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Legislative Document

No. 1560

H.P. 1145

House of Representatives, May 10, 2011

An Act To Update Professional and Occupational Licensing Statutes

Submitted by the Department of Professional and Financial Regulation pursuant to Joint Rule 204.

Reference to the Committee on Labor, Commerce, Research and Economic Development suggested and ordered printed.

A handwritten signature in cursive script that reads "Heather J.R. Priest".

HEATHER J.R. PRIEST
Clerk

Presented by Representative PRESCOTT of Topsham.
Cosponsored by Senator RECTOR of Knox and
Representatives: DRISCOLL of Westbrook, HUNT of Buxton.

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

2 **PART A**

3 **Sec. A-1. 9 MRSA §5003, sub-§3**, as amended by PL 2007, c. 402, Pt. A, §2, is
4 further amended to read:

5 **3. Commercial co-venturer.** "Commercial co-venturer" means any person or entity
6 who, for profit, is regularly and primarily engaged in trade or commerce in this State,
7 other than in connection with the raising of funds for charitable organizations or
8 purposes, and who conducts a sale, performance, event or collection and sale of donated
9 goods that is advertised in conjunction with the name of any charitable organization. Any
10 such person or entity who will benefit in good will only may not be considered a
11 commercial co-venturer if the collection and distribution of the proceeds of the sale,
12 performance or event, or the collection and sale of donated goods, are supervised and
13 controlled by the benefiting charitable organization. Any such person or entity whose
14 annual contributions to charitable organizations do not exceed \$10,000 is exempt from
15 the licensure requirement under section 5002.

16 **Sec. A-2. 9 MRSA §5003, sub-§9**, as amended by PL 2003, c. 541, §4, is further
17 amended to read:

18 **9. Professional fund-raising counsel.** "Professional fund-raising counsel" means
19 any person or entity who is retained, for compensation, by a charitable organization to
20 plan, manage, advise or provide consultation services with respect to the solicitation in
21 this State of contributions, but who does not solicit contributions, has neither custody nor
22 control of contributions and does not directly or indirectly employ, procure or engage any
23 person or entity compensated to solicit contributions. A bona fide nontemporary salaried
24 officer or employee of a charitable organization is not considered to be a professional
25 fund-raising counsel. An attorney, investment counselor or banker who advises any
26 person to make a contribution to a charitable organization is not, as the result of such
27 advice, a professional fund-raising counsel.

28 **Sec. A-3. 9 MRSA §5004, sub-§3, ¶N**, as amended by PL 2007, c. 402, Pt. A,
29 §3, is further amended to read:

30 N. The total amount of money received as contributions during the organization's
31 preceding fiscal year and the dates of the fiscal year; ~~and~~

32 **Sec. A-4. 9 MRSA §5004, sub-§3, ¶P**, as enacted by PL 2003, c. 541, §7, is
33 amended to read:

34 P. A determination letter from the federal Internal Revenue Service, confirming the
35 tax-exempt status of the charitable organization; and

36 **Sec. A-5. 9 MRSA §5004, sub-§3, ¶Q** is enacted to read:

37 Q. Disclosure of, and the final disposition document pertaining to, any disciplinary
38 action taken against the applicant by a licensing, registration or regulatory authority
39 in any jurisdiction.

1 **Sec. A-6. 9 MRSA §5004, sub-§4, ¶D**, as amended by PL 2007, c. 402, Pt. A,
2 §3, is repealed and the following enacted in its place:

3 D. The complete packet for renewal of license application must include all the
4 requirements identified in subsection 3 as well as the following:

5 (1) The organization's most recent federal Internal Revenue Service Form 990
6 and Schedule A, federal Internal Revenue Service Form 990-EZ or federal
7 Internal Revenue Service Form 990-N, as required by the federal Internal
8 Revenue Service; and

9 (2) An audited financial statement of the organization's most recent audited fiscal
10 year, if one has been prepared in order to comply with the requirements of
11 another jurisdiction or otherwise exists. If an audited financial statement does
12 not exist, a balance sheet identifying assets and liabilities and an income
13 statement identifying revenues and expenditures may be substituted.

14 **Sec. A-7. 9 MRSA §5005-B, sub-§4** is enacted to read:

15 **4. Application subsequent to lapse of licensure.** An applicant whose prior license
16 was not renewed or was terminated must file, along with the application, an annual
17 fund-raising activity report for the most recent calendar year in which the applicant
18 conducted charitable solicitation activity within the United States.

19 **Sec. A-8. 9 MRSA §5008**, as amended by PL 2007, c. 402, Pt. A, §6, is further
20 amended to read:

21 **§5008. Licensure, license renewal, record retention and reporting by professional**
22 **solicitors, professional fund-raising counsel and commercial co-venturers**

23 **1. Licensure.** A person or entity may not act as a professional solicitor, a
24 professional fund-raising counsel or a commercial co-venturer before that person or entity
25 has received a license from the office. Applications for initial or renewal licensure must
26 be in writing, under oath, in the form prescribed by the office and accompanied by an
27 application fee and a license fee as set under section 5015-A. An applicant for initial or
28 renewal licensure shall disclose as part of the license application any disciplinary action
29 taken against the applicant or licensee by a licensing, registration or regulatory authority
30 in any jurisdiction and shall include the final disposition document pertaining to any such
31 disciplinary action with the application. The applicant, except for applicants that are
32 licensed as professional fund-raising counsel, shall, at the time of making application for
33 initial or renewal licensure, file with and must have approved by the office a bond, in
34 which the applicant must be the principal obligor and the State the obligee, in the sum of
35 \$25,000, with one or more responsible sureties whose liability in the aggregate as such
36 sureties at least equals that sum. The bond runs to any person or entity who may have a
37 cause of action against the principal obligor of the bond for any malfeasance or
38 misfeasance in the conduct of charitable solicitation in this State. Licensure is for a
39 period of one year.

40 **1-A. Renewal of license as professional solicitor, professional fund-raising**
41 **counsel or commercial co-venturer.** The following provisions govern application and

1 qualification for renewal licensure as a professional solicitor, professional fund-raising
2 counsel or commercial co-venturer.

3 A. An entity that holds a valid license must submit a completed application for
4 renewal before the date of expiration of the license.

5 B. An application may not be considered for approval until complete. If the
6 application is incomplete, the applicant must include a letter documenting the specific
7 reasons the application is incomplete. If no such letter is included, the incomplete
8 application may be returned for completion.

9 C. The complete application packet must include:

10 (1) All forms required in this section;

11 (2) Except for professional fund-raising counsel, a bond approved by the
12 department in the sum of \$25,000 with one or more responsible sureties whose
13 liability in the aggregate as such sureties at least equals that sum. The bond must
14 expire on the stated date of expiration and be kept on file in the office for 3 years;
15 and

16 (3) A license renewal fee as set under section 5015-A.

17 D. A professional solicitor or commercial co-venturer who submits a license renewal
18 application must submit:

19 (1) A bond in the sum of \$25,000 that expires on the stated date of expiration;

20 (2) A license renewal fee as set under section 5015-A; and

21 (3) The completed application.

22 G. A professional fund-raising counsel who is applying for license renewal must
23 submit:

24 (1) A license renewal fee as set under section 5015-A; and

25 (2) A completed renewal application.

26 **2. Records.** A professional solicitor, professional fund-raising counsel or
27 commercial co-venturer shall maintain accurate and complete books and records of fund-
28 raising activities and telephone solicitation scripts and shall keep those books and records
29 available for inspection by the Attorney General or the office for a period of 3 years after
30 the conclusion of each specific instance in which that person acts as a professional
31 solicitor, professional fund-raising counsel or commercial co-venturer.

32 **3-A. Annual fund-raising activity reports to be filed by professional solicitors,**
33 **professional fund-raising counsel and commercial co-venturers.** Filing of annual
34 fund-raising activity reports by professional solicitors, professional fund-raisers and
35 commercial co-venturers is governed by this subsection.

36 A. Each professional solicitor, professional fund-raising counsel or commercial
37 co-venturer shall file with the office an annual fund-raising activity report on a form
38 prescribed by the office at least 60 days prior to the license expiration date that

1 reflects data from the preceding calendar year. The report must state, at a minimum,
2 the following:

3 (1) The name, mailing address, telephone number and license number of the
4 professional solicitor, professional fund-raising counsel or commercial
5 co-venturer making the report;

6 (2) The name, mailing address, telephone number and license number of each
7 charitable organization with which the professional solicitor, professional fund-
8 raising counsel or commercial co-venturer has contracted;

9 (3) The date of any fund-raising campaign in which the professional solicitor,
10 professional fund-raising counsel or commercial co-venturer was involved;

11 (4) The total dollar amount raised during each fund-raising campaign;

12 (5) The total dollar amount remitted to the charitable organization from each
13 fund-raising campaign and for the year;

14 (6) The total dollar amount retained by the professional solicitor from each fund-
15 raising campaign and for the year;

16 (7) The total dollar amount received by the professional fund-raising counsel
17 from each fund-raising campaign and for the year; and

18 (8) The total dollar amount remitted by the commercial co-venturer from each
19 fund-raising campaign and for the year.

20 B. Failure to file the annual fund-raising activity report or disagreement between that
21 report and the report submitted by the charitable organization with which the
22 professional solicitor, professional fund-raising counsel or commercial co-venturer
23 has contracted may result in disciplinary action as provided under Title 10, section
24 8003, subsection 5-A.

25 C. Contracting with an unlicensed entity is prohibited and may result in disciplinary
26 action as provided under Title 10, section 8003, subsection 5-A.

27 D. An applicant whose prior license was not renewed or was terminated must file,
28 along with the application, an annual fund-raising activity report for the most recent
29 calendar year in which the applicant conducted charitable solicitation activity within
30 the United States.

31 **4. Exemption.** This section does not apply to a national bank, a federal savings
32 bank, a subsidiary of a national bank or federal savings bank or any other financial
33 institution or credit union chartered under the laws of the United States or any state and
34 subject to supervision and regulation by a federal financial regulatory agency.

35 **Sec. A-9. 9 MRSA §5012-A,** as amended by PL 2003, c. 541, §17, is further
36 amended to read:

37 **§5012-A. Commercial co-venturer disclosure**

38 A commercial co-venturer who is engaged in the solicitation of goods or services is
39 guilty of a deceptive and prohibited practice if that commercial co-venturer charges a

1 charitable organization a sum of money for the goods or services and the co-venturer's
2 services in the collection of those goods or services that far exceeds the fair market value
3 of those goods or services and the co-venturer's services. Such an action constitutes a
4 fraud against the charity and its donors. Fair market value may be established in any
5 commercially acceptable fashion including a comparison of the amount paid for similar
6 goods and services by a similar charity. Any promotional materials used by a
7 commercial co-venturer to disclose that a component of the purchase price of the goods
8 or services will accrue to the benefit of a charitable organization must also state either the
9 percentage of the purchase price or the dollar amount to be remitted. This section does
10 not apply to a national bank, a federal savings bank, a subsidiary of a national bank or
11 federal savings bank or any other financial institution or credit union chartered under the
12 laws of the United States or any state and subject to supervision and regulation by a
13 federal financial regulatory agency.

14 **Sec. A-10. 9 MRSA §5013, sub-§1**, as enacted by PL 1977, c. 488, §1, is
15 amended to read:

16 **1. Use of name; written consent.** ~~No~~ A person shall or entity may not, for the
17 purpose of soliciting contributions from persons or entities in this State, use the name of
18 any other person, ~~without the specific written consent of the other person or entity in a~~
19 misleading manner. This prohibition includes, but is not limited to, the publication of
20 endorsements purported to have been made by public or private individuals who have not,
21 in fact, provided written authorization for the use of their names for this purpose.

22 **Sec. A-11. 9 MRSA §5017**, as amended by PL 2007, c. 695, Pt. A, §10, is further
23 amended to read:

24 **§5017. Denial or refusal to renew license; disciplinary action**

25 The commissioner or the commissioner's designee may deny the license application,
26 refuse to renew the license or suspend or revoke the license of a person or an entity that
27 has been, or whose principals, officers, directors, employees or fundraisers have been,
28 convicted of, found guilty of, pled guilty or nolo contendere to or have been incarcerated
29 by any federal or state court for any felony or for any misdemeanor involving dishonesty,
30 including, but not limited to, fraud, theft, larceny, embezzlement or any crime arising
31 from the conduct of a solicitation for a charitable organization.

32 The commissioner or the commissioner's designee may deny a license, refuse to
33 renew a license or impose the disciplinary sanctions authorized under Title 10, section
34 8003, subsection 5-A for any of the reasons enumerated in Title 10, section 8003,
35 subsection 5-A, paragraph A.

36 **PART B**

37 **Sec. B-1. 10 MRSA §8001, sub-§38**, as amended by PL 2009, c. 344, Pt. B, §§1
38 to 5 and affected by Pt. E, §2 and amended by c. 369, Pt. A, §22, is further amended to
39 read:

1 **38. Office of Professional and Occupational Regulation.** Office of ~~Licensing and~~
2 ~~Registration~~ Professional and Occupational Regulation. The Office of ~~Licensing and~~
3 ~~Registration~~ Professional and Occupational Regulation is composed of the following:

- 4 A. Board of Accountancy;
- 5 D. Maine State Board for Licensure of Architects, Landscape Architects and Interior
- 6 Designers;
- 7 ~~E. Maine Athletic Commission;~~
- 8 F. Board of Licensing of Auctioneers;
- 9 H. Board of Chiropractic Licensure;
- 10 H-1. Board of Complementary Health Care Providers;
- 11 ~~I. Board of Driver Education;~~
- 12 J. Board of Counseling Professionals Licensure;
- 13 K. Board of Licensing of Dietetic Practice;
- 14 L. Electricians' Examining Board;
- 15 M. Board of Licensure of Foresters;
- 16 N. State Board of Funeral Service;
- 17 O. State Board of Certification for Geologists and Soil Scientists;
- 18 Q. Board of Licensure for Professional Land Surveyors;
- 19 R. Manufactured Housing Board;
- 20 S. Nursing Home Administrators Licensing Board;
- 21 T. Board of Occupational Therapy Practice;
- 22 V. Maine Board of Pharmacy;
- 23 W. Board of Examiners in Physical Therapy;
- 24 Y. Plumbers' Examining Board;
- 25 Z. Board of Licensure of Podiatric Medicine;
- 26 AA. State Board of Examiners of Psychologists;
- 27 BB. Radiologic Technology Board of Examiners;
- 28 CC. Board of Real Estate Appraisers;
- 29 DD. Board of Respiratory Care Practitioners;
- 30 EE. State Board of Social Worker Licensure;
- 31 GG. State Board of Alcohol and Drug Counselors;
- 32 HH. State Board of Veterinary Medicine;
- 33 JJ. Real Estate Commission;

- 1 KK. Board of ~~Boiler Rules~~ Boilers and Pressure Vessels;
- 2 LL. Board of Elevator and Tramway Safety;
- 3 MM. Board of ~~Speech language Pathology~~ Speech, Audiology and Hearing Aid
- 4 ~~Dealing and Fitting~~; and
- 5 NN. Maine Fuel Board.

6 The Office of ~~Licensing and Registration~~ Professional and Occupational Regulation also
7 administers the following regulatory functions: licensure of athletic trainers; licensure of
8 massage therapists; licensure of interpreters for the deaf and hard-of-hearing; licensure of
9 persons pursuant to the Charitable Solicitations Act; licensure of transient sellers,
10 including door-to-door home repair transient sellers; and licensure of persons pursuant to
11 the Barbering and Cosmetology Licensure Act.

12 **Sec. B-2. 10 MRSA §8003, sub-§5-A**, as amended by PL 2009, c. 112, Pt. B, §4,
13 is further amended to read:

14 **5-A. Authority of Office of Professional and Occupational Regulation.** In
15 addition to authority otherwise conferred, unless expressly precluded by language of
16 denial in its own governing law, the Office of ~~Licensing and Registration~~ Professional
17 and Occupational Regulation, referred to in this subsection as "the office," including the
18 licensing boards and commissions and regulatory functions within the office, have the
19 following authority.

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

- 23 (1) The practice of fraud, deceit or misrepresentation in obtaining a license from
24 a bureau, office, board or commission, or in connection with services rendered
25 while engaged in the occupation or profession for which the person is licensed;
- 26 (2) Any gross negligence, incompetence, misconduct or violation of an
27 applicable code of ethics or standard of practice while engaged in the occupation
28 or profession for which the person is licensed;
- 29 (3) Conviction of a crime to the extent permitted by Title 5, chapter 341;
- 30 (4) Any violation of the governing law of an office, board or commission;
- 31 (5) Any violation of the rules of an office, board or commission;
- 32 (6) Engaging in any activity requiring a license under the governing law of an
33 office, board or commission that is beyond the scope of acts authorized by the
34 license held;
- 35 (7) Continuing to act in a capacity requiring a license under the governing law of
36 an office, board or commission after expiration, suspension or revocation of that
37 license;
- 38 (8) Aiding or abetting unlicensed practice by a person who is not licensed as
39 required by the governing law of an office, board or commission;

1 (9) Noncompliance with an order or consent agreement of an office, board or
2 commission;

3 (10) Failure to produce any requested documents in the licensee's possession or
4 under the licensee's control concerning a pending complaint or proceeding or any
5 matter under investigation; or

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

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

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

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

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

21 (4) Revocation of a license;

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

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

34 C. The office, board or commission may execute a consent agreement that resolves a
35 complaint or investigation without further proceedings. Consent agreements may be
36 entered into only with the consent of the applicant or licensee; the office, board or
37 commission; and the Department of the Attorney General. Any remedy, penalty or
38 fine that is otherwise available by law, even if only in the jurisdiction of the Superior
39 Court, may be achieved by consent agreement, including long-term suspension and
40 permanent revocation of a professional or occupational license. A consent agreement
41 is not subject to review or appeal and may be modified only by a writing executed by
42 all parties to the original consent agreement. A consent agreement is enforceable by
43 an action in Superior Court.

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- 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~~ Professional and Occupational Regulation 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

1 confidential. The office, board or commission may place letters of guidance or
2 concern, together with any underlying complaint, report and investigation materials,
3 in a licensee's file for a specified period of time, not to exceed 10 years. Any letters,
4 complaints and materials placed on file may be accessed and considered by the
5 office, board or commission in any subsequent action commenced against the
6 licensee within the specified time frame. Complaints, reports and investigation
7 materials placed on file are confidential only to the extent that confidentiality is
8 required pursuant to Title 24, chapter 21.

9 G. The office, board or commission may establish, by rule, procedures for licensees
10 in another state to be licensed in this State by written agreement with another state,
11 by entering into written licensing compacts with other states or by any other method
12 of license recognition considered appropriate that ensures the health, safety and
13 welfare of the public. Rules adopted pursuant to this paragraph are routine technical
14 rules pursuant to Title 5, chapter 375, subchapter 2-A.

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

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

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

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

30 Rules adopted to govern judicial appeals from agency action apply to cases brought under
31 this subsection.

32 In the event of appeal to Superior Court from any form of discipline imposed pursuant to
33 this subsection, including denial or nonrenewal of a license, the office, board or
34 commission may assess the licensed person or entity for the costs of transcribing and
35 reproducing the administrative record.

36 **Sec. B-3. 10 MRSA §8003-C, sub-§4**, as amended by PL 2009, c. 465, §5, is
37 further amended to read:

38 **4. Unlicensed practice; civil penalties.** Any person who practices or represents to
39 the public that the person is authorized to practice a profession or trade or engage in an
40 activity that requires a license without first obtaining a license as required by the laws
41 relating to a board, commission or regulatory function identified in section 8001,
42 subsection 38 or section 8001-A or after the license has expired or has been suspended or
43 revoked commits a civil violation punishable by a fine of not less than \$1,000 but not

1 more than \$5,000 for each violation. An action under this subsection may be brought in
2 District Court or, in combination with an action under subsection 5, in Superior Court.

3 **Sec. B-4. 10 MRSA §8003-D**, as amended by PL 2009, c. 465, §6, is further
4 amended to read:

5 **§8003-D. Investigations; enforcement duties; assessments**

6 When there is a finding of a violation, a board ~~or commission~~ affiliated with the
7 department identified in ~~section 8001, subsection 38 or section 8001-A or the Office of~~
8 ~~Licensing and Registration with regard to a regulatory function identified in section 8001,~~
9 ~~subsection 38 administered by the office~~ may assess the licensed person or entity for all
10 or part of the actual expenses incurred by the board, ~~commission, Office of Licensing and~~
11 ~~Registration or their~~ its agents for investigations and enforcement duties performed.

12 "Actual expenses" include, but are not limited to, travel expenses and the
13 proportionate part of the salaries and other expenses of investigators or inspectors, hourly
14 costs of hearing officers, costs associated with record retrieval and the costs of
15 transcribing or reproducing the administrative record.

16 The board, ~~commission or Office of Licensing and Registration~~, as soon as feasible
17 after finding a violation, shall give the licensee notice of the assessment. The licensee
18 shall pay the assessment in the time specified by the board, ~~commission or Office of~~
19 ~~Licensing and Registration~~, which may not be less than 30 days.

20 **Sec. B-5. Maine Revised Statutes amended; revision clause.** Wherever in
21 the Maine Revised Statutes the words "Office of Licensing and Registration" appear or
22 reference is made to that entity or those words, they are amended to read "Office of
23 Professional and Occupational Regulation" and the Revisor of Statutes shall implement
24 this revision when updating, publishing or republishing the statutes.

25 **PART C**

26 **Sec. C-1. 32 MRSA §286, sub-§7**, as enacted by PL 1999, c. 146, §5, is amended
27 to read:

28 **7. Assistants.** This chapter does not apply to a person assisting the auctioneer in
29 conducting the auction sale ~~provided if~~ if the auctioneer is physically present and assumes
30 full responsibility for the auction sale. The assistant may not be a person who has had an
31 auctioneer license denied, suspended or revoked in this State or in any other state.

32 **Sec. C-2. 32 MRSA §291-A, sub-§2**, as enacted by PL 2007, c. 402, Pt. G, §7, is
33 amended to read:

34 **2. Record-keeping violations.** Failure to comply with or properly maintain records
35 required by Title 30-A, section 3971; ~~or~~

36 **Sec. C-3. 32 MRSA §291-A, sub-§3**, as enacted by PL 2007, c. 402, Pt. G, §7, is
37 amended to read:

1 **3-A. Journeyman-in-training electrician.** "Journeyman-in-training electrician"
2 means a person making electrical installations in the employment of a master electrician,
3 limited electrician or electrical company and under the indirect supervision of a
4 ~~journeyman~~, limited or master electrician.

5 **Sec. F-3. 32 MRSA §1101, sub-§4,** as amended by PL 1995, c. 325, §4, is
6 further amended to read:

7 **4. Journeyman electrician.** "Journeyman electrician" means a person making
8 electrical installations in the employment and under the indirect supervision of a master
9 electrician, limited electrician or electrical company.

10 **Sec. F-4. 32 MRSA §1101, sub-§4-A,** as amended by PL 2007, c. 402, Pt. I, §2,
11 is further amended to read:

12 **4-A. Supervision.** One apprentice electrician or one helper electrician may work
13 with and under the direct supervision of each master electrician, limited electrician or
14 journeyman electrician. A master electrician who teaches an electrical course at a Maine
15 career and technical education center, a Maine career and technical education region, a
16 Maine community college or an apprenticeship program registered by the Department of
17 Labor may have a maximum of 12 helper or apprentice electricians under direct
18 supervision while making electrical installations that are a part of the instructional
19 program of the school or apprenticeship program, as long as the total value of each
20 installation does not exceed \$5,000. An electrical installation may not be commenced
21 pursuant to this subsection without the prior approval of the director or president of the
22 school or apprenticeship program at which the master electrician is an instructor. These
23 installations are limited to those done in buildings or facilities owned or controlled by:

24 A. School administrative units; and

25 B. Nonprofit organizations.

26 The Electricians' Examining Board and the municipal electrical inspector of the
27 municipality in which the installation is to be made, if the municipality has an inspector,
28 must be notified of all installation projects entered into pursuant to this subsection prior to
29 the commencement of the project. There must be an inspection by a state electrical
30 inspector or by the municipal electrical inspector of the municipality in which the
31 installation has been made, if the municipality has an inspector, before any wiring on the
32 project is concealed.

33 **Sec. F-5. 32 MRSA §1102-A,** as amended by PL 2009, c. 344, Pt. D, §§7 and 8
34 and affected by Pt. E, §2, is repealed.

35 **Sec. F-6. 32 MRSA §1102-B, sub-§1,** as enacted by PL 1981, c. 432, §2, is
36 amended to read:

37 **1. Permits required.** Except as otherwise provided in this section, no electrical
38 equipment may be installed or altered unless the person making the installation first
39 obtains a permit from the ~~Electrician's Examining Board~~ board.

1 **Sec. F-7. 32 MRSA §1102-B, sub-§2**, as amended by PL 2001, c. 323, §17, is
2 further amended to read:

3 **2. Application procedure.** An application for a permit must be made in a form
4 ~~prescribed~~ provided by the board together with any plans, specifications or schedules the
5 board may require. If the board determines that the installation or alteration planned is in
6 compliance with all applicable statutes, ordinances and rules, it shall issue a permit;
7 ~~provided that~~ if the fee required under subsection 4 has been paid.

8 **Sec. F-8. 32 MRSA §1102-B, sub-§3**, as amended by PL 1999, c. 386, Pt. F, §9,
9 is further amended to read:

10 **3. Inspection required.** ~~When the installation or alteration is completed, the person~~
11 An inspection is required before the electrical wiring is enclosed by the building
12 construction. The electrician making the installation or alteration shall notify the state
13 electrical inspector when the installation is ready for inspection. The inspector shall
14 inspect the installation within a reasonable time so as not to cause undue delay in the
15 progress of the construction contract or installation. The inspector shall determine
16 whether the installation complies with all applicable statutes, ordinances and rules. If the
17 inspector determines that the installation does not so comply, the procedures set forth in
18 section 1104 apply. Any utility corporation must require proof of permit prior to
19 connecting power to the installation.

20 **Sec. F-9. 32 MRSA §1104-A**, as amended by PL 1991, c. 531, §8, is further
21 amended to read:

22 **§1104-A. Failure to comply with order of inspector**

23 If the owner or occupant of any building or the electrician who performed the work
24 neglects or refuses without justification for more than 10 days to comply with any order
25 of a state electrical inspector concerning electrical installations as provided in this
26 chapter, that person commits a civil violation for which a ~~forfeiture~~ fine of not less than
27 \$100 for each day's neglect may be adjudged.

28 **Sec. F-10. 32 MRSA §1105, sub-§4**, as enacted by PL 2003, c. 452, Pt. R, §3
29 and affected by Pt. X, §2, is amended to read:

30 **4. Exception.** Subsection 1 does not apply to a person, firm or corporation or work
31 excepted under section 1102 or ~~1102-A~~ 1201-A.

32 **Sec. F-11. 32 MRSA §1201**, as amended by PL 1995, c. 325, §11, is further
33 amended to read:

34 **§1201. License required**

35 ~~No~~ An electrical ~~installations~~ installation may not be made unless by an electrician or
36 other person licensed by the board except as provided in this chapter. ~~No~~ A person may
37 not perform any electrical installations on behalf of an electrical company unless the
38 company is licensed as provided in ~~this chapter~~ section 1202, subsection 5.

1 **Sec. F-12. 32 MRSA §1201-A** is enacted to read:

2 **§1201-A. Exceptions to licensing requirements**

3 All electrical installations must comply with the National Electrical Code that is in
4 effect at the time of the installation. The licensing provisions of this chapter do not apply
5 to the entities, persons and licensees enumerated in this section:

6 **1. Industrial plants.** Industrial plants and regular employees of industrial plants
7 making electrical installations in or about the industrial plant;

8 **2. Other properties of industrial and manufacturing plants.** Other properties of
9 industrial and manufacturing plants and regular employees of other properties of
10 industrial or manufacturing plants making electrical installations in, on or about other
11 properties, equipment or buildings, residential or of any other kind, owned or controlled
12 by the operators of industrial or manufacturing plants, as long as such work is done under
13 the supervision of an electrical engineer in the employ of the operator;

14 **3. Manufacturing plants.** Manufacturing plants and regular employees of
15 manufacturing plants making electrical installations in the manufacture, testing or repair
16 of electrical equipment in the manufacturing plant;

17 **4. Low-energy installers.** Individuals or employees installing telephone, telegraph,
18 cable and closed-circuit television, data communication and sound equipment;

19 **5. Certain laboratories.** A person making an installation in a suitable laboratory of
20 exposed electrical wiring for experimental purposes only;

21 **6. Elevator mechanics.** A person licensed under chapter 133 subject to the
22 restrictions of the license as issued;

23 **7. Oil burner technicians.** A person licensed under chapter 139 subject to the
24 restrictions of the license as issued;

25 **8. Propane and natural gas installers.** A person licensed under chapter 139, when
26 installing propane and natural gas utilization equipment, subject to the restrictions of that
27 person's license;

28 **9. Plumbers.** A person licensed under chapter 49, except that this exemption applies
29 only to disconnection and connection of electrical conductors required in the replacement
30 of water pumps and water heaters of the same or smaller size in residential properties;

31 **10. Pump installers.** A person licensed under chapter 69-C, except that this
32 exception applies only to disconnection and connection of electrical conductors required
33 in the replacement of water pumps of the same or smaller size in residential properties
34 and the installation of new water pumps and associated equipment of 3 horsepower or
35 smaller; or

1 Foreign trained applicants must receive approval to sit for the examination from
2 NBCOT in order to be eligible for a temporary license.

3 No more than one temporary license may be granted to a person who has completed
4 the education requirements of this chapter. This license allows the holder to practice
5 occupational therapy under the supervision of a licensed occupational therapist. This
6 license must be issued for a term of 6 months and may be renewed for an additional 6
7 months at the discretion of the board.

8 PART H

9 **Sec. H-1. 32 MRSA §6208-A, sub-§1**, as amended by PL 2007, c. 402, Pt. U,
10 §5, is further amended to read:

11 **1. Membership.** The State Board of Alcohol and Drug Counselors, as established
12 by Title 5, section 12004-A, subsection 41, consists of ~~9~~ 5 members. ~~Seven members are~~
13 ~~appointed by the Governor. One member must be the Director of the Office of Substance~~
14 ~~Abuse or a designee. One member, appointed by the Chancellor of the University of~~
15 ~~Maine System, must be a member of the university faculty involved in the training of~~
16 ~~substance abuse or alcohol and drug counselors. Of these 9~~ 5 members, ~~5~~ 4 members
17 must be licensed alcohol and drug counselors and ~~2 members~~ one member must be a
18 public ~~members~~ member as defined in Title 5, section 12004-A.

19 **Sec. H-2. Terms.** Notwithstanding any other provision of law, the terms of
20 members of the State Board of Alcohol and Drug Counselors that are not consistent with
21 the Maine Revised Statutes, Title 32, section 6208-A, subsection 1 as determined by the
22 Governor terminate on the effective date of this Part.

23 PART I

24 **Sec. I-1. 32 MRSA §9707**, as amended by PL 1989, c. 450, §42, is further
25 amended to read:

26 **§9707. Temporary license**

27 No more than one temporary license may be granted to a person who has completed
28 the ~~educational~~ education requirements of this chapter. This license allows the holder to
29 practice respiratory care under the ~~direct~~ supervision of a licensed respiratory care
30 practitioner. This license ~~shall~~ must be issued for a term of ~~one year~~ 90 days and may be
31 extended for ~~not more than~~ an additional ~~one year period~~ 90 days at the discretion of the
32 board.

33 PART J

34 **Sec. J-1. 32 MRSA §13173, sub-§6**, as amended by PL 1999, c. 129, §7 and
35 affected by §16, is further amended to read:

36 **6. Branch office.** Other locations ~~where real estate brokerage business is regularly~~
37 ~~conducted or~~ that are advertised as locations where the public may contact the agency or

1 its employees concerning brokerage services must be licensed as a branch office. ~~In order~~
2 ~~to qualify for a branch office license, the agency designated broker may designate another~~
3 ~~broker to act as branch manager, in which case the manager has designated broker~~
4 ~~responsibilities for that office.~~

5 **Sec. J-2. 32 MRSA §13177-A, sub-§2**, as enacted by PL 2005, c. 378, §4 and
6 affected by §29, is amended to read:

7 **2. Written agreements.** A brokerage agreement between a real estate brokerage
8 agency and a client must be in writing and, at a minimum, include the following:

- 9 A. The signature of the client to be charged;
- 10 B. The terms and conditions of the brokerage services to be provided;
- 11 C. The method or amount of compensation to be paid; ~~and~~
- 12 D. The date upon which the agreement will expire; and
- 13 E. A statement that the agreement creates an agency-client relationship.

14 A brokerage agreement may not be enforced against any client who in good faith
15 subsequently engages the services of another real estate brokerage agency following the
16 expiration date of the first brokerage agreement. Any brokerage agreement provision
17 extending a real estate brokerage agency's right to a fee following expiration of the
18 brokerage agreement may not extend that right beyond 6 months.

19 **PART K**

20 **Sec. K-1. 32 MRSA §13741**, as amended by PL 2007, c. 402, Pt. DD, §17, is
21 repealed.

22 **PART L**

23 **Sec. L-1. 32 MRSA §14011, sub-§7** is enacted to read:

24 **7. Exemption from standard.** The following are exempt from the requirements of
25 the Uniform Standards of Professional Appraisal Practice, Standard 3 (2011):

- 26 A. A board member serving in the capacity of assigned complaint officer while
27 performing an investigation or testifying at an adjudicatory hearing;
- 28 B. A board member serving in the capacity of reviewer while reviewing the work
29 experience of an applicant for licensure; and
- 30 C. An investigator employed by or retained by the department while performing an
31 investigation or testifying at an adjudicatory hearing.

32 **Sec. L-2. 32 MRSA §14035, sub-§2, ¶A**, as enacted by PL 2005, c. 518, §6, is
33 amended to read:

- 34 A. Hold a bachelor's or higher degree from an accredited college or university or
35 have successfully passed 30 semester credit hours in the following college-level

1 subject matter courses from an accredited college, junior college, community college
2 or university:

- 3 (1) English composition;
- 4 (2) Microeconomics;
- 5 (3) Macroeconomics;
- 6 (4) Finance;
- 7 (5) Algebra, geometry or higher mathematics;
- 8 (6) Statistics;
- 9 (7) ~~Introduction to computers~~ Computers, word processing and spreadsheets;
- 10 (8) Business or real estate law; and
- 11 (9) Two elective courses in accounting, geography, agricultural economics,
12 business management or real estate.

13 An applicant may receive credit for a college course for an exam taken through a
14 college-level examination program if a college or university accredited by a
15 commission on colleges, a regional or national accreditation association or an
16 accrediting agency that is recognized by the United States Secretary of Education
17 accepts the exam and issues a transcript showing its approval;

18 **Sec. L-3. 32 MRSA §14036, sub-§2, ¶A**, as enacted by PL 2005, c. 518, §7, is
19 amended to read:

20 A. Hold an associate's or higher degree from an accredited college or university or
21 have successfully passed 21 semester credit hours in the following collegiate level
22 subject matter courses from an accredited college, junior college, community college
23 or university:

- 24 (1) English composition;
- 25 (2) Principles of microeconomics or macroeconomics;
- 26 (3) Finance;
- 27 (4) Algebra, geometry or higher mathematics;
- 28 (5) Statistics;
- 29 (6) ~~Introduction to computers~~ Computers, word processing and spreadsheets; and
- 30 (7) Business or real estate law.

31 An applicant may receive credit for a college course for an exam taken through a
32 college-level examination program if a college or university accredited by a
33 commission on colleges, a regional or national accreditation association or an
34 accrediting agency that is recognized by the United States Secretary of Education
35 accepts the exam and issues a transcript showing its approval;

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PART M

Sec. M-1. 32 MRSA §14202, sub-§3-A, as amended by PL 2009, c. 369, Pt. B, §2, is further amended to read:

3-A. Demonstrator. "Demonstrator" means a person who is licensed to practice cosmetology, barbering, limited barbering, aesthetics or ~~manicuring~~ nail technology and engages in performing demonstrations outside establishments licensed by the director in the use of machines, articles or techniques pertaining to practices licensed under this chapter. The term "demonstrator" does not include one who performs demonstrations solely for persons currently licensed to practice cosmetology, barbering, limited barbering, aesthetics or ~~manicuring~~ nail technology under this chapter or under the licensing provision of any other state.

Sec. M-2. 32 MRSA §14202, sub-§5-A is enacted to read:

5-A. Limited barbering. "Limited barbering" means any one or any combination of the following practices, when done for hire or compensation, upon the head of the human body for cosmetic purposes and not for the treatment of disease or physical or mental ailments:

- A. Shaving, trimming or cutting the beard or mustache or removing superfluous hair;
- B. Massaging of the scalp, face and neck and giving a facial and scalp treatment with creams, lotions, oils and other cosmetic preparations, either by hand or mechanical appliances, but such appliances may not be galvanic or faradic;
- C. Shampooing or applying hair tonics and conditioners;
- D. Cutting, arranging and styling the human hair; or
- E. Cutting, fitting or styling hairpieces or wigs.

Sec. M-3. 32 MRSA §14202, sub-§10, as enacted by PL 1991, c. 397, §6, is amended to read:

10. Nail technology. "~~The practice of manicuring~~ Nail technology," which includes manicuring and pedicuring services, means the performance by any person for hire or compensation of any one or more of the following practices:

- A. Applying the hands or mechanical or electrical apparatus with or without cosmetic preparations, lotions, creams or antiseptics to cut, trim, shape, ~~pedicure~~, polish, color, tint or apply artificial nails to the nails of any person or to massage, cleanse or beautify the hands or feet of any person.

Sec. M-4. 32 MRSA §14202, sub-§10-A, as enacted by PL 2007, c. 402, Pt. HH, §1, is amended to read:

10-A. School. "School" means a school or ~~learning~~ education institution where a program of study in cosmetology, barbering, limited barbering, aesthetics or ~~manicuring~~ nail technology or the instruction of cosmetology, barbering, limited barbering, aesthetics or ~~manicuring~~ nail technology is offered or taught.

1 **Sec. M-5. 32 MRSA §14202, sub-§11**, as amended by PL 2009, c. 369, Pt. B,
2 §4, is further amended to read:

3 **11. Student.** "Student" means any person duly enrolled in a school licensed by the
4 director and engaged in learning and acquiring a knowledge of the practice of:

- 5 A. Cosmetology;
- 6 B. Barbering or limited barbering;
- 7 C. Aesthetics; ~~or~~
- 8 D. ~~Manicuring.~~ Nail technology; or
- 9 E. Instructing.

10 **Sec. M-6. 32 MRSA §14202, sub-§13**, as amended by PL 2009, c. 369, Pt. B,
11 §5, is further amended to read:

12 **13. Trainee.** "Trainee" means any person who, under the direct supervision of a
13 person licensed under this chapter in the same category as the training performed and in
14 accordance with rules adopted by the director, is engaged in learning and acquiring a
15 knowledge of the practice of:

- 16 A. Cosmetology;
- 17 B. Barbering or limited barbering;
- 18 C. Aesthetics; or
- 19 D. ~~Manicuring.~~ Nail technology.

20 **Sec. M-7. 32 MRSA §14203, sub-§2**, as amended by PL 2009, c. 211, Pt. B, §29
21 and c. 369, Pt. B, §6, is further amended to read:

22 **2. Exceptions.** The practice of cosmetology, barbering, limited barbering, aesthetics
23 or ~~manicuring~~ nail technology may be carried on only by persons duly licensed to
24 practice in this State and only in an establishment licensed by the director, except as
25 provided in this subsection. Duly licensed persons may practice their respective
26 practices:

- 27 A. On patients in hospitals or nursing homes;
- 28 B. On residents of youth camps;
- 29 C. On inmates or residents of institutions of the Department of Health and Human
30 Services;
- 31 D. On invalids or handicapped persons in those persons' places of residence;
- 32 E. On residents of nursing homes;
- 33 F. On hotel or motel occupants in their hotel or motel rooms;
- 34 G. On persons in their residences;
- 35 H. On persons in their private businesses;

- 1 I. On human remains in licensed funeral establishments; and
2 J. On persons at special events with a special event services permit. Services
3 rendered pursuant to this paragraph must be rendered for compensation. A person
4 may not perform special event services without first obtaining a special event
5 services permit from the director. The services provided pursuant to the special event
6 services permit must comply with any applicable public health and safety
7 requirements, the requirements of this chapter and all federal, state and local laws.

8 **Sec. M-8. 32 MRSA §14204**, as amended by PL 2009, c. 369, Pt. B, §7, is further
9 amended to read:

10 **§14204. Instructors**

11 A person may not instruct in any of the branches of aesthetics, barbering, limited
12 barbering, cosmetology or ~~manicuring~~ nail technology unless that person holds a valid
13 license to practice and is authorized to instruct in each respective practice issued under
14 this chapter, except that when specifically authorized by law, physicians may instruct
15 without holding a license to practice in a branch of aesthetics, barbering, limited
16 barbering, cosmetology or ~~manicuring~~ nail technology.

17 Upon satisfactory completion of an instructor examination, the applicant must pay the
18 fee as set under section 14238 to be ~~authorized~~ licensed to instruct.

19 **Sec. M-9. 32 MRSA §14205, sub-§1**, as amended by PL 2007, c. 402, Pt. HH,
20 §6, is further amended to read:

21 **1. Penalties.** A person is subject to the provisions of section 14236-A and Title 10,
22 section ~~8003-C~~ 8003, subsection 5-A if that person:

23 A. Practices barbering, limited barbering, cosmetology, ~~manicuring~~ nail technology
24 or aesthetics in this State without having obtained a license as provided by this
25 chapter;

26 B. Employs a person to practice barbering, limited barbering, cosmetology,
27 ~~manicuring~~ nail technology or aesthetics who does not have a license, ~~unless that~~
28 ~~person is a trainee within the meaning of this chapter~~; or

29 C. Falsely professes to be qualified to practice or instruct barbering, limited
30 barbering, cosmetology, ~~manicuring~~ nail technology or aesthetics under this chapter.

31 **Sec. M-10. 32 MRSA §14212-A, sub-§2, ¶A**, as enacted by PL 2009, c. 369, Pt.
32 B, §10, is amended to read:

33 A. Requirements for the licensure of aestheticians, barbers, limited barbers,
34 cosmetologists, ~~manicurists~~ nail technicians, demonstrators, instructors, ~~students~~ and
35 trainees;

36 **Sec. M-11. 32 MRSA §14224, sub-§1**, as amended by PL 1993, c. 630, Pt. B,
37 §15, is further amended to read:

1 **1. Practice; license required.** A person may not practice cosmetology, barbering,
2 ~~manicuring limited barbering, nail technology~~ or aesthetics or act as a trainee in this State
3 unless that person has first obtained a license as provided in this chapter ~~or unless that~~
4 ~~person is acting within the scope of employment as a trainee.~~

5 **Sec. M-12. 32 MRSA §14224, sub-§2,** as amended by PL 2009, c. 369, Pt. B,
6 §11, is further amended to read:

7 **2. Operation of shop; license required.** A person, firm or corporation may not
8 provide services in, operate or cause to be operated a shop where cosmetology, barbering,
9 ~~manicuring limited barbering, nail technology~~ or aesthetics is practiced unless that shop
10 has been duly licensed by the director. A license issued pursuant to this subsection
11 authorizes the operation of the establishment only at the location for which the license is
12 issued. Operation of the establishment at any other location is unlawful unless a license
13 for the new location has been obtained in compliance with this chapter and applicable
14 rules.

15 The director shall furnish to each licensed cosmetologist, barber, ~~manicurist limited~~
16 ~~barber, nail technician~~ or aesthetician a license certifying that the holder of that license is
17 entitled to practice in this State. The licensee shall post the license in a conspicuous place
18 where it may be readily seen and read by all persons served. The reproduction, altering or
19 defacing of any license is prohibited.

20 Booths attached to or within a licensed shop that are operated independently are subject
21 to licensure, fees and applicable rules in the same manner as independent shops.

22 The exceptions listed in section 14203, subsection 3 do not permit the practice of
23 cosmetology, barbering, ~~manicuring limited barbering, nail technology~~ or aesthetics in
24 food establishments or food preparation areas.

25 **Sec. M-13. 32 MRSA §14224, sub-§3,** as amended by PL 2009, c. 369, Pt. B,
26 §14, is further amended to read:

27 **3. Trainee.** A trainee cosmetologist, barber, ~~manicurist limited barber, nail~~
28 ~~technician~~ or aesthetician licensed pursuant to section 14232 may not independently
29 conduct a practice but may, as a trainee, do any or all acts constituting the practice under
30 the immediate personal supervision of a person duly licensed and approved by the
31 director in a licensed shop.

32 **Sec. M-14. 32 MRSA §14224, sub-§4,** as amended by PL 2009, c. 369, Pt. B,
33 §15, is further amended to read:

34 **4. Student.** A student ~~enrolled in the study~~ studying the practice of cosmetology,
35 barbering, ~~manicuring or limited barbering, nail technology, aesthetics or instructing~~ must
36 ~~be licensed with~~ enrolled in a school licensed by the director pursuant to section 14233.

37 **Sec. M-15. 32 MRSA §14225, 3rd ¶,** as enacted by PL 1991, c. 397, §6, is
38 repealed.

1 **Sec. M-16. 32 MRSA §14226, sub-§4, ¶B**, as amended by PL 2007, c. 402, Pt.
2 HH, §12, is repealed.

3 **Sec. M-17. 32 MRSA §14226, 2nd ¶**, as amended by PL 2009, c. 369, Pt. B,
4 §19, is repealed.

5 **Sec. M-18. 32 MRSA §14227, sub-§4, ¶B**, as amended by PL 2007, c. 402, Pt.
6 HH, §13, is repealed.

7 **Sec. M-19. 32 MRSA §14227, 2nd ¶**, as amended by PL 2009, c. 369, Pt. B,
8 §22, is repealed.

9 **Sec. M-20. 32 MRSA §14227-A** is enacted to read:

10 **§14227-A. Qualifications; limited barbering**

11 A person is eligible to obtain a license under this chapter for the practice of limited
12 barbering if that person:

13 **1. Age.** Is at least 17 years of age;

14 **2. Education.** Has satisfactorily completed the 10th grade in a secondary school or
15 its equivalent;

16 **3. Training.** Has satisfactorily completed a course of instruction in the practice of
17 limited barbering of 800 hours in not less than 5 months in a school licensed by the
18 director or has experience in the practice of limited barbering as a trainee of 1,600 hours
19 distributed over a period of at least 10 months; and

20 **4. Examination.** Has passed an approved examination.

21 **Sec. M-21. 32 MRSA §14228, sub-§4, ¶B**, as amended by PL 2007, c. 402, Pt.
22 HH, §14, is repealed.

23 **Sec. M-22. 32 MRSA §14229**, as amended by PL 2009, c. 369, Pt. B, §§25 and
24 26, is further amended to read:

25 **§14229. Qualifications; nail technology**

26 A person is eligible to obtain a license under this chapter for the practice of
27 manicuring nail technology if that person:

28 **1. Age.** Is at least 17 years of age;

29 **2. Education.** Has satisfactorily completed the 10th grade in a secondary school or
30 its equivalent;

31 **3. Training.** Has satisfactorily completed a course of instruction in manicuring nail
32 technology of 200 hours in not less than 5 weeks in a school licensed by the director or

1 has experience in the practice of ~~manicuring~~ nail technology as a trainee of 400 hours
2 distributed over a period of at least 10 weeks; and

3 **4. Examination.** Has passed an approved examination.

4 ~~B. Within 90 days of notification of passing an examination, the applicant must pay~~
5 ~~the fee as set under section 14238 to receive a first license.~~

6 **Sec. M-23. 32 MRSA §14229-A**, as amended by PL 2009, c. 369, Pt. B, §27, is
7 further amended to read:

8 **§14229-A. First license; reexamination**

9 Within ~~90 days~~ one year of notification of passing an examination, the applicant must
10 pay a fee as set under section 14238 to receive a first license; ~~otherwise, the applicant~~
11 ~~must retake the full examination to apply for initial licensure.~~ The first license is valid
12 until the next renewal period. The director has the authority to waive the ~~90-day one-year~~
13 time period for extenuating circumstances. ~~If not successful, the applicant may take~~
14 ~~subsequent examinations held within a period of one year from the date of the applicant's~~
15 ~~first examination. An applicant who fails to pass an examination within one year from the~~
16 ~~applicant's first examination may take another examination at a time and under the~~
17 ~~conditions that the board determines.~~

18 **Sec. M-24. 32 MRSA §14230**, as amended by PL 2009, c. 369, Pt. B, §28, is
19 further amended to read:

20 **§14230. Temporary license**

21 If an applicant to practice cosmetology, barbering, ~~manicuring~~ limited barbering, nail
22 technology or aesthetics qualifies for examination, the director may issue to that applicant
23 a ~~permit~~ temporary license to practice under the direct supervision of a qualified
24 supervisor, as determined by rules, within a licensed shop. The applicant must pay the fee
25 as set under section 14238. A ~~permit~~ temporary license expires 6 months from the date of
26 issuance and is not renewable. The applicant is not considered a trainee.

27 **Sec. M-25. 32 MRSA §14231**, as amended by PL 2009, c. 369, Pt. B, §29, is
28 further amended to read:

29 **§14231. Endorsement; examination eligibility for out-of-state applicants**

30 The director may waive the examination and grant a license to any applicant who
31 presents proof of being ~~authorized~~ licensed to practice by another state or other
32 jurisdiction of the United States or another country that maintains professional standards
33 considered by the director to be equivalent to or higher than those set forth in this chapter,
34 as long as no cause exists for denial of a license under section 14236-A. Such an
35 applicant must pay the fee as provided in section 14238.

36 An applicant who does not hold a current license issued by another state or other
37 jurisdiction of the United States or another country may qualify for examination if the
38 applicant presents proof of having satisfactorily completed a course of instruction in a

1 licensed school or approved experience as a trainee considered by the director to have
2 standards equivalent to or higher than the standards for instruction or experience set forth
3 by this chapter, as long as no cause exists for denial of a license under section 14236-A.
4 The applicant must also comply with all other requirements to become licensed and must
5 pay the fee provided in section 14238.

6 **Sec. M-26. 32 MRSA §14232**, as amended by PL 2009, c. 369, Pt. B, §30, is
7 further amended to read:

8 **§14232. Trainees**

9 **1. License.** Each trainee must submit an application for licensure to the director.
10 The application must be accompanied by a fee as set under section 14238 and meet
11 requirements as specified in rule. The license for each type of training expires as
12 indicated below. A trainee license may be renewed no more than 2 times and is subject to
13 fees in accordance with section 14238. The director may grant an additional renewal
14 upon a showing of extenuating circumstances.

15 ~~A. A cosmetology trainee license expires 18 months from date of issuance.~~

16 ~~B. A barber trainee license expires 18 months from date of issuance.~~

17 ~~C. A manicurist trainee license expires 6 months from date of issuance.~~

18 ~~D. An aesthetician trainee license expires 12 months from date of issuance.~~

19 **2. Filing with the director.** Before beginning training, a trainee must file with the
20 director:

21 A. The employer's name, shop name and address;

22 B. The date that the training will begin;

23 C. The type of training, such as cosmetology, barbering, ~~manicuring~~ limited
24 barbering, nail technology or aesthetics;

25 D. Evidence of age;

26 E. Evidence of satisfactory completion of the 10th grade or its equivalent; and

27 F. The name of the licensee who will directly supervise the trainee in compliance
28 with section 14224, subsection 3.

29 Trainees who change their place of employment must notify the director within 10 days
30 of the change and must file a new trainee application.

31 **3. Courses of instruction.** A trainee may take courses of instruction in a licensed
32 school ~~without having to register as a student as provided in this chapter.~~ Hours or time
33 accumulated in a school may be applied to the training program in accordance with rules
34 adopted pursuant to this chapter.

35 **4. Renewal; display; examination.** The director shall furnish a trainee license to
36 each trainee. A trainee license is renewable upon payment of the fee as set under section
37 14238. The license must be displayed as provided for licenses in section 14224. The term
38 "trainee" must appear in conspicuous print on the license. To be licensed as a

1 cosmetologist, barber, limited barber, aesthetician or ~~manicurist~~ nail technician, a trainee,
2 upon completion of the required training in accordance with this chapter, must pass an
3 approved examination.

4 **Sec. M-27. 32 MRSA §14233**, as amended by PL 2009, c. 369, Pt. B, §31, is
5 further amended to read:

6 **§14233. Students**

7 Schools licensed by the director shall ~~license students~~ maintain and submit a roster of
8 student enrollment and attrition in accordance with rules adopted by the director ~~and upon~~
9 ~~payment of the fee as set under section 14238.~~

10 To be eligible for ~~license~~ enrollment, the student must be at least 16 years of age
11 and have satisfactorily completed the 10th grade or its equivalent. Evidence of the
12 student's eligibility and enrollment in the school must be ~~provided on a form provided by~~
13 maintained by the school and presented to the director or a designee of the director as
14 required by rule and upon request.

15 All training or services rendered to a member of the public by a student must be
16 under the direct supervision of a duly licensed instructor in a licensed school or as
17 otherwise ~~proved~~ provided by rule.

18 **Sec. M-28. 32 MRSA §14235, first ¶**, as amended by PL 2007, c. 402, Pt. HH,
19 §22, is further amended to read:

20 Licensees must renew their licenses ~~on or before July 1st biennially~~ annually by filing
21 an application and paying the renewal fee as set under section 14238. The expiration
22 dates for licenses issued under this chapter may be established by the commissioner.

23 **Sec. M-29. 32 MRSA §14236-A, sub-§1, ¶D**, as enacted by PL 2007, c. 402, Pt.
24 HH, §24, is amended to read:

25 D. Employing a person to practice cosmetology, barbering, ~~manicuring~~ limited
26 barbering, nail technology or aesthetics who does not hold a valid license, unless that
27 person is a trainee within the meaning of this chapter; or

28 **Sec. M-30. Maine Revised Statutes headnote amended; revision clause.**
29 In the Maine Revised Statutes, Title 32, chapter 126, subchapter 4, in the subchapter
30 headnote, the words "regulation of schools of barbering and schools of cosmetology" are
31 amended to read "regulation of schools" and the Revisor of Statutes shall implement this
32 revision when updating, publishing or republishing the statutes.

33 **PART N**

34 **Sec. N-1. 32 MRSA §14306-F, sub-§1**, as amended by PL 2007, c. 402, Pt. II,
35 §7, is further amended to read:

36 **1. Renewal.** A license renewal fee as set under section 14306-G must be paid by the
37 licensee. Licenses issued under this chapter expire annually on their anniversary date or

1 as otherwise provided by the commissioner. Any license not renewed by its date of
2 expiration automatically expires. Licenses may be renewed up to 90 days after the date
3 of expiration upon payment of a late fee in addition to the renewal fee as set under section
4 14306-G. ~~If, after 90 days from the anniversary date, an individual has not renewed the~~
5 ~~license, the individual must reapply for licensure.~~ Any person who submits an
6 application for renewal more than 90 days after the renewal date is subject to all
7 requirements governing new applicants under this chapter, except that the commissioner
8 may, giving due consideration to the protection of the public, waive examination if the
9 renewal application is received, together with the late fee and renewal fee, within 2 years
10 from the date of the expiration.

11 **PART O**

12 **Sec. O-1. 5 MRSA §5301, sub-§2, ¶E**, as amended by PL 2007, c. 369, Pt. A, §1
13 and affected by Pt. C, §5, is further amended to read:

14 E. Convictions for which incarceration for less than one year may be imposed and
15 that involve sexual misconduct by an applicant for massage therapy licensure or a
16 licensed massage therapist or an applicant or licensee of the Board of Licensure in
17 Medicine, the Board of Osteopathic Licensure, the Board of Dental Examiners, the
18 State Board of Examiners of Psychologists, the State Board of Social Worker
19 Licensure, the Board of Chiropractic Licensure, the State Board of Examiners in
20 Physical Therapy, the State Board of Alcohol and Drug Counselors, the Board of
21 Respiratory Care Practitioners, the Board of Counseling Professionals Licensure, the
22 Board of Occupational Therapy Practice, the Board of ~~Speech language Pathology~~
23 ~~Speech~~, Audiology and Hearing ~~Aid Dealing and Fitting~~, the Radiologic Technology
24 Board of Examiners, the Nursing Home Administrators Licensing Board, the Board
25 of Licensure of Podiatric Medicine, the Board of Complementary Health Care
26 Providers, the Maine Board of Pharmacy, the Board of Trustees of the Maine
27 Criminal Justice Academy, the State Board of Nursing and the Emergency Medical
28 Services' Board.

29 **Sec. O-2. 5 MRSA §12004-A, sub-§48**, as enacted by PL 2007, c. 369, Pt. A, §5
30 and affected by Pt. C, §5, is amended to read:

31 **48.**
32 Board of ~~Speech language~~ \$35/Day 32 MRSA §17201
33 ~~Pathology Speech~~, Audiology
34 and Hearing ~~Aid Dealing and~~
35 ~~Fitting~~

36 **Sec. O-3. 32 MRSA §17101, sub-§4**, as enacted by PL 2007, c. 369, Pt. C, §3
37 and affected by §5, is amended to read:

38 **4. Board.** "Board" means the Board of ~~Speech language Pathology~~ Speech,
39 Audiology and Hearing ~~Aid Dealing and Fitting~~ pursuant to section 17201.

1 fund-raising activity report for the previous calendar year; and change the provision
2 pertaining to the unauthorized use of names to limit this prohibition to those instances in
3 which such use is made in a manner intended to mislead.

4 The bill changes the name of the Office of Licensing and Registration in the
5 Department of Professional and Financial Regulation to the Office of Professional and
6 Occupational Regulation. The bill also clarifies that an individual who engages in any
7 activity that requires a license, without first obtaining a license, commits a civil violation
8 of unlicensed practice. The bill removes references to boards that have been repealed. It
9 authorizes an office, board or commission to assess a licensee who appeals a board
10 decision for the cost of reproducing and transcribing the hearing record.

11 The bill provides that a person who assists at an auction may not be a person who has
12 had an auctioneer license denied, suspended or revoked in this State or in any other
13 jurisdiction. In addition, the bill provides for a new ground for disciplinary action by the
14 licensing board if a licensed auctioneer allows another to act as an assistant when that
15 person has held an auctioneer license that was denied, suspended or revoked in this State
16 or another jurisdiction.

17 The bill removes provisions of law relating to informal conferences with licensees
18 concerning certain disciplinary matters in the statutes of the Board of Chiropractic
19 Licensure, Nursing Home Administrators Licensing Board and the Maine Board of
20 Pharmacy to conform to the provisions of the Maine Revised Statutes, Title 10.

21 The bill moves provisions of law governing exceptions to the laws governing
22 licensing related to electrical installations from Title 32, section 1102-A to section
23 1201-A. It clarifies levels of supervision by master electricians of subordinate licensees.
24 The bill also requires that electricians contact state electrical inspectors for a permit
25 inspection before the wiring is enclosed and the sheetrock installed. Under current law,
26 only the owner or occupant of a building is required to comply with an order of correction
27 issued by a state electrical inspector. This bill requires the electrician who performed the
28 work that resulted in the order of correction to also comply with the order.

29 The bill amends the occupational therapy laws to provide for a 6-month temporary
30 license that may be extended for an additional 6 months, if necessary.

31 The bill reduces the number of members on the State Board of Alcohol and Drug
32 Counselors from 9 members to 5 members with 4 licensed alcohol and drug counselors
33 and one public member appointed by the Governor. The terms of other existing board
34 member positions will terminate on the effective date of the bill.

35 The bill reduces the term of a temporary license for a person to practice respiratory
36 care from one year to 90 days. Such a license may be extended for an additional 90 days
37 if necessary. The bill also reduces the required supervision of a temporary permit holder
38 from direct supervision to general supervision.

39 The bill clarifies that the current branch office licensing requirement for a real estate
40 brokerage business does not extend to home offices of real estate licensees. In addition,

1 the bill requires that a brokerage agreement between a real estate brokerage agency and a
2 client must include a statement that the agreement creates an agency-client relationship.

3 The bill clarifies that members of the Board of Real Estate Appraisers and
4 investigators are not subject to certain professional appraiser practices when they review
5 complaint matters.

6 The bill creates a limited barber license; changes references to "manicuring" to "nail
7 technology" to reflect current industry terminology; increases the time period for initial
8 licensure after passing the examination for applicants seeking licensure in barbering,
9 cosmetology, nail technology or aesthetics; eliminates the student requirement and
10 replaces it with a student roster report at no cost; eliminates certain location restrictions
11 on mobile establishments; and makes other minor technical changes.

12 The bill amends the laws governing massage therapy to require that a licensee who
13 applies for license renewal more than 90 days after the expiration date is subject to all
14 requirements governing new applicants.

15 The bill adds an eligibility provision for foreign educated applicants and changes the
16 name of the Board of Speech-language Pathology, Audiology and Hearing Aid Dealing
17 and Fitting to the Board of Speech, Audiology and Hearing.