

STATE OF MAINE

IN THE YEAR OF OUR LORD  
TWO THOUSAND AND ELEVEN

H.P. 1145 - L.D. 1560

An Act To Update Professional and Occupational Licensing Statutes

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

PART A

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**1. Licensure.** A person or entity may not act as a professional solicitor, a professional fund-raising counsel or a commercial co-venturer before that person or entity has received a license from the office. Applications for initial or renewal licensure must be in writing, under oath, in the form prescribed by the office and accompanied by an

application fee and a license fee as set under section 5015-A. An applicant for initial or renewal licensure shall disclose as part of the license application any disciplinary action taken against the applicant or licensee by a licensing, registration or regulatory authority in any jurisdiction and shall include the final disposition document pertaining to any such disciplinary action with the application. The applicant, except for applicants that are licensed as professional fund-raising counsel, shall, at the time of making application for initial or renewal licensure, file with and must have approved by the office a bond, in which the applicant must be the principal obligor and the State the obligee, in the sum of \$25,000, with one or more responsible sureties whose liability in the aggregate as such sureties at least equals that sum. The bond runs to any person or entity who may have a cause of action against the principal obligor of the bond for any malfeasance or misfeasance in the conduct of charitable solicitation in this State. Licensure is for a period of one year.

**1-A. Renewal of license as professional solicitor, professional fund-raising counsel or commercial co-venturer.** The following provisions govern application and qualification for renewal licensure as a professional solicitor, professional fund-raising counsel or commercial co-venturer.

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

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

C. The complete application packet must include:

(1) All forms required in this section;

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

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

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

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

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

(3) The completed application.

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

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

(2) A completed renewal application.

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

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

A. Each professional solicitor, professional fund-raising counsel or commercial co-venturer shall file with the office an annual fund-raising activity report on a form prescribed by the office at least 60 days prior to the license expiration date that reflects data from the preceding calendar year. The report must state, at a minimum, the following:

- (1) The name, mailing address, telephone number and license number of the professional solicitor, professional fund-raising counsel or commercial co-venturer making the report;
- (2) The name, mailing address, telephone number and license number of each charitable organization with which the professional solicitor, professional fund-raising counsel or commercial co-venturer has contracted;
- (3) The date of any fund-raising campaign in which the professional solicitor, professional fund-raising counsel or commercial co-venturer was involved;
- (4) The total dollar amount raised during each fund-raising campaign;
- (5) The total dollar amount remitted to the charitable organization from each fund-raising campaign and for the year;
- (6) The total dollar amount retained by the professional solicitor from each fund-raising campaign and for the year;
- (7) The total dollar amount received by the professional fund-raising counsel from each fund-raising campaign and for the year; and
- (8) The total dollar amount remitted by the commercial co-venturer from each fund-raising campaign and for the year.

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

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

D. An applicant whose prior license was not renewed or was terminated must file, along with the application, an annual fund-raising activity report for the most recent

calendar year in which the applicant conducted charitable solicitation activity within the United States.

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

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

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

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

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

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

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

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

The commissioner or the commissioner's designee may deny the license application, refuse to renew the license or suspend or revoke the license of a person or an entity that has been, or whose principals, officers, directors, employees or fundraisers have been, convicted of, found guilty of, pled guilty or nolo contendere to or have been incarcerated by any federal or state court for any felony or for any misdemeanor involving dishonesty,

including, but not limited to, fraud, theft, larceny, embezzlement or any crime arising from the conduct of a solicitation for a charitable organization.

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

## **PART B**

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

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

- A. Board of Accountancy;
- D. Maine State Board for Licensure of Architects, Landscape Architects and Interior Designers;
- ~~E. Maine Athletic Commission;~~
- F. Board of Licensing of Auctioneers;
- H. Board of Chiropractic Licensure;
- H-1. Board of Complementary Health Care Providers;
- ~~I. Board of Driver Education;~~
- J. Board of Counseling Professionals Licensure;
- K. Board of Licensing of Dietetic Practice;
- L. Electricians' Examining Board;
- M. Board of Licensure of Foresters;
- N. State Board of Funeral Service;
- O. State Board of Certification for Geologists and Soil Scientists;
- Q. Board of Licensure for Professional Land Surveyors;
- R. Manufactured Housing Board;
- S. Nursing Home Administrators Licensing Board;
- T. Board of Occupational Therapy Practice;
- V. Maine Board of Pharmacy;
- W. Board of Examiners in Physical Therapy;
- Y. Plumbers' Examining Board;

- Z. Board of Licensure of Podiatric Medicine;
- AA. State Board of Examiners of Psychologists;
- BB. Radiologic Technology Board of Examiners;
- CC. Board of Real Estate Appraisers;
- DD. Board of Respiratory Care Practitioners;
- EE. State Board of Social Worker Licensure;
- GG. State Board of Alcohol and Drug Counselors;
- HH. State Board of Veterinary Medicine;
- JJ. Real Estate Commission;
- KK. Board of ~~Boiler Rules~~ Boilers and Pressure Vessels;
- LL. Board of Elevator and Tramway Safety;
- MM. Board of ~~Speech language Pathology~~ Speech, Audiology and Hearing Aid Dealing and Fitting; and
- NN. Maine Fuel Board.

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

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

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

- A. The office, board or commission may deny or refuse to renew a license, may suspend or revoke a license and may impose other discipline as authorized in this subsection for any of the following reasons:
  - (1) The practice of fraud, deceit or misrepresentation in obtaining a license from a bureau, office, board or commission, or in connection with services rendered while engaged in the occupation or profession for which the person is licensed;
  - (2) Any gross negligence, incompetence, misconduct or violation of an applicable code of ethics or standard of practice while engaged in the occupation or profession for which the person is licensed;
  - (3) Conviction of a crime to the extent permitted by Title 5, chapter 341;

- (4) Any violation of the governing law of an office, board or commission;
- (5) Any violation of the rules of an office, board or commission;
- (6) Engaging in any activity requiring a license under the governing law of an office, board or commission that is beyond the scope of acts authorized by the license held;
- (7) Continuing to act in a capacity requiring a license under the governing law of an office, board or commission after expiration, suspension or revocation of that license;
- (8) Aiding or abetting unlicensed practice by a person who is not licensed as required by the governing law of an office, board or commission;
- (9) Noncompliance with an order or consent agreement of an office, board or commission;
- (10) Failure to produce any requested documents in the licensee's possession or under the licensee's control concerning a pending complaint or proceeding or any matter under investigation; or
- (11) Any violation of a requirement imposed pursuant to section 8003-G.

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

- (1) Denial or refusal to renew a license, or issuance of a license in conjunction with the imposition of other discipline;
- (2) Issuance of warning, censure or reprimand. Each warning, censure or reprimand issued must be based upon violation of a single applicable law, rules or condition of licensure or must be based upon a single instance of actionable conduct or activity;
- (3) Suspension of a license for up to 90 days for each violation of applicable laws, rules or conditions of licensure or for each instance of actionable conduct or activity. Suspensions may be set to run concurrently or consecutively. Execution of all or any portion of a term of suspension may be stayed pending successful completion of conditions of probation, although the suspension remains part of the licensee's record;
- (4) Revocation of a license;
- (5) Imposition of civil penalties of up to \$1,500, or such greater amount as may be authorized by statute, for each violation of applicable laws, rules or conditions of licensure or for each instance of actionable conduct or activity; or
- (6) Imposition of conditions of probation upon an applicant or licensee. Probation may run for such time period as the office, board or commission determines appropriate. Probation may include conditions such as: additional continuing education; medical, psychiatric or mental health consultations or evaluations; mandatory professional or occupational supervision of the applicant or licensee; practice restrictions; and other conditions as the office, board or commission determines appropriate. Costs incurred in the performance of terms

of probation are borne by the applicant or licensee. Failure to comply with the conditions of probation is a ground for disciplinary action against a licensee.

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

D. The office, board or commission may:

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

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

(5) Grant inactive status licenses to licensees in accordance with rules that may be adopted by each office, board or commission. The fee for an inactive status license may not exceed the statutory fee cap for license renewal set forth in the governing law of the office, board or commission. Licensees in inactive status are required to pay license renewal fees for renewal of an inactive status license and may be required to pay a reinstatement fee as set by the Director of the Office of ~~Licensing and Registration~~ 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 confidential. The office, board or commission may place letters of guidance or concern, together with any underlying complaint, report and investigation materials, in a licensee's file for a specified period of time, not to exceed 10 years. Any letters, complaints and materials placed on file may be accessed and considered by the office, board or commission in any subsequent action commenced against the licensee within the specified time frame. Complaints, reports and investigation materials placed on file are confidential only to the extent that confidentiality is required pursuant to Title 24, chapter 21.

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

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

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

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

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

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

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

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

**4. Unlicensed practice; civil penalties.** Any person who practices or represents to the public that the person is authorized to practice a profession or trade or engage in an activity that requires a license without first obtaining a license as required by the laws relating to a board, commission or regulatory function identified in section 8001, subsection 38 or section 8001-A or after the license has expired or has been suspended or revoked commits a civil violation punishable by a fine of not less than \$1,000 but not more than \$5,000 for each violation. An action under this subsection may be brought in District Court or, in combination with an action under subsection 5, in Superior Court.

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

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

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

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

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

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

## PART C

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

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

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

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

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

**3. Improper advertising.** Advertising an auction without including the name and license number of the auctioneer; or

**Sec. C-4. 32 MRSA §291-A, sub-§4** is enacted to read:

**4. Unqualified assistants.** Allowing a person to act as an assistant who has had an auctioneer license denied, suspended or revoked in this State or in any other state.

## PART D

**Sec. D-1. 32 MRSA §64-B**, as enacted by PL 2007, c. 402, Pt. E, §4, is amended to read:

### **§64-B. Denial or refusal to renew license; disciplinary action**

In addition to the grounds enumerated in Title 10, section 8003, subsection 5-A, paragraph A, the board may deny a license, refuse to renew a license or impose the disciplinary sanctions authorized by Title 10, section 8003, subsection 5-A for:

**1. Habitual substance abuse.** Habitual substance abuse that has resulted or is foreseeably likely to result in the licensee performing assigned services in a manner that endangers the health or safety of patients;

**2. Mental or physical condition.** A professional diagnosis of a mental or physical condition that has resulted or may result in the licensee performing assigned services in a manner that endangers the health or safety of patients; or

**3. False advertising.** Engaging in false, misleading or deceptive advertising.

~~If the factual basis of the complaint is or may be true and the complaint is of sufficient gravity to warrant further action, the board may request an informal conference~~

~~with the licensee. The board shall provide the licensee with adequate notice of the conference and of the issues to be discussed. The conference must be conducted in executive session of the board, pursuant to Title 1, section 405, unless otherwise requested by the licensee. Statements made at the conference may not be introduced at a subsequent formal hearing unless all parties consent.~~

## **PART E**

**Sec. E-1. 32 MRSA §503-B**, as enacted by PL 2007, c. 402, Pt. H, §7, is amended to read:

### **§503-B. Denial or refusal to renew license; disciplinary action**

In addition to the grounds enumerated in Title 10, section 8003, subsection 5-A, paragraph A, the board may deny a license, refuse to renew a license or impose the disciplinary sanctions authorized by Title 10, section 8003, subsection 5-A for:

**1. Habitual substance abuse.** Habitual substance abuse that has resulted or is foreseeably likely to result in the applicant or licensee performing services in a manner that endangers the health or safety of patients;

**2. Mental or physical condition.** A professional diagnosis of a mental or physical condition that has resulted or may result in the applicant or licensee performing services in a manner that endangers the health or safety of patients;

**3. False advertising.** Engaging in false, misleading or deceptive advertising;

**4. Nonchiropractic practice.** Offering health services outside the field of chiropractic; or

**5. Fee-splitting.** Splitting or dividing a fee with an individual who is not an associate licensed as a chiropractor.

~~If the factual basis of a complaint that has been filed is or may be true, and the complaint is of sufficient gravity to warrant further action, the board may request an informal conference with the licensee. The board shall provide the applicant or licensee with adequate notice of the conference and of the issues to be discussed. The conference must be conducted in executive session of the board, pursuant to Title 1, section 405, unless otherwise requested by the applicant or licensee. Statements made at the conference may not be introduced at a subsequent formal hearing unless all parties consent.~~

## **PART F**

**Sec. F-1. 32 MRSA §1101, sub-§1-A**, as enacted by PL 1995, c. 325, §1, is amended to read:

**1-A. Electrical company.** "Electrical company" means a person, firm, corporation or partnership employing licensees engaged in the business of doing electrical installations. ~~A company license must be validated by an employee or officer of the~~

~~company holding a current master or limited electrical license. A limited licensee may validate only a company license making installations specific to the limited license. The company license becomes void upon the death of or the severance from the company of the validating licensee.~~

**Sec. F-2. 32 MRSA §1101, sub-§3-A**, as amended by PL 1995, c. 325, §3, is further amended to read:

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

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

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

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

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

- A. School administrative units; and
- B. Nonprofit organizations.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

## **§1201. License required**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**11. Wastewater treatment plants.** Wastewater treatment plants, as defined in section 4171, and regular employees of wastewater treatment plants making electrical installations in or about wastewater treatment plants.

**Sec. F-13. 32 MRSA §1202, sub-§2,** as amended by PL 2007, c. 402, Pt. I, §13, is further amended to read:

**2. Apprentice or helper.** The board may issue a license upon payment of the fee as set under section 1203-A to any person who applies for a license, without examination. Any such person employed by an electrician as an apprentice for the purpose of qualifying for any license mentioned in section 1203, or as an electrician's helper, must apply for a license ~~as such immediately~~ within 10 days after commencing that employment or ~~immediately after~~ starting school in an electrical course.

**Sec. F-14. 32 MRSA §1202, sub-§5,** as enacted by PL 1995, c. 325, §15, is amended to read:

**5. Electrical company.** The board shall issue a license to operate an electrical company to a person who files an application validated by an employee or officer of the company holding a current master or limited electrician license ~~electrician licensee~~ electrical license. A limited licensee may validate only a company license making installations specific to the limited license. The company license becomes void upon the death of or the severance from the company of the validating licensee.

## PART G

**Sec. G-1. 32 MRSA §2278,** as repealed and replaced by PL 1997, c. 294, §5, is amended to read:

### **§2278. Temporary license**

A temporary license may be granted to a person who has completed the education and level II fieldwork requirements of this chapter and who has also received NBCOT approval to sit for the appropriate certification examination. This temporary license allows the holder to practice occupational therapy under the supervision of a licensed occupational therapist. Temporary licensees shall take the first available national examination for which they become eligible.

~~A temporary license is valid until the results of the national examination are made available to the board. If the person has passed the national examination, a license must be issued under sections 2279 and 2280 A. The temporary license of a person who has failed the examination may be renewed one time at the discretion of the board.~~

~~If, for a legitimate reason, a person holding a temporary license does not take the first available national examination for which the person becomes eligible, the person must submit a letter to the board explaining the circumstances. After review, the board, at its discretion, may renew the person's temporary license once to allow the person to sit for the next scheduled national examination.~~

A temporary license may not be renewed more than once.

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

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

## PART H

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

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

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

## PART I

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

### **§9707. Temporary license**

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

## PART J

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

**6. Branch office.** Other locations ~~where real estate brokerage business is regularly conducted or~~ that are advertised as locations where the public may contact the agency or its employees concerning brokerage services must be licensed as a branch office. ~~In order to qualify for a branch office license, the agency designated broker may designate another broker to act as branch manager, in which case the manager has designated broker responsibilities for that office.~~

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

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

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

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

## PART K

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

## PART L

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

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

- A. A board member serving in the capacity of assigned complaint officer while performing an investigation or testifying at an adjudicatory hearing;
- B. A board member serving in the capacity of reviewer while reviewing the work experience of an applicant for licensure; and

C. An investigator employed by or retained by the department while performing an investigation or testifying at an adjudicatory hearing.

**Sec. L-2. 32 MRSA §14027, sub-§1**, as amended by PL 2009, c. 241, Pt. D, §3, is further amended to read:

**1. Requirement.** As a prerequisite to renewal of a license, an applicant must have completed ~~the minimum hour requirements for continuing education in programs or courses approved by the appraiser qualifications board, which must include a 7 hour national uniform standards of professional appraisal practice update course completed in the even-numbered year as part of license renewal~~ continuing education as set forth by rules adopted by the board.

**Sec. L-3. 32 MRSA §14035, sub-§2, ¶A**, as enacted by PL 2005, c. 518, §6, is amended to read:

A. Hold a bachelor's or higher degree from an accredited college or university or have successfully passed 30 semester credit hours in the following college-level subject matter courses from an accredited college, junior college, community college or university:

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

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

**Sec. L-4. 32 MRSA §14036, sub-§2, ¶A**, as enacted by PL 2005, c. 518, §7, is amended to read:

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

- (1) English composition;

- (2) Principles of microeconomics or macroeconomics;
- (3) Finance;
- (4) Algebra, geometry or higher mathematics;
- (5) Statistics;
- (6) ~~Introduction to computers~~ Computers, word processing and spreadsheets; and
- (7) Business or real estate law.

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

## 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 manieuring~~ 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 ~~manieuring~~ nail technology or the instruction of cosmetology, barbering, limited barbering, aesthetics or ~~manieuring~~ nail technology is offered or taught.

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

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

- A. Cosmetology;
- B. Barbering or limited barbering;
- C. Aesthetics; ~~or~~
- D. ~~Manieuring.~~ Nail technology; or
- E. Instructing.

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

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

- A. Cosmetology;
- B. Barbering or limited barbering;
- C. Aesthetics; or
- D. ~~Manieuring~~ Nail technology.

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

**2. Exceptions.** The practice of cosmetology, barbering, limited barbering, aesthetics or ~~manieuring~~ nail technology may be carried on only by persons duly licensed to

practice in this State and only in an establishment licensed by the director, except as provided in this subsection. Duly licensed persons may practice their respective practices:

- A. On patients in hospitals or nursing homes;
- B. On residents of youth camps;
- C. On inmates or residents of institutions of the Department of Health and Human Services;
- D. On invalids or handicapped persons in those persons' places of residence;
- E. On residents of nursing homes;
- F. On hotel or motel occupants in their hotel or motel rooms;
- G. On persons in their residences;
- H. On persons in their private businesses;
- I. On human remains in licensed funeral establishments; and
- J. On persons at special events with a special event services permit. Services rendered pursuant to this paragraph must be rendered for compensation. A person may not perform special event services without first obtaining a special event services permit from the director. The services provided pursuant to the special event services permit must comply with any applicable public health and safety requirements, the requirements of this chapter and all federal, state and local laws.

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

**§14204. Instructors**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**§14229. Qualifications; nail technology**

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

1. **Age.** Is at least 17 years of age;
2. **Education.** Has satisfactorily completed the 10th grade in a secondary school or its equivalent;
3. **Training.** Has satisfactorily completed a course of instruction in ~~manicuring~~ nail technology of 200 hours in not less than 5 weeks in a school licensed by the director or has experience in the practice of ~~manicuring~~ nail technology as a trainee of 400 hours distributed over a period of at least 10 weeks; and
4. **Examination.** Has passed an approved examination.

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

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

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

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

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

**§14230. Temporary license**

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

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

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

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

An applicant who does not hold a current license issued by another state or other jurisdiction of the United States or another country may qualify for examination if the applicant presents proof of having satisfactorily completed a course of instruction in a licensed school or approved experience as a trainee considered by the director to have standards equivalent to or higher than the standards for instruction or experience set forth by this chapter, as long as no cause exists for denial of a license under section 14236-A. The applicant must also comply with all other requirements to become licensed and must pay the fee provided in section 14238.

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

**§14232. Trainees**

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

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

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

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

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

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

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

B. The date that the training will begin;

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

D. Evidence of age;

- E. Evidence of satisfactory completion of the 10th grade or its equivalent; and
- F. The name of the licensee who will directly supervise the trainee in compliance with section 14224, subsection 3.

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

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

**4. Renewal; display; examination.** The director shall furnish a trainee license to each trainee. A trainee license is renewable upon payment of the fee as set under section 14238. The license must be displayed as provided for licenses in section 14224. The term "trainee" must appear in conspicuous print on the license. To be licensed as a cosmetologist, barber, limited barber, aesthetician or ~~manicurist~~ nail technician, a trainee, upon completion of the required training in accordance with this chapter, must pass an approved examination.

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

**§14233. Students**

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

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

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

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

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

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

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

**Sec. M-30. Maine Revised Statutes headnote amended; revision clause.**

In the Maine Revised Statutes, Title 32, chapter 126, subchapter 4, in the subchapter headnote, the words "regulation of schools of barbering and schools of cosmetology" are amended to read "regulation of schools" and the Revisor of Statutes shall implement this revision when updating, publishing or republishing the statutes.

**PART N**

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

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

**PART O**

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

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



**Sec. O-8. Maine Revised Statutes headnote amended; revision clause.** In the Maine Revised Statutes, Title 32, chapter 137, subchapter 2, in the subchapter headnote, the words "board of speech-language pathology, audiology and hearing aid dealing and fitting" are amended to read "board of speech, audiology and hearing" and the Revisor of Statutes shall implement this revision when updating, publishing or republishing the statutes.

---

In House of Representatives, ..... 2011

Read twice and passed to be enacted.

..... Speaker

---

In Senate, ..... 2011

Read twice and passed to be enacted.

..... President

---

Approved ..... 2011

..... Governor