nursing Home Administrators Licensing Board;
- State Board of Optometry;
- Board of Osteopathic Licensure;
- Board of Licensure of Podiatric Medicine;
- Maine Children's Trust Fund;
- Governor's Committee on Employment of People
with Disabilities;
- Maine Developmental Disabilities Council;
- Maine Indian Tribal-State Commission; and
- Maine Medical Laboratory Commission.



PROCESS OF PERFORMANCE EVALUATION

The Joint Standing Committee on Audit and Program Review is the only Committee of the Legislature whose actions are governed by statute. [3 MRSA c. 33]. The Committee was created in 1979 to provide the Legislature with a standing mechanism to conduct comprehensive review and analysis of agencies in the Executive Branch. Through this means, the Legislature is able to determine the extent to which an agency operates in accordance with legislative intent and the degree of success the agency achieves in meeting its statutory and administrative mandate.

Prior to the 116th Second Regular Session just completed, the Committee's reviews had been strictly circumscribed by a list of agencies which appeared in statute. Having conducted one full cycle of these reviews, the Committee introduced and the Legislature enacted PL 1993 chapter 714. Rather than adhering to a rigid schedule of agencies in statute, this law authorizes the Committee to work with the Legislative Council in selecting agencies or programs for review. The formerly rigid list in statute now serves as a scheduling guideline and the Committee and Council may either select agencies for review from the guideline, or, instead, select any agency or program for review whenever warranted or necessary. In this way, the Committee improves its responsiveness to the Legislature, may select agencies or programs for review in a timely manner, and target legislative resources as effectively as possible to meet Legislative needs.

The scope of the Committee's review remains unchanged. The Committee's charge is to periodically review agencies and programs of State government in order to evaluate these agencies' efficacy and performance. Accordingly, the Committee evaluates each agency's success in producing results which are consistent with the agency's statutory mandate, stated goals, and Legislative intent.

The Committee's efforts are based on extensive review of written data submitted by each agency and prepared by staff, in-depth discussion of issues, and consideration of testimony provided by a full-range of interested parties. This year, the Committee reviewed a total of fourteen agencies in a little over 11 months. As a result, the Committee made 152 recommendations for change regarding the Department and boards and commissions subject to review this year.

DEPARTMENT OF CORRECTIONS

The Committee organized its review of the Department around six areas of inquiry, each encompassing appropriate sub-topics, as follows:

I. JUVENILE AND FEMALE OFFENDERS:

- programs and services
- pre-release centers for juveniles and females;
- facilities / housing for women and girls;
- treatment and rehabilitation for juveniles and females;
- special security issues for juveniles at Maine Youth Center
- educational / academic issues;
- training / vocational issues
- medical services, including psychological and psychiatric counseling;
- counseling/treatment for sex offenders and victims of sexual assault;
- other special programs or counseling for mental health issues, substance abuse, etc.
- "Tracker" Services for juveniles
- Juvenile Justice Advisory Group

II. SERVICES AND PROGRAMS (primarily Adult and Institutional)

- educational / academic services;
- training and vocational programs and services for inmates;
- counseling services;
- medical care and health services;
- public restitution programs and work release;

- treatment services for substance abusers;
- other special needs programs, such as for sex offenders, emotionally disturbed, etc.)

III. FACILITIES

- capacities and overcrowding;
- capital repair and maintenance;
- capital improvement needs;
- facilities for adults vs. juveniles;
- facilities for other special needs, such as medical care, nursing home care, or geriatric care;
- security issues related to facilities;
- future projections and trends; and
- fleet management.

IV. OPERATIONAL STANDARDS / COMPLIANCE

- compliance with federal and state standards, including Americans with Disabilities Act, and OSHA standards;
- state, county, and municipal health and safety standards;
- other national state, county, or municipal standards for correctional facilities;
- standard operating procedure for the protection and treatment of inmates and their families, expected from guards/staff, and between inmates;
- policy on visitation;
- to what degree are inmates vulnerable to, or protected from, attack or assault by other inmates;
- what are the duties and qualifications required of corrections officers and staff in regard to their duties and responsibilities and what training is provided to ensure that these duties are carried out;

- provide data RE: number and nature of complaints lodged by inmates, particularly, number and nature of assaults or altercations between guards and inmates.
- describe Department's response in regard to altercations between inmates and guards/staff

V. ADMINISTRATION AND FISCAL MANAGEMENT

- planning process for capital improvements;
- planning and research capability and procedures (for facilities, programs, innovations regarding corrections theories and practices, and sentencing);
- fiscal management of current and available resources
- access to Medicaid reimbursement for eligible programs.
- lines of communication / command structure / leadership RE: process by which organizational and programmatic decisions are made
- number of dollars spent per unit of service; e.g. incarceration, substance abuse treatment, mental health services, sexual abuse treatment, probation and parole, etc.
- management information system and services, including funding sources used to support these systems
- Criminal Justice Data Center
- Human Resources, including personnel rules, workers comp, collective bargaining;
- staff morale and retention issues
- staffing issues, including availability of support staff;
- types of skills needed from staff and training provided to ensure that staff either possess, or acquire and retain, these necessary skills;
- overtime;
- description of recruitment process to ensure that

staff with the necessary skills or training are hired;

- describe the process by which the Department measures staff performance;

VI. COMMUNITY-BASED SERVICES AND FACILITIES FOR ADULTS AND JUVENILES

- probation and parole program, including caseload and supervisory ratio;
- description of community correctional program
- funding levels for community correctional contracts
- Chemical Alternative Program;
- description of, role, relationship with the county jail system;
- description of pre-release centers and programs;
- alternative sentencing;
- Maine State Parole Board;
- work release programs; and
- Supervised Community Confinement Program.

The Committee dedicated 4 meetings to conducting a concentrated overview of each topic, and 3 meetings each to review and analysis and to formulation of recommendations. In addition, the Committee made site visits to the Maine Correctional Center, the Central and Southern Maine Pre-Release Centers, the Maine Youth Center, the Maine State Prison, the Maine Correctional Institute, and the Bolduc Correctional Facility.

In addition, the Committee took testimony from many interested parties, organizations, and individuals throughout the review.

Boards and Commissions

In general terms, the Committee found that many of the boards and agencies subject to review were not operating in accordance with Legislative intent and with less than optimum efficiency and effectiveness. In some cases, the Committee noted an inadequate degree of public access and public participation in the board process. Some boards lacked sufficient resources to

ensure quality management and operation, consistent with that of other boards. In all cases, the Committee found a lack of consistency in procedure and practice, which added to confusion and inefficiency.

Accordingly, the Committee's recommendations flow from its conclusions formed as a result of its review, analysis, and evaluation of these agencies.

The Committee has targeted each recommendation to achieve at least one of the following eleven objectives; a number of recommendations achieve more than one of these objectives, as follows:

| OBJECTIVES | RECOMMENDATIONS ACHIEVING OBJECTIVE |
|---|--|
| 1. Conform board practice with Legislative intent and the law | 30 |
| 2. Safeguard the public's interest in professional regulation | 23 |
| 3. Establish a standard of practice which is consistent across all boards | 18 |
| 4. Ensure financial solvency and fiscal accountability; | 17 |
| 5. Streamline and clarify Board practices and procedure | 12 |
| 6. Strengthen, clarify, and standardize the process used to investigate and resolve complaints | 12 |
| 7. Increase boards' efficiency and effectiveness | 9 |
| 8. Clarify boards' authority and jurisdiction | 8 |
| 9. Eliminate unnecessary bureaucracy and regulation (including the elimination of the Maine Medical Laboratory Commission) | 6 |
| 10. Resolve statutory contradiction, redundancy, or inconsistency | 5 |
| 11. Update statutory language to reflect the correct degree of regulation imposed by the board on the regulated professionals, achieve gender neutrality, and reflect contemporary convention. | 3 |

**MAINE
DEPARTMENT
OF
CORRECTIONS**

FUNDING- GENERAL

FINDING

-
1. The Committee finds that the Department of Corrections is underfunded and that serious consequences, including federal or court intervention, may result if funding is not increased.
-

FINDING

-
2. The Committee finds that the Department need not be the sole source of funding for services needed within correctional facilities. All funds available for support of people out of prison should be available to provide these same services for adults and juveniles residing within a correctional facility. Accordingly, funds for services including, but not limited to, education, physical and mental health, job training, substance abuse treatment, and sexual abuse treatment should be available for expenditure within correctional facilities on the same basis as funds are available to non-correctional clients.
-

FUNDING - PHYSICAL PLANT

FINDING

-
3. The Committee finds that Maine's correctional facilities are severely deteriorated, enormously in need of repair, overcrowded, and in violation of life-safety codes.
-

FINDING

-
4. The Committee finds that the Department and the State must develop, implement, and fund an effective plan to address the physical deterioration of correctional facilities.
-

FINDING

-
5. The Committee finds that the funding available for the maintenance and repair of correctional facilities is grossly inadequate. Additional funds must be made available for capital construction, improvements, and repair in order to ensure the safety and welfare of the people who reside and who work in these facilities.
-

Funding - Physical Plant

FINDING

-
6. The Committee finds that all "A1" capital improvement projects, categorized by the Bureau of General Services as projects which are mandatory and which directly affect the protection and safety of people and the preservation of property, should be funded. Funding this "A1" list would, at the same time, significantly address the Department of Correction's capital repair needs, many of which fall within the "A1" category of urgency.
-

FINDING

-
7. The Committee finds that the Legislature should consider allocating funds available in the Rainy Day Fund to the capital improvement needs of the Department of Corrections
-

ADMINISTRATIVE

-
8. Suggest that the Department pursue the use of Certificates of Participation as a potential means for financing capital construction needs of the correctional system.
-

JUVENILES

FINDING

9.

The Committee finds that the construction of a secure treatment building for juveniles and a juvenile detention facility funded by the issuance of bonds has not been commenced in a timely fashion. The construction process should be accelerated not only to address the identified needs in the correctional system but also to provide jobs and concomitant stimulation of the economy.

FINDING

10.

The Committee finds that the lack of the proposed Bangor juvenile detention facility requires many juveniles to be transported long distances to the Androscoggin jail or the Maine Youth Center, which serves to remove these youth from family and community.

ADMINISTRATIVE

11.

In order to plan for future facility and service needs, direct the Department to determine the size and nature of the juvenile corrections population requiring committal in a correctional facility and the size and nature of the juvenile population whose needs could be managed outside of a correctional facility.

Juveniles

ADMINISTRATIVE 12. Direct the Department to
determine if savings generated by
removing juveniles from the Maine
Youth Center could be used to
fund community programs needed to
provide services to these youths.

FINDING 13. The Committee finds that the loss
of vocational education programs
at the Maine Youth Center has
unacceptably diminished the
educational opportunities
available and that every effort
should be made to restore and
expand these vocational programs.

FINDING 14. The Committee finds that
programs, services, and
facilities available to girls at
the Maine Youth Center are not
equivalent to the programs and
services available to boys. The
availability of a single building
restricts girls' programming and
treatment and requires the
imposition of disciplinary levels
for all girls in accordance with
the most troubled offender.

OTHER ISSUES

FINDING

-
15. The Committee finds that the Maine Criminal Justice Commission should be adequately funded in order to achieve its mandate and that, if adequate funding is not provided, that the Commission should terminate.
-

FINDING

-
16. The Committee finds that 1) conducting a thorough evaluation of the needs of incoming prisoners is a critical step in the correctional process, 2) services and programs identified in the needs assessment should be developed or provided in order to improve the odds of constructively interceding in each prisoner's life, and that 3) the array of services and programs available at the time of the evaluation should be targeted to each prisoners's needs.
-

FINDING

-
17. The Committee finds that the lack of sufficient probation officers:
- diminishes the likelihood of successful rehabilitation of probationers and released prisoners;
 - undermines the public's safety and welfare; and
 - limits options available to judges and correctional authorities by:

Other Issues

- limiting the quality and quantity of pre-sentencing information generated by probation officers for use by judges in sentencing;
 - limiting the use of probation as a dispositional option and, in effect, restricting sentencing options to the extremes of incarceration vs. freedom;
 - limiting the state's control over released prisoners by restricting options such as split sentencing, parole, and intensive supervision; and
 - limiting the cost-savings option of early release supported by parole and intensive supervision.
-
-

ADMINISTRATIVE 18.

Request that the Criminal Law Advisory Commission comment on its ability to assess the impact of any bill on Maine's correctional system which defines a new crime or which impacts sentencing and the probability of the Commission's making this assessment in time to report its findings to the Legislature in any given session prior to final disposition.

Other Issues

FINDING 19. The Committee finds that the Department should include in its Master Plan a strategy for providing services to the growing geriatric population and for those prisoners who are terminally ill or otherwise incapacitated.

FINDING 20. The Committee finds that the Department's management information system is inadequate and that data critical for effective planning of the correctional system is not available. Accordingly, the Committee finds that the Department should redouble its efforts to upgrade and expand the use of its Correctional Master Record System and to network with the Maine Criminal Justice Information System (MCJUSTIS) to compile criminal history information and to track offenders.

FINDING 21. The Committee finds that correctional programs should be funded in the following order, as funding becomes available:

- 1) Maintenance and repair;
- 2) Funding the Maine Criminal Justice Commission;
- 3) Improve classification and evaluation systems;
- 4) Provide for funds to meet federal mandates regarding facilities for females and handicapped;

Other Issues

- 5) Reinstate funds for the vocational education program at MYC;
 - 6) Increase the number of probation officers to the recommended ratio of 75:1;
 - 7) Provide services for the geriatric and terminally ill population; and
 - 8) Implement a management information system.
-
-

FINDING

22. The Committee finds that placing female inmates in the same facility as male inmates is inappropriate.
-
-

ADMINISTRATIVE

23. Direct the Department to identify in its Master Plan the complete array of facilities needed to address the needs of females in Maine's correctional system as well as the number and most advisable location for these facilities.
-
-

ADMINISTRATIVE

24. Require the Department to establish criteria governing the use of inmate benefit welfare accounts and the student welfare fund which must incorporate the following points. To encourage policy discussion, require the Department to provide these criteria to the Select Committee on Corrections as well as proposed expenditures annually. The Legislature intends that some portion of each of these funds be

Other Issues

expended equitably between males and females in accordance with the guidelines each year.

and

STATUTORY 25. Require the Department to provide an accounting of all inmate benefit welfare accounts annually to the Legislature, including total income for the year, total expenditures, anticipated expenditures, and current balances in these accounts.

STATUTORY 26. Authorize the Commissioner to issue to qualified prisoners upon release funds equal to the net salary of a single wage earner with no dependents for 40 hours work at the state minimum wage less all applicable state and federal deductions provided that any amount in excess of \$50 may not be provided by the General Fund.

In addition to the recommendations listed above, the Committee took action to address the telecommunications network employed in the prison system, as indicated in the following memo.

SENATE

JOHN J. CLEVELAND, DISTRICT 22, CHAIR
M. IDA LUTHER, DISTRICT 8
CHARLES M. BEGLEY, DISTRICT 20



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STATE OF MAINE
ONE HUNDRED AND SIXTEENTH LEGISLATURE
COMMITTEE ON AUDIT AND PROGRAM REVIEW

MEMORANDUM

To: Carl Weston, Director Telecommunications Division 3090
From: Senator John Cleveland and Representative Phyllis Erwin
Date: March 2, 1994
Re: RFP for correctional telephone system

Thank you for meeting with the Committee last Monday. We wanted to follow-up and commit our understanding of the outcome of that meeting to paper, in order to avoid any future misunderstandings regarding expectations about how best to proceed with the RFP.

I. Prior to releasing the RFP, the Division of Telecommunications has agreed to amend the RFP to require vendors:

to provide telephone service in all State correctional institutions, for both local and long-distance calls, which accomplishes the dual objectives of a) ensuring the lowest cost possible to the recipient of the prisoners' calls and, b) at the same time, ensure that proper security measures are in place;

In order to achieve this goal, we expect the RFP to specifically request the following from prospective vendors:

1. The projected cost of meeting the objective above if the telephone commission were discontinued and not rebated to the State of Maine;

2. A list of any statutory changes in Maine law that may be required to meet the objective above; particularly in regard to the possible need to establish a telephone rate structure unique to correctional institutions in order to achieve the lowest possible cost to the recipient of the call.
3. A proposal for preceding each call made by an inmate with a pre-recorded preamble which alerts the call's potential recipient to the fact that the call is placed by an inmate in a correctional facility. Include the cost of providing this system or service;
4. A request for any other alternatives that may be feasible and suggested by the vendor in order to meet the objective above.

II. The Division of Telecommunications agrees to provide the Audit Committee with a copy of the RFP prior to the RFP's distribution and release to prospective vendors, in order to provide the Committee with an opportunity to suggest any changes in the RFP that may be warranted from the Committee's perspective;

III. The Division of Telecommunications agrees to transmit the vendors' proposals submitted in response to the RFP to the Audit Committee for the Audit Committee's review and consideration, well prior to the Division's final selection of the vendor to provide the service; and

IV. The Division agrees to provide the Committee with the membership of the RFP Selection Committee

Also, the Committee understands that the current RFP stresses that none of the proposals should include any additional costs to the Department of Corrections, and we concur with that admonition in regard to the above additional requests.

Please let us know if you disagree with any of the above points or if you have any questions of any kind. If we do not hear from you, we will assume that these are consistent with your own understanding and that the Division is prepared to comply in full.

cc. Don Allen, Commissioner of Corrections;

**BOARDS
AND
COMMISSIONS**

**[Unless otherwise noted, the statutory
recommendations are implemented by
PL 1993, c. 600.]**



GENERAL PROVISIONS

Recommendations in this section apply generally either to the 8 professional regulatory boards under review or to all internal and affiliated professional regulatory boards, as indicated.

STATUTORY

27.

Update the governing statutes of professional regulatory boards under review in order to eliminate archaic and gender-specific language and to employ language which correctly reflects the degree of regulation imposed by these boards on the regulated professionals.

STATUTORY

28.

Direct the Commissioner of the Department of Professional and Financial Regulation or the chief staff administrator for any professional regulatory board to collaborate with the Executive Department in preparing information for prospective board members regarding the purpose of regulatory boards and members' responsibilities. Commence distribution of information packets within 6 months of the effective date of the law.

General Provisions

ADMINISTRATIVE 29. Direct the Department of Professional and Financial Regulation to collaborate with both internal and affiliated boards to design and implement a standard orientation procedure for incoming and veteran board members. The procedure must include a schedule by which all members of boards will participate in the orientation. Also, the Department and the boards must distinguish between general orientation provisions to be transmitted by the Department and specific orientation provisions to be introduced by each individual board.

ADMINISTRATIVE 30. Direct the Commissioner of the Department of Professional and Financial Regulation and the chief staff administrator of each professional regulatory board to identify consumer oriented advocacy groups to the extent possible and inform these groups annually by mail of vacancies on regulatory boards and the means by which to suggest a nominee.

ADMINISTRATIVE 31. Require the Commissioner of the Department of Professional and Financial Regulation and the chief staff administrator of affiliated boards to notify the Governor's appointment secretary 3 months prior to the scheduled expiration of any board member's term or immediately following the vacancy of a board slot in order to facilitate filling of the vacancy.

General Provisions

STATUTORY 32. Require all internal and affiliated professional regulatory boards to develop a consumer rights brochure and to make the brochure available at no charge to the public in the offices of licensees. Furthermore, require all boards to promulgate rules to address any violation of this provision, including establishing appropriate enforcement action.

STATUTORY 33. Direct all boards to establish, through rule-making, a policy to address any violation of the law requiring licensees to make consumer rights brochures available in the licensees' offices.

STATUTORY 34. Require all complaints received by any professional regulatory board regarding that board's procedure to be filed by the board with the Office of Attorney General

General Provisions

STATUTORY 35. Standardize the appointment process for members of all internal and affiliated boards by clarifying that members serve until their successor is appointed, vacancies are filled for the expiration of the vacant term, and terms are counted from the date of expiration of the preceding term. Also ensure that terms must be adjusted so that no more than 1/3 of the members' terms expire in any one year.

STATUTORY 36. Authorize board members of any professional regulatory board to serve an unlimited number of terms by repealing all provisions limiting the number of terms that may be served.

STATUTORY 37. Within the limits of available resources, require all boards or commissions to join or subscribe to any national disciplinary record system used to track interstate movement of regulated professionals in order to improve regulatory oversight.

General Provisions

-
- ADMINISTRATIVE 38. To ensure adequate public access to each board, require that the Department of Professional and Financial Regulation publish its telephone number in the white pages of each Maine directory to serve as the number for internal boards and require that each affiliated board publish its telephone number in the white pages in each Maine telephone directory. Furthermore, direct the Department and each affiliated board to take all reasonable action to ensure that their respective telephone numbers are also listed in the "Maine Helpline" section in the front of every directory in the State.
-
- STATUTORY 39. Clarify that all informal conferences required by law to be held in Executive Session must comply with the provisions of the Freedom of Access law.
-
- STATUTORY 40. Clarify in statute that the sole purpose of a professional regulatory board is to protect the public health and welfare, that a board is created by the Legislature for no other reason, and that the value of a board is measured solely by its success in carrying out this mission.
-

General Provisions

STATUTORY

41. Update the language for the disciplinary infraction regarding habitual intemperance in the governing statutes for professional and occupational regulatory boards.
-

STATUTORY

42. Authorize automatic reappointment for acceptable board members and stipulate an outside date for making a reappointment in order to facilitate the appointment process, save time, money, and resources, and ensure that boards operate in accordance with Legislative intent.
-

BOARD OF CHIROPRACTIC LICENSURE

ADMINISTRATIVE 43. Develop an Examiners' Procedural Manual for use by board members during the practical examination of prospective licensees in order to provide standard guidelines and ensure consistency and objectivity.

ADMINISTRATIVE 44. Direct the board to document its findings, conclusions, analysis, and rationale in board minutes for the board's decisions on complaints. Develop a separate administrative form with which to record this same information prior to the close of each board meeting.

ADMINISTRATIVE 45. Direct the Board to promulgate in rule what actions constitute "unprofessional conduct" and then identify a certain threshold of unprofessional conduct on the part of a practitioner at or beyond which disciplinary action must be imposed by the board without discretion.

STATUTORY 46. Update the board's title to reflect the correct level of regulation administered by the board.

BOARD OF DENTAL EXAMINERS

STATUTORY 47. Authorize the board to set various fees by rule within a cap established in statute.

STATUTORY 48. Authorize the board to issue temporary licenses to dental hygienists who present credentials satisfactory to the board for the purposes established in board rule, to parallel a current provision available to dentists.

STATUTORY 49. Update and clarify the provision regarding penalty for unlicensed practice.

STATUTORY 50. Change the term of the dental hygienist member from 4 years to 5 in order to be consistent with the terms for dentists and the public member.

STATUTORY 51. Increase the number of years of practice required of a dental hygienist prior to eligibility for appointment to the board from 3 to 6.

Board of Dental Examiners

STATUTORY 52. Clarify that the Governor may accept nominations for prospective board members from professional dental associations and others but is not required to do so.

STATUTORY 53. Update language to reflect the board's current practice of employing a national or regional licensing examination, rather than an exam of its own crafting.

STATUTORY 54. Repeal the provision requiring the board to annually submit a list of persons to whom licenses have been granted to the Secretary of State because the provision is no longer necessary.

STATUTORY 55. Update various words and provisions in the dental board governing statute which clarifies meaning or is more consistent with Legislative intent.

STATUTORY 56. Add a nurse anesthetist to the list of professionals who are qualified to administer anesthesia for a dental operation.

Board of Dental Examiners

STATUTORY 57. Clarify that each dental office need not be registered with the board and that each office must be under the general supervision of a licensed dentist.

STATUTORY 58. Clarify that a license must be signed by all members of the board rather than solely its president and secretary, to conform with current practice.

STATUTORY 59. Clarify that a dentist is required to publicly display the dentist's license at all time.

STATUTORY 60. Clarify that the board is not mandated to reissue a practitioner's license who otherwise qualifies for renewal but who fails to remit the fee by the first statutory deadline and instead remits the fee within the statutory grace period.

STATUTORY 61. Provide the board with discretion to issue permits for internship based solely on the criteria of active licensure, as opposed to good standing or morality.

Board of Dental Examiners

STATUTORY

62.

Delete the requirement that prescriptions must be written on forms prescribed by the board to reflect current practice.

STATUTORY

63.

Repeal the requirement that the Commissioner of Professional and Financial Regulation provide technical assistance to the board for marking dentures in order to reflect current practice.

STATUTORY

64.

Clarify that radiographers may practice under the general supervision of a dentist to reflect current practice.

BOARD OF LICENSURE IN MEDICINE

STATUTORY

65.

Eliminate the position of Treasurer since the position is no longer functional as well as the provision requiring a corporate surety bond for the Treasurer.

STATUTORY

66.

PL 1993, c. 526

Base the relicensure trigger date on the month of the physician's birth in order to streamline board procedures and increase efficiency.

MAINE STATE BOARD OF NURSING

ADMINISTRATIVE 67. Direct the Board to review the impact of adult protective services investigations on nurses employed in long-term care facilities to ensure that the rights of all involved parties are protected.

STATUTORY 68. Broaden the options available to the board in addressing nursing education programs that fail to maintain required educational standards.

and

ADMINISTRATIVE 69. Direct the board to promulgate rules governing board authority in regard to nursing education programs that fail to maintain educational standards.

STATUTORY 70. Authorize the board to contract for goods or services determined necessary to accomplish its mandate.

STATUTORY 71. Clarify the purpose of the board in statute.

Maine State Board of Nursing

STATUTORY 72. Specify that the term of appointment for board members is 4 years rather than 5.

STATUTORY 73. Specify that one of the five nurse members of the board must currently be practicing long-term care nursing.

STATUTORY 74. Increase the cap for the licensure fee for a registered nurse and a licensed practical nurse in order to increase the board's latitude.

STATUTORY 75. Broaden the requirements for licensure in order to include various credentials awarded by nursing educational programs.

STATUTORY 76. Recognize the frequency with which licensure examinations will be offered via computer technology by repealing the requirement for at least one month notice prior to each examination.

NURSING HOME ADMINISTRATORS LICENSING BOARD

STATUTORY

77.

Revert to a 7 member board by deleting the hospital administrator position and retaining the new ICF/MR position to correct an oversight.

STATUTORY

78.

Clarify that a simple majority of the board constitutes a quorum.

STATE BOARD OF OPTOMETRY

STATUTORY 79. Continue the Board of Optometry for one year only under the provisions of the State Government, Evaluation and Justification Act.

ADMINISTRATIVE 80. Update the language employed in the application form for examination for licensure to practice optometry in Maine in order to make the language gender-neutral and consistent with present day convention.

STATUTORY 81. Affirm Legislative intent that active optometrists are subject to annual relicensure and repeal board authority to license office locations.

STATUTORY 82. Repeal the annual stipend authorized for the Board Secretary since it no longer reflects current job responsibilities.

STATUTORY 83. Repeal the provision establishing licensure by reciprocity since this mechanism is not employed and is no longer necessary.

State Board of Optometry

STATUTORY 84. Repeal the Board's authority to expend renewal fees to contract with institutions of higher learning to provide optometric educational programs because the authority is inappropriate and unnecessary.

STATUTORY 85. Repeal the prohibition against requiring a greater number of hours of continuing education than are available within the State of Maine because the prohibition is contrary to legislative intent.

STATUTORY 86. Increase the maximum number of hours of continuing education that the board may require from 20 to 30 hours per calender year.

STATUTORY 87. No longer require optometrists holding nonactive licenses to inform the board of intended office location as a condition of licensure reactivation.

STATUTORY 88. Clarify that the approval of the board is not necessary for an optometrist to practice under a business name which differs from the optometrist's given name on the license.

State Board of Optometry

STATUTORY 89. Repeal the prohibition against peddling optometric services house to house because the prohibition is unnecessary.

STATUTORY 90. Clarify that an optometrist may operate up to 3 offices for the practice of optometry without requiring the approval of the board.

STATUTORY 91. Amend the penalty for practicing without a license in order to be consistent with parallel provisions in other professional regulatory boards.

STATUTORY 92. Repeal two provisions regarding unauthorized practice because these provisions are already prohibited in a neighboring section regarding disciplinary action.

STATUTORY 93. Repeal the penalty provision regarding public aid ocular services because the penalty is incorporated in a general section.

State Board of Optometry

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- STATUTORY 94. Clarify the law regarding the use
of pharmaceutical agents by
optometrists.
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- ADMINISTRATIVE 95. Require the board to develop a
comprehensive and formal
complaint procedure in rule in
accordance with the
Administrative Procedures Act.
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- ADMINISTRATIVE 96. Require the board to promulgate a
protocol for receiving complaint
referrals from other
organizations and for referring
complaints outside of the board's
jurisdiction to the proper entity
for action.
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- ADMINISTRATIVE 97. Direct the board to design
clinical examination requirements
which are objective, fair, and
which measure relevant
professional capability only.
Publish objective written
criteria used by the board to
evaluate the practical
examination administered by the
board.
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State Board of Optometry

STATUTORY 98. Direct the board to offer the licensure examination two times per year rather than one time in order to accommodate prospective applicants.

STATUTORY 99. Increase the cap on licensure fees to \$200 in order to provide adequate revenue with which to operate the board.

ADMINISTRATIVE 100. Require the board to promulgate rules in accordance with the Administrative Procedure Act with which to administer these statutory changes to the board's governing statutes.

ADMINISTRATIVE 101. Require the board to submit a report to the Committee regarding the board's assessment of staffing and resources needs to ensure proper management and operation of the board.

ADMINISTRATIVE 102. Require the board to develop a written job description for its staff.

State Board of Optometry

STATUTORY 103. Reorganize the statute governing optometric regulation to improve clarity.

ADMINISTRATIVE 104. Require the board to develop and implement a formal computerized system of record-keeping and backup files.

STATUTORY 105. Change the location in current statute in which the board must meet at least once per year from the City of Augusta to within the Capitol area.

ADMINISTRATIVE 106. Require the board to publicize board meetings more effectively and to hold meetings in places readily accessible to the public.

ADMINISTRATIVE 107. Direct the board to publicize its meetings in the Weekly Legislative Calendar consistent with the practice of other professional regulatory boards.

State Board of Optometry

ADMINISTRATIVE 108. Require the board to promulgate rules to formally establish its complaint resolution process in accordance with the suggestions of the Attorney General's Office.

STATUTORY 109. Require applicants who have failed the licensure examination in 3 consecutive attempts to enroll in a course of continuing education as prescribed by the board in rule prior to taking the examination again.

BOARD OF OSTEOPATHIC LICENSURE

STATUTORY 110. Clarify that an applicant may not be licensed if the board finds that a cause exists against the applicant which would be considered grounds for disciplinary action if the applicant were a licensed professional.

STATUTORY 111. Authorize the Board to set a fee via rule-making for the reexamination of applicants, rather than specifying the fee in statute.

STATUTORY 112. Upgrade the ½-time position of Executive Secretary for the Board to a full-time position in order to accommodate the Board's need for administrative support.

ADMINISTRATIVE 113. Direct the Board to develop a financial planning process enabling the Board to project its income and expenditures through any succeeding two bienniums. Require the Board to present its financial planning process, plus its projected income and expenditures for the 1996-1997 and 1998-1999 bienniums, at the Committee's compliance hearing.

Board of Osteopathic Licensure

STATUTORY 114. Clarify that all members of the Board serve to protect the interests of consumers and that the three non-physician members of the Board are public members.

STATUTORY 115. Update the duties of the Board's Treasurer to reflect current practice of ensuring proper management of board finances.

STATUTORY 116. Clarify that the Board is required to distribute a copy of its Code of Ethics and information regarding continuing education as part of the biennial relicensure process.

STATUTORY 117. Clarify the nature of the Board's relationship with the Board of Registration in Medicine and the Attorney General's Office regarding legal and investigative resources in order to reflect current practice.

STATUTORY 118. Repeal the requirement that an additional staff member be assigned to complaint processing and licensure problems because this requirement is unnecessary.

Board of Osteopathic Licensure

STATUTORY 119. Clarify that a license to practice osteopathic medicine may be granted only by an affirmative vote of a majority of the Board.

STATUTORY 120. Strike the word "surgeon" in the governing statute since the word is redundant with the word "physician" and is unnecessary.

STATUTORY 121. Clarify that a physician assistant may not employ a supervisory physician for the purpose of subverting a requirement for practice.

STATUTORY 122. Repeal the requirement that the board set a reregistration fee annually since this requirement is not consistent with current practice and is unnecessary.

STATUTORY 123. Provide the board with limited discretion in the event of unusual circumstances regarding notification of a licensee of a complaint against the licensee.

BOARD OF LICENSURE OF PODIATRIC MEDICINE

STATUTORY 124. Internalize the Board of Licensure of Podiatric Medicine within the Department of Professional and Financial Regulation and increase caps on certain fees in order to stave off fiscal insolvency, allow the board to continue to function at satisfactory levels, and to maximize resources available to the board for minimum cost.

ADMINISTRATIVE 125. Retain the Board's liability for the debt owed to the Attorney General's office but do not remit payment pending the Committee's review of the status of the Board's budget in March 1994.

ADMINISTRATIVE 126. Throughout FY 1993-94, require the Board to make every effort to minimize costs and maximize revenue with the aim of balancing its budget as a board internal to the Department of Professional and Financial Regulation.

STATUTORY 127. Update the governing statute for podiatric medicine to broaden the scope of practice to include the human foot and ankle, ensure the board's administrative viability, and to reflect modern day practice, training, continuing education, and nationwide trends.

Board of Licensure of Podiatric Medicine

STATUTORY 128. Change the composition of the board to consist of 4 podiatrists and one public member, remove the provision requiring two members who are medical doctors, and reduce quorum requirement from 4 to 3.

STATUTORY 129. Clarify that a license to practice podiatry may not be granted except upon a affirmative vote of the majority of the board.

STATUTORY 130. Increase the licensure fee from \$100 to no more than \$200 in order to cover actual costs of examination and administration.

STATUTORY 131. Increase several fees, such as the license application fee and the license renewal fee, from no more than \$100 to no more than \$200 in order to cover actual costs.

STATUTORY 132. Clarify that a podiatrist seeking licensure in Maine by endorsement need not originate from a state which extends the same privilege and increase the application fee from \$100 to no more than \$200.

Board of Licensure of Podiatric Medicine

STATUTORY

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133. Clarify the board's authority to take disciplinary action against licensees by:
- requiring the board to investigate only signed written complaints;
 - allowing for unusual circumstances which might justify a delay in notifying a licensee that a complaint has been filed;
 - upgrading the legal standard employed for determining disciplinary action in the event of habitual substance abuse;
 - repealing a provision authorizing the board to regulate podiatric business practices; and
 - authorizing the board to impose disciplinary action for inappropriate prescription of drugs.
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STATUTORY

134. Clarify that the board may hold semi-annual meetings and other meetings as necessary rather than specifying certain months for meetings in statute.
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STATUTORY

135. Revise board provisions regarding late licensure fees in order to update board practice.
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Board of Licensure of Podiatric Medicine

STATUTORY 136. Update the penalty provision in the podiatry statutes in ensure consistency with other boards and to update the language.

STATUTORY 137. Update the powers and duties of the board to clarify the board's authority and responsibility to maintain records.

STATUTORY 138. Provide podiatrists who participate on peer review committees a degree of immunity from civil liability which parallels that currently provided to physicians and clarify law to reflect current medical practice.

OTHER COMMITTEES, COUNCILS, AND COMMISSIONS

MAINE CHILDREN'S TRUST INCORPORATED

STATUTORY 139. Reestablish the former "Maine Children's Trust Fund" as a private nonprofit corporation to prevent abuse and neglect of Maine children.

STATUTORY 140. Name the new nonprofit corporation "Maine Children's Trust Incorporated" in order to distinguish the corporation from the State account which is the Trust Fund.

**GOVERNOR'S COMMITTEE ON EMPLOYMENT OF PEOPLE
WITH DISABILITIES**

STATUTORY 141. Repeal the provision prohibiting a state employee from serving as chair of the Governor's Committee in order to maximize the talent and resources available to the Governor's Committee.

ADMINISTRATIVE 142. Amend the bylaws of the Governor's Committee to designate a board position to serve as alternate spokesperson for the Committee in the event the chair is unable to fulfill this function.

STATUTORY 143. Authorize the Governor's Committee to accept contributions of any type from any source to assist it in carrying out its responsibilities.

MAINE DEVELOPMENTAL DISABILITIES COUNCIL

STATUTORY

144.

Update the name of the "State Planning and Advisory Council on Developmental Disabilities" to the "Maine Developmental Disabilities Council".

MAINE INDIAN TRIBAL-STATE COMMISSION

STATUTORY 145. Authorize the Tribal-State
Commission to receive from the
State Controller a single
allotment for each fiscal year to
meet the estimated annual
disbursement requirements of the
Commission.

FINDING 146. The Committee finds that the per
diem available to Commission
members has been expended
judiciously.

FINDING 147. The Committee finds that the
Commission should vigorously
pursue all potential funding
sources available in order to
support the Commission's goal.

FINDING 148. The Committee finds that the
Commission should pursue funding
for the position of Wabanaki
Resources Coordinator in order to
further the Commission's goals.

FINDING 149. The Committee finds that the
Tribal portion of the
Commission's funding is audited
and managed appropriately,
including its deposition in a
private account separate from the
State accounting system.

MAINE MEDICAL LABORATORY COMMISSION

STATUTORY

150.

Repeal the Maine Medical
Laboratory Commission in order to
eliminate unnecessary bureaucracy
and regulation.

STATE GOVERNMENT EVALUATION AND JUSTIFICATION ACT

STATUTORY

151.

Continue the following independent agencies for ten years pursuant to the State Government Evaluation and Justification Act:

- Board of Chiropractic Examination and Registration (i.e. Board of Chiropractic Licensure);
 - Board of Dental Examiners;
 - Nursing Home Administrators Licensing Board;
 - Board of Registration in Medicine (i.e. Board of Licensure in Medicine);
 - State Board of Nursing;
 - Board of Osteopathic Examination and Registration (i.e. Board of Osteopathic Licensure);
 - Board of the Maine Children's Trust Fund;
 - Examiners of Podiatrists (i.e. Board of Licensure of Podiatric Medicine);
 - State Planning and Advisory Council on Developmental Disabilities (i.e. Maine Developmental Disabilities Council);
 - Maine Advisory Committee on Mental Retardation;
 - Governor's Committee on Employment of People with Disabilities; and
 - Capitol Planning Commission.
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State Government Evaluation and Justification Act

STATUTORY

152.

Update the State Government
Evaluation and Justification Act
to address errors and
inconsistencies.
