

# MAINE STATE LEGISLATURE

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2 C. Application for display of the wheelchair symbol shall  
3 must be made by the Governor's Committee on Employment of  
4 People with Disabilities, who which shall obtain and keep on  
5 file a supply of symbols.

6 Sec. A-20. 26 MRSA §803 is enacted to read:

8 §803. Authorization

10 The committee may receive and accept, from any source,  
11 allocations, appropriations, loans, grants and contributions of  
12 money or other things of value to be held, used or applied to  
13 carry out this chapter, subject to the conditions upon which the  
14 loans, grants and contributions may be made, including, but not  
15 limited to, appropriations, allocations, loans, grants or gifts  
16 from a private source, federal agency or governmental subdivision  
17 of the State or its agencies.

18 Sec. A-21. 30 MRSA §6212, as amended by PL 1985, c. 295, §§46  
19 and 47, is further amended to read:

22 §6212. Maine Indian Tribal-State Commission

24 1. Commission created. The Maine Indian Tribal-State  
25 Commission is established. The commission shall consist ~~consists~~  
26 of 9 members, 4 to be appointed by the Governor ~~of the State,~~  
27 subject to review by the Joint Standing Committee on Judiciary  
28 and to confirmation by the Legislature, 2 each to be appointed by  
29 the Passamaquoddy Tribe and ~~2 to be appointed by~~ the Penobscot  
30 Nation and a chairman chair, to be selected in accordance with  
31 subsection 2. The members of the commission, other than the  
32 chairman ~~shall chair~~, each serve for a term of 3 years and may  
33 be reappointed. In the event of the death, resignation or  
34 disability of any a member, the appointing authority may fill the  
35 vacancy for the unexpired term.

36 2. Chair. The commission, by a majority vote of its 8  
37 members, shall select a ~~person~~ an individual who is a resident of  
38 the State to act as chairman chair. ~~In the event that~~ When 8  
39 members of the commission by majority vote are unable to select a  
40 chairman chair within 120 days of the first meeting of the  
41 commission, the Governor shall, after consulting with the  
42 governors of the Penobscot Nation and the Passamaquoddy Tribe,  
43 shall appoint an interim chairman chair for a period of one year  
44 or for the period until ~~sueh-time-as~~ the commission selects a  
45 chairman chair in accordance with this section, whichever is  
46 shorter. In the event of the death, resignation or disability of  
47 the chairman chair, the commission may select, by a majority vote  
48 of its 8 remaining members, a new chairman chair. ~~In the event~~  
49 ~~that~~ When the commission is unable to select a chairman chair

2 within 120 days of the death, resignation or disability, the  
3 Governor shall, after consulting with the governors of the  
4 Penobscot Nation and the Passamaquoddy Tribe, shall appoint an  
5 interim chairman chair for a period of one year or for the period  
6 until ~~sueh-time-as~~ the commission selects a chairman chair in  
7 accordance with this section, whichever is shorter. The chairman  
8 shall ~~be chair~~ is a full-voting member of the commission and,  
9 except when appointed for an interim term, shall serve for 4  
10 years.

11 3. Responsibilities. In addition to the responsibilities  
12 set forth in this Act, the commission shall continually review  
13 the effectiveness of this Act and the social, economic and legal  
14 relationship between the Passamaquoddy Tribe and the Penobscot  
15 Nation and the State and shall make such reports and  
16 recommendations to the Legislature, the Passamaquoddy Tribe and  
17 the Penobscot Nation as it deems determines appropriate.

18 Seven members shall constitute a quorum of the commission and no  
19 a decision or action of the commission shall ~~be~~ is not valid  
20 unless 5 members vote in favor of ~~sueh~~ the action or decision.

22 4. Personnel, fees, expenses of commissioners. The  
23 commission shall ~~have authority to~~ may employ ~~sueh~~ personnel as  
24 it deems considers necessary and desirable in order to  
25 effectively discharge its duties and responsibilities. ~~Sueh~~ These  
26 employees shall are not be subject to state personnel laws or  
27 rules.

28 The commission members shall ~~be paid~~ are entitled to receive \$75  
29 per day for their services and shall ~~be~~ reimbursed to  
30 reimbursement for reasonable expenses, including travel.

31 5. Interagency cooperation. In order to facilitate the work  
32 of the commission, all other agencies of the State ~~are directed~~  
33 to shall cooperate with the commission and shall make available  
34 to it without charge information and data relevant to the  
35 responsibilities of the commission.

36 6. Funding. The commission may receive and accept, from  
37 any source, allocations, appropriations, loans, grants and  
38 contributions of money or other things of value to be held, used  
39 or applied to carry out this chapter, subject to the conditions  
40 upon which the loans, grants and contributions may be made,  
41 including, but not limited to, appropriations, allocations,  
42 loans, grants or gifts from a private source, federal agency or  
43 governmental subdivision of the State or its agencies.  
44 Notwithstanding Title 5, chapter 149, upon receipt of a written  
45 request from the commission, the State Controller shall pay the

2 commission's full state allotment for each fiscal year to meet  
3 the estimated annual disbursement requirements of the commission.

4 Sec. A-22. 32 MRSA §§59-A, 60 and 60-A are enacted to read:

6 §59-A. Consumer information

8 The occupational and professional regulatory boards listed  
9 in Title 10, sections 8001 and 8001-A shall develop a publication  
10 that contains the information necessary to educate consumers of  
11 the regulated products and services. The publication must inform  
12 the consumer of the consumer's right to bring complaints to the  
13 attention of the board. The publication must contain the board's  
14 office location, mailing address and telephone number. The  
15 publication must inform citizens of the procedure by which  
16 complaints may be submitted.

18 Consumer information must be made available by the board to  
19 all practicing licensees in reasonable quantities at no charge.  
20 The publication must be placed in a conspicuous location in the  
21 public area of every office where the practice of the regulated  
22 profession is conducted and copies made readily available to  
23 consumers by each regulated professional as well as by the board.

24 The occupational and professional regulatory boards shall  
25 adopt rules to address a violation of this provision, including  
26 establishing appropriate enforcement action.

28 The Commissioner of Professional and Financial Regulation  
29 shall notify all internal and affiliated boards about the  
30 requirements of this section.

32 §60. Standardized terms

34 Notwithstanding any other provision of law, by December 1996  
35 the Governor shall adjust terms of appointment for members of all  
36 boards and commissions internal and affiliated with the  
37 Department of Professional and Financial Regulation to ensure  
38 that no more than 1/3 of the terms expire in the same year. An  
39 adjusted term is a full term.

42 Notwithstanding any other provision of law, upon expiration  
43 of a member's term, that member serves until a successor is  
44 appointed. The successor's term commences at the expiration of  
45 the preceding term, regardless of the date of appointment. A  
46 vacancy occurring prior to the expiration of a specified term  
47 must be filled by appointment of a similarly qualified individual  
48 as a replacement. The replacement member serves for the  
49 remainder of the unexpired term, regardless of the date of  
50 appointment. Members may not serve more than 2 consecutive

2 full-term appointments, plus a portion of an unexpired term that  
3 the member may have been initially appointed to fill.

4 §60-A. Consumer complaints of board procedure

6 Complaints received by an occupational and professional  
7 regulatory board regarding that board's administrative procedure  
8 must be filed with the Department of the Attorney General to  
9 enable the Attorney General to take remedial action as necessary  
10 with that board.

12 Sec. A-23. 32 MRSA §61, as amended by PL 1991, c. 341, §§1  
13 and 2, is further amended to read:

16 §61. Requirement for license

18 No A medical care facility other than a hospital may not  
19 operate except under the supervision of a licensed administrator  
20 and no person an individual may not be an administrator of a  
21 medical care facility other than a hospital unless that person  
22 individual is the holder of a current administrator's license or  
23 a temporary permit issued pursuant to this chapter.

24 Sec. A-24. 32 MRSA §63-A, as amended by PL 1991, c. 341, §3,  
25 is further amended to read:

28 §63-A. Board established; membership and organization

30 1. Membership. The Nursing Home Administrators Licensing  
31 Board, as established by Title 5, section 12004-A, subsection 23,  
32 and referred to in this section as the "board," consists of 8 7  
33 members appointed by the Governor. The members must be citizens  
34 of the United States and residents of this State. One member  
35 must be a hospital administrator with not less than 5 years of  
36 active practice in the State as a hospital administrator. One  
37 member must be a registered nurse with not less than 5 years of  
38 active practice in nursing homes in the State. Two members must  
39 be representatives of the public. Three members must be  
40 administrators of nursing homes with not less than 5 years of  
41 active experience in the State. One member must be an  
42 administrator of an intermediate care facility for the mentally  
43 retarded with not less than 5 years of active practice in that  
44 capacity.

46 2. Terms. Appointments are for 3-year terms, except that  
47 the terms of no more than 3 members may expire in any calendar  
48 year and appointments for terms of less than 3 years may be made  
49 in order to comply with this limitation. No person may be  
50 eligible to serve more than 3 consecutive full terms, provided  
that for this purpose only a period actually served which exceeds

2 pathologic anatomy or the American Osteopathic Board of Pathology  
3 certified in pathologic anatomy, or unless he the director is a  
4 physician licensed to practice medicine in the State who  
5 possesses special qualifications acceptable to the department and  
6 the ~~commission~~, or unless he the director is a dentist licensed  
7 in Maine and is certified by the American Board of Oral Pathology.

8 **Sec. B-15. 22 MRSA §2030, sub-§2**, as enacted by PL 1989, c.  
9 665, §2, is amended to read:

10 **2. Exceptions.** Notwithstanding this section, a medical  
11 laboratory may examine specimens without a physician referral for  
12 a limited number of laboratory services to be determined by rules  
13 adopted by the department and ~~the commission~~. Those services  
14 include testing for:

- 15 A. Glucose for patients who have been previously diagnosed  
16 as having diabetes;  
17 B. Pregnancy;  
18 C. Colon cancer; and  
19 D. Cholesterol.

20 **Sec. B-16. 22 MRSA §2036**, as repealed and replaced by PL  
21 1975, c. 218, is amended to read:

22 **§2036. Hearing**

23 Before suspension or revocation of its license, if  
24 requested, a hearing shall must be held ~~before a meeting of the~~  
25 ~~commission~~ to show cause why a license should not be suspended or  
26 revoked.

27 **Sec. B-17. 22 MRSA §2040**, as amended by PL 1981, c. 470, Pt.  
28 A, §81, is further amended to read:

29 **§2040. Appeal**

30 Any person aggrieved by a decision of the department ~~of the~~  
31 ~~commission~~ may appeal to the Administrative Court Judge under  
32 Title 5, chapter 375.

33 **Sec. B-18. 24 MRSA §2339, sub-§2, ¶B**, as enacted by PL 1989,  
34 c. 588, Pt. A, §47, is amended to read:

35 B. Laboratory services provided by medical laboratories  
36 ~~licensed in accordance with the Maine Medical Laboratory~~  
37 ~~Commission~~, licensed by an equivalent out-of-state licensing  
38 Commission, are offered solely to the patients of the center, the physician  
39 or group of physicians;

2 authority or by a hospital, excluding those licensed  
3 laboratories owned by a community health center, a physician  
4 or group of physicians where the laboratory services are  
5 offered solely to the patients of the center, the physician  
6 or group of physicians;

7 **Sec. B-19. 24-A MRSA §2677, sub-§2, ¶B**, as enacted by PL 1989,  
8 c. 588, Pt. A, §54, is amended to read:

9 B. Laboratory services provided by medical laboratories  
10 ~~licensed in accordance with the Maine Medical Laboratory~~  
11 ~~Commission~~, licensed by an equivalent out-of-state licensing  
12 authority or by a hospital, excluding those licensed  
13 laboratories owned by a community health center, a physician  
14 or group of physicians where the laboratory services are  
15 offered solely to the patients of the center, the physician  
16 or group of physicians;

17 **Emergency clause.** In view of the emergency cited in the  
18 preamble, this Act takes effect when approved.

19 **STATEMENT OF FACT**

20 **PART A**

21 Sections 1 and 3 update the sunset law.

22 Section 2 updates the sunset law and removes the Maine  
23 Medical Laboratory Commission from that law.

24 Sections 4 and 268 change the name of the State Planning and  
25 Advisory Council on Developmental Disabilities to the Maine  
26 Developmental Disabilities Council.

27 Sections 5, 8 and 10 internalize the State Board of  
28 Optometry and the Board of Licensure of Podiatric Medicine within  
29 the Department of Professional and Financial Regulation.

30 Sections 6, 7 and 9 update the names of boards.

31 Section 11 requires all boards or commissions, within the  
32 limits of available revenues, to join or subscribe to a national  
33 disciplinary record system.

34 Sections 12 and 271 require the preparation of certain  
35 information for prospective board members, authorize automatic  
36 reappointment for acceptable board members, set an outside date  
37 for making a reappointment and clarify the purpose of a  
38 professional regulatory board.

2 Sections 13, 14, 22, the Maine Revised Statutes, Title 32,  
3 section 60, 32, 33, 38, 96 to 102, 134 to 136, 139, 190, 192,  
4 222, 243 to 261, 264 to 267 and 270 standardize the appointment  
5 process for members of all internal and affiliated boards.

6 Sections 15, 16 and 269 reestablish the Maine Children's  
7 Trust Fund as a private nonprofit corporation.

8 Section 17 repeals the provision prohibiting a state  
9 employee from serving as chair of the Governor's Committee on  
10 Employment of People with Disabilities.

11 Sections 18, 19, 23, 25 to 27, 29, 30, 34 to 36, 39, 40, 42  
12 to 48, 53, 55, 56, 59, 62, 65, 66, 69 to 72, 74, 75, 78, 79, 81  
13 to 83, 86, 87, 90, 93, 104 to 108, 110, 112 to 114, 119, 120, 122  
14 to 124, 126 to 129, 131 to 133, 137, 138, 142, 143, 146, 151,  
15 154, 156 to 158, 163, 167, 170 to 175, 177 to 179, 181 to 187,  
16 189, 191, 193, 195 to 211, 213 to 218, 221, 225, 227, 230, 231,  
17 234 to 238, 240 and 262 update the governing statutes to clarify  
18 meaning, eliminate archaic and gender-specific language, comply  
19 with drafting convention and correctly reflect the degree of  
20 regulation imposed by professional regulatory boards.

21 Section 20 authorizes the Governor's Committee on Employment  
22 of People with Disabilities to accept contributions of any type  
23 from any source.

24 Section 21 updates language, broadens the Tribal-State  
25 Commission's authority to accept funds and authorizes it to  
26 receive a single state allotment for each fiscal year.

27 Section 22 requires all boards to develop a consumer rights  
28 brochure, standardizes the appointment process for all boards and  
29 requires complaints about board procedure to be filed with the  
30 Attorney General.

31 Section 24 clarifies legislative intent by reverting the  
32 Nursing Home Administrators to a 7-member board, clarifies a  
33 quorum and standardizes the appointment process.

34 Sections 28, 41, 57, 111 and 212 require an informal  
35 conference mandated in executive session to comply with the  
36 Freedom of Access Law, updates language for the disciplinary  
37 infraction regarding habitual intemperance and updates language  
38 for several boards.

39 Section 31 requires an informal conference mandated in  
40 executive session to comply with the Freedom of Access Law.

41 Section 37 updates the name of the Board of Chiropractic  
42 Licensure.

43 Sections 49, 50, 68 and 95 update, clarify and make  
44 consistent the provision regarding penalty for unlicensed and  
45 unlawful practice for the dental board.

46 Section 51 standardizes the appointment process for the  
47 dental board, changes the board term of the dental hygienist from  
48 4 to 5 years and clarifies that the Governor may accept  
nominations from professional associations.

Section 52 reflects the dental board's current practice of  
using a national or regional licensing exam and repeals the  
requirement of submitting a list of licensees to the Secretary of  
State.

Sections 54, 60, 63, 76, 80, 85, 125, 130 and 239 raise caps  
on various fees and update language.

Section 58 adds a nurse anesthetist to the list of  
professionals who are qualified to administer anesthesia for a  
dental operation, clarifies that each dental office need not be  
registered with the board and that each office must be under the  
general supervision of a licensed dentist and updates the dental  
board governing statute.

Section 61 clarifies that a license must be signed by all  
members of the board, that a dentist must publicly display the  
dentist's license and that the board is not required to reissue a  
practitioner's license who otherwise qualifies for renewal but  
who fails to remit the fee by a certain date. This section also  
increases a fee cap.

Section 64 authorizes the issuance of licensure for an  
internship in this State solely on the basis of active licensure  
outside the State.

Section 67 repeals the requirement that the board prescribe  
forms for written prescriptions and updates language.

Section 73 repeals the requirement that the Commissioner of  
Professional and Financial Regulation provide certain technical  
assistance to the dental board and updates language.

Section 77 raises the fee cap and authorizes the board to  
issue temporary licenses to dental hygienists.