



126th MAINE LEGISLATURE

FIRST REGULAR SESSION-2013

Legislative Document

No. 867

S.P. 292

In Senate, March 5, 2013

An Act To Streamline, Amend and Clarify Certain 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 black ink, appearing to read 'D M Grant'.

DAREK M. GRANT
Secretary of the Senate

Presented by Senator PATRICK of Oxford.

Cosponsored by Representative MASON of Topsham and

Senator: CUSHING of Penobscot, Representative: CAMPBELL of Newfield.

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

2 **PART A**

3 **Sec. A-1. 10 MRSA §8003, sub-§5-A, ¶F**, as enacted by PL 2007, c. 402, Pt. C,
4 §3, is amended to read:

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

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

23 **§8009. Standardized terms**

24 Notwithstanding any other provision of law, upon expiration of a professional or
25 occupational licensing board member's term, that member serves until a successor is
26 appointed and qualified. The successor's term commences at the expiration of the
27 preceding term, regardless of the date of appointment. A vacancy occurring prior to the
28 expiration of a specified term must be filled by appointment of a similarly qualified
29 individual as a replacement. The replacement member serves for the remainder of the
30 unexpired term, regardless of the date of appointment.

31 **PART B**

32 **Sec. B-1. 10 MRSA §9003, sub-§2, ¶D**, as repealed and replaced by PL 1995, c.
33 462, Pt. A, §26, is repealed and the following enacted in its place:

34 D. Two members who are dealers;

35 **Sec. B-2. 10 MRSA §9003, sub-§2, ¶E**, as repealed and replaced by PL 1995, c.
36 462, Pt. A, §26, is repealed.

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

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35

PART C

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

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

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

§220-C. License limited to individuals

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

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

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

PART D

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

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

PART E

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

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33

PART H

Sec. H-1. 32 MRSA §14022, as amended by PL 2009, c. 112, Pt. A, §21, is further amended to read:

§14022. Place of business

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

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

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

PART I

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

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

PART J

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

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

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

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

§2281. Waiver of requirements for licensure

The board shall grant a license to any person who, prior to July 25, 1984, successfully completed an examination administered by the Psychological Corporation under contract with the American Occupational Therapy Certification Board if that person meets the requirements of section 2279, subsections 1, ~~2-A~~ and 3.

1 a requirement that a nonresident licensee designate the executive director of the board as
2 an agent for service of process.

3 Part C clarifies that licenses for architects and landscape architects may be issued
4 only to individuals, not to business entities. Part C also repeals the requirement that
5 licensees must submit an impression of their seals to the licensing board.

6 Part D reduces the number of public members of the State Board of Funeral Service
7 from 3 to 2.

8 Part E extends the exemption from licensure for graduate-level physical therapy
9 applicants until 60 days after publication of required examination results. Part E also
10 eliminates the requirement that applicants who fail the required examination obtain
11 additional education and receive approval from the Board of Examiners in Physical
12 Therapy to retake the exam after 3 failed attempts.

13 Part F changes the membership of the Plumbers' Examining Board by eliminating one
14 journeyman position and adding an additional master plumber position.

15 Part G requires that an applicant licensed in another state who applies for a
16 substantially equivalent license in Maine from the Board of Counseling Professionals
17 Licensure need not have actively practiced but need only have held a valid license in the
18 original jurisdiction for 5 years before applying for licensure in Maine.

19 Part H removes references in the enabling statute of the Board of Real Estate
20 Appraisers to the term "state of domicile" in sections setting forth pathways to licensure
21 for licensees of other jurisdictions and replaces the term with "another jurisdiction" for
22 greater accuracy.

23 Part I amends the definition of "solid fuel" to include pellets in the law concerning
24 the Maine Fuel Board.

25 Part J repeals provisions requiring the submission of references regarding the
26 reputation of an applicant for a license as an auctioneer; an occupational therapist; a
27 social worker; a real estate broker, associate broker, sales agent or timeshare agent; a
28 counseling professional; or a real estate appraiser.

29 Part K repeals provisions requiring the designation of the licensing official as an
30 agent for service of process for a nonresident licensed as an auctioneer; an accountant; a
31 real estate broker or brokerage, associate broker, sales agent or timeshare agent; a
32 counseling professional; a real estate appraiser; or a transient seller.