

**STATE OF MAINE**

**PLUMBERS' EXAMINING BOARD**

**LAWS AND RULES**



**DEPARTMENT OF PROFESSIONAL AND FINANCIAL REGULATION  
OFFICE OF LICENSING AND REGISTRATION**

**PLUMBERS' EXAMINING BOARD**

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**PLUMBERS'  
EXAMINING BOARD**

**LAWS**



## MRS Title 32, Chapter 49: PLUMBERS

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### Subchapter 1: GENERAL PROVISIONS

#### 32 §3301. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings. [1999, c. 386, Pt. L, §1 (AMD).]

##### 1. **Apprentice plumber.**

[ 1983, c. 468, §11 (RP) .]

**1-A. Commissioner.** "Commissioner" means the Commissioner of Professional and Financial Regulation.

[ 1985, c. 389, §16 (NEW) .]

**1-B. Department.** "Department" means the Department of Professional and Financial Regulation.

[ 1985, c. 389, §16 (NEW) .]

**2. Board.** "Board" means the Plumbers' Examining Board appointed under section 3401.

[ 1999, c. 386, Pt. L, §1 (AMD) .]

**2-A. Journeyman-in-training.** "Journeyman-in-training" means a person who is licensed under this chapter to assist in making plumbing installations under the direct supervision of a journeyman plumber or a master plumber who may not act as or represent that the person is a journeyman plumber, as defined in subsection 3.

[ 1999, c. 386, Pt. L, §1 (AMD) .]

**3. Journeyman plumber.** "Journeyman plumber" means any person who customarily performs the work of installing plumbing and drainage under the

employment and direction of a master plumber or, not being a master plumber, does plumbing repair work as a regular part-time occupation.

[ 1999, c. 386, Pt. L, §1 (AMD) .]

**4. Limited license.** "Limited license" means a limited plumber's license to install and service plumbing work related to a specific type of plumbing equipment or to specific plumbing installations granted to any person who has passed a satisfactory examination before the board. It must specify the name of the person who is limited to engage in the occupation of installing and servicing the plumbing work related to the type of equipment or to specific plumbing installations only as authorized by the license.

[ 1999, c. 386, Pt. L, §1 (AMD) .]

**5. Master plumber.** "Master plumber" means any person, firm or corporation, qualified under this chapter, engaging in, or about to engage in, the business of installing plumbing or plumbing systems. The license must specify the name of the person, firm or corporation to whom the license is issued and in the case of a firm or corporation the license must further specify the licensed master plumber in whose name it is issued, pursuant to the requirements of section 3507.

[ 1999, c. 386, Pt. L, §1 (AMD) .]

**5-A. Propane and natural gas installer.** A "propane and natural gas installer" means a person licensed under chapter 130 when installing propane and natural gas utilization equipment, subject to the restrictions of that person's license.

[ 1999, c. 386, Pt. L, §1 (AMD) .]

**6. Trainee plumber.** "Trainee plumber" means any person who is engaged in assisting in making plumbing installations under the direct supervision of a journeyman plumber or master plumber, whether for the purpose of learning the trade or otherwise.

[ 1999, c. 386, Pt. L, §1 (AMD) .]

#### **7. Trainee plumber.**

[ 1983, c. 468, §15 (RP) .]

#### SECTION HISTORY

1971, c. 363, §1 (AMD). 1973, c. 521, §9 (AMD). 1975, c. 118, §§1,2 (AMD). 1977, c. 469, §§1-5 (AMD). 1983, c. 468, §§11-15 (AMD). 1985, c. 389, §§16,17 (AMD). 1987, c. 597, §§5-8 (AMD). 1993, c. 9, §1 (AMD). 1995, c. 502, §H31 (AMD). 1999, c. 386, §L1 (AMD).

#### **32 §3302. Applicability**

**1. License required.** A license is required for any person, corporation, partnership or other entity who is engaged in plumbing or performing plumbing installations. No

license is required for any activity for which a permit is not required under Title 30, section 3223 or its successor. This section does not apply to the following:

A. Plumbing by regular employees of public utilities as defined in Title 35-A, section 102, when working as such; [1987, c. 141, Pt. B, §33 (AMD).]

B. Plumbing by oil burner technicians, duly licensed under chapter 33, and propane and natural gas installers, licensed under chapter 130, except that this exception only applies to hot and cold water connections to existing piping in the same room where the installation is taking place and does not apply beyond any existing branch connection supplying water; and [1999, c. 386, Pt. L, §2 (AMD).]

C. Plumbing by a person in a single-family residence occupied or to be occupied by that person as that person's bona fide personal abode provided that installation conforms with board laws and rules. [1999, c. 386, Pt. L, §2 (AMD).]

[ 1999, c. 386, Pt. L, §2 (AMD) .]

**2. Municipal licenses not required.** A municipality may not require plumbers to be municipally licensed nor may any municipality issue a permit for any plumbing installation unless satisfied that the person, firm or corporation applying for the permit complies with this chapter.

[ 1999, c. 386, Pt. L, §2 (AMD) .]

**3. Supervision of trainee plumber.** A master or journeyman plumber may not have more than 3 trainee plumbers working under the master or journeyman plumber's direct supervision.

[ 1999, c. 386, Pt. L, §2 (AMD) .]

#### SECTION HISTORY

1973, c. 521, §6 (RPR). 1977, c. 78, §182 (AMD). 1977, c. 469, §6 (RPR). 1983, c. 468, §16 (AMD). 1987, c. 141, §B33 (AMD). 1993, c. 9, §2 (AMD). 1999, c. 386, §L2 (AMD).

#### **32 §3303. Provisions in city charters not affected (REPEALED)**

#### SECTION HISTORY

1977, c. 469, §7 (RP).

#### **32 §3304. Unlicensed practice**

Any person who violates section 3302, subsection 1 is subject to the provisions of Title 10, section 8003-C. [2007, c. 402, Pt. O, §1 (NEW).]

#### SECTION HISTORY

1971, c. 363, §2 (AMD). 1973, c. 521, §7 (AMD). 1977, c. 469, §8 (RPR). 1983, c. 413, §140 (RPR). 1999, c. 547, §B78 (AMD). 1999, c. 547, §B80 (AFF). 2007, c. 402, Pt. O, §1 (RPR).

**32 §3305. Exceptions  
(REPEALED)**

SECTION HISTORY

1973, c. 521, §8 (NEW). 1977, c. 469, §9 (RP).

Subchapter 2: REGULATIONS

**32 §3351. Local ordinance or bylaws  
(REPEALED)**

SECTION HISTORY

1973, c. 521, §5 (RP).

**32 §3352. Permits; fees; hearings on regulations  
(REPEALED)**

SECTION HISTORY

1965, c. 234, §1 (AMD). 1973, c. 521, §5 (RP).

**32 §3353. Law governing; local inspectors  
(REPEALED)**

SECTION HISTORY

1973, c. 521, §5 (RP).

Subchapter 3: EXAMINING BOARD

**32 §3401. Membership; vacancies; removal; compensation**

The Plumbers' Examining Board, as established by Title 5, section 12004-A, subsection 32, consists of 5 members, who are appointed by the Governor as follows. [2003, c. 446, §4 (AFF); 2003, c. 446, §1 (RPR).]

**1. Public member.** One of the members of the board must be a public member as defined in Title 5, section 12004-A.

[ 2007, c. 402, Pt. O, §2 (AMD) .]

**2. Master plumbers.** Two of the members of the board must be master plumbers as defined in section 3301, and one of those 2 members must be a member of a bona fide labor organization.

[ 2003, c. 446, §1 (NEW); 2003, c. 446, §4 (AFF) .]

**3. Journeyman plumbers.**

[ 2003, c. 446, §1 (NEW); 2003, c. 446, §4 (AFF); T. 32, §3401, sub-§3 (RP) .]

**3-A. Journeyman plumber.** One of the members of the board must be a journeyman plumber, as defined in section 3301, who has been engaged in the

business of plumbing for at least 2 years.

[ 2007, c. 402, Pt. O, §2 (AMD) .]

**4. Local plumbing inspector.** One of the members of the board must be a local plumbing inspector who has been engaged in plumbing inspections for at least 4 years and is employed by a municipality.

[ 2007, c. 402, Pt. O, §2 (AMD) .]

Members are appointed for terms of 4 years. Appointments of members must comply with Title 10, section 8009. [2007, c. 402, Pt. O, §2 (AMD).]

Any member of the board may be removed from office for cause by the Governor. [2003, c. 446, §1 (NEW); 2003, c. 446, §4 (AFF).]

#### SECTION HISTORY

1965, c. 234, §2 (AMD). 1975, c. 575, §38 (AMD). 1975, c. 771, §§362,363 (AMD). 1977, c. 469, §§10,10A,11 (AMD). 1981, c. 703, §A77 (AMD). 1983, c. 553, §39 (AMD). 1983, c. 812, §229 (AMD). 1983, c. 413, §141 (RPR). 1987, c. 597, §9 (RPR). 1989, c. 503, §B140 (AMD). 1993, c. 600, §A228 (AMD). 1995, c. 397, §54 (AMD). 2003, c. 107, §1 (AMD). 2003, c. 107, §2 (AFF). 2003, c. 446, §4 (AFF). 2003, c. 446, §1 (RPR). 2007, c. 402, Pt. O, §2 (AMD). MRSA T.32, §3401/3 (AMD).

#### **32 §3402. Employees**

State plumbing inspectors appointed under this section have powers throughout the several counties of the State similar to those sheriffs have in their respective counties, relating to enforcement of this chapter and rules adopted under this chapter. These powers are limited to the power to issue citations, the power to serve summonses, to conduct investigations and to order corrections of violations by licensees in accordance with the specific statutory authority set forth in this chapter. If any state plumbing inspector finds any plumbing installation in any building or structure which does not comply with the adopted state plumbing code that inspector shall, with the consent of the local plumbing inspector, order that the installation be removed or remedied and that order must be complied with immediately by the owner or occupant of the premises or building or the installer of the plumbing in violation. If any state plumbing inspector finds any plumbing installation in any building or structure which creates a danger to other property or to the public, the inspector may forbid use of the building or structure by serving a written order upon the owner and the occupant, if any, to vacate within a reasonable period of time to be stated in the order. [1991, c. 509, §23 (AMD).]

Any person ordered by a state plumbing inspector to correct a plumbing deficiency or to vacate a building or structure may, within 7 days, appeal to the Plumbers' Examining Board, which shall within a reasonable time review the order and file its decision on the appeal. The decision of the board must be complied with within the time that is fixed in the decision. If any person, firm or corporation fails or refuses to carry out any such order of any state plumbing inspector or decision of the board, a court may order appropriate relief. Any person ordered by the board to correct a plumbing deficiency or to vacate a building or structure may appeal the order to the Superior

Court pursuant to the Maine Rules of Civil Procedure, Rule 80B, by filing a petition for review within 48 hours of receipt of the order. The order by the Plumbers' Examining Board may not be stayed unless by order of the Superior Court for good cause. [1999, c. 386, Pt. L, §3 (AMD).]

Upon the failure of any person to carry out the final order, the Plumbers' Examining Board may petition the Superior Court for the county in which the premises or building is located from an injunction to enforce that order. If the court determines upon hearing the petition that a lawful final order was issued, it shall order compliance. [1989, c. 483, Pt. A, §51 (NEW).]

In addition to any other powers, state plumbing inspectors shall have the right of entry during usual business hours to inspect any and all buildings and premises in the performance of their duties. They may enter any building only with the permission of the owner, occupant or person having control of the building or pursuant to an order of court. [1989, c. 483, Pt. A, §51 (AMD).]

#### SECTION HISTORY

1977, c. 469, §12 (RPR). 1981, c. 703, §A78 (RPR). 1983, c. 553, §46 (AMD). 1985, c. 389, §18 (AMD). 1985, c. 785, §B138 (AMD). 1989, c. 483, §A51 (AMD). 1991, c. 509, §23 (AMD). 1995, c. 397, §55 (AMD). 1999, c. 386, §L3 (AMD).

### **32 §3403. Meeting; chair; quorum**

The board shall meet at least once a year to conduct its business and to elect a chair. Additional meetings must be held as necessary to conduct the business of the board and may be convened at the call of the chair or a majority of the board members. Three members of the board constitute a quorum . [2007, c. 402, Pt. O, §3 (AMD).]

#### SECTION HISTORY

1975, c. 575, §39 (AMD). 1977, c. 469, §13 (AMD). 1981, c. 703, §A79 (AMD). 1983, c. 553, §40 (AMD). 1983, c. 413, §142 (RPR). 2007, c. 402, Pt. O, §3 (AMD).

### **32 §3403-A. Powers and duties**

The board shall administer, coordinate and enforce this chapter and has the following powers and duties in addition to those otherwise set forth in this chapter. [2007, c. 402, Pt. O, §4 (AMD).]

**1. Rules.** The board may, in accordance with Title 5, chapter 375, subchapter 2, adopt rules commensurate with the authority vested in it by this chapter. These rules may include, but not be limited to, internal plumbing, licensing requirements, examinations and reciprocity of licensing with similar boards of other states that maintain standards equivalent to this State.

[ 2007, c. 402, Pt. O, §4 (AMD) .]

#### **2. Hearings.**

[ 2007, c. 402, Pt. O, §4 (RP) .]

### **3. Contracts.**

[ 2007, c. 402, Pt. O, §4 (RP) .]

### **4. Fees.**

[ 1999, c. 386, Pt. L, §4 (RP) .]

### **5. Orders.**

[ 1999, c. 386, Pt. L, §5 (RP) .]

#### **SECTION HISTORY**

1983, c. 413, §143 (NEW). 1985, c. 389, §19 (AMD). 1989, c. 878, §§B28,29 (AMD). 1997, c. 727, §C8 (AMD). 1999, c. 386, §§L4,5 (AMD). 2007, c. 402, Pt. O, §4 (AMD).

### **32 §3403-B. Plumbing code**

**1. Plumbing and plumbing code.** The board shall adopt minimum rules relating to plumbing, including a plumbing code. All rules, including installation and inspection rules, must be consistent with this chapter and Title 30-A, chapter 185, subchapter III, except that the authority of municipalities to adopt more restrictive ordinances under Title 30-A, section 3001 is not preempted. Notwithstanding the Maine Administrative Procedure Act, the adoption of a national or international published plumbing code as a new plumbing code for the State constitutes a major substantive rule and must receive affirmative action by the Legislature before adoption. Subsequent technical amendments to any national or international published plumbing code that may be adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter II-A.

[ 2001, c. 215, §1 (AMD) .]

**2. Plumbing code violations.** Any person who violates the rules adopted pursuant to this section or who violates a municipal ordinance adopted pursuant to Title 30-A, sections 4201 and 4211 must be penalized in accordance with Title 30-A, section 4452. Enforcement of the rules is the joint responsibility of the municipalities and the board. The board or a municipality may seek to enjoin violations of the rules or municipal ordinances. In the prosecution of a violation by a municipality, the court shall award reasonable attorney's fees to a municipality if that municipality is the prevailing party, unless the court finds that special circumstances make the award of fees unjust.

[ 1997, c. 727, Pt. C, §9 (NEW) .]

#### **SECTION HISTORY**

1997, c. 727, §C9 (NEW). 2001, c. 215, §1 (AMD).

### **32 §3404. Denial or refusal to renew license; disciplinary action; reinstatement**

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 any of the reasons

enumerated in Title 10, section 8003, subsection 5-A, paragraph A. [2007, c. 402, Pt. O, §5 (RPR).]

The board, for reasons it considers sufficient, may reissue a license to any person whose license has been revoked if 2 or more members of the board vote in favor of the reissuance. [2007, c. 402, Pt. O, §5 (RPR).]

#### SECTION HISTORY

1973, c. 303, §3 (AMD). 1977, c. 694, §§615,616 (AMD). 1977, c. 469, §14 (RPR). 1983, c. 553, §41 (AMD). 1983, c. 413, §144 (RPR). 1999, c. 547, §B78 (AMD). 1999, c. 547, §B80 (AFF). 2007, c. 402, Pt. O, §5 (RPR).

#### **32 §3405. Disposal of fees (REPEALED)**

#### SECTION HISTORY

1983, c. 553, §42 (AMD). 1985, c. 389, §20 (AMD). 1995, c. 397, §56 (RP).

#### **32 §3406. Records (REPEALED)**

#### SECTION HISTORY

2007, c. 402, Pt. O, §6 (RP).

### Subchapter 4: PLUMBING INSPECTORS

#### **32 §3451. Appointment (REPEALED)**

#### SECTION HISTORY

1973, c. 521, §5 (RP).

#### **32 §3452. Compensation; duties (REPEALED)**

#### SECTION HISTORY

1973, c. 521, §5 (RP).

#### **32 §3453. Approving own work forbidden; additional inspector (REPEALED)**

#### SECTION HISTORY

1973, c. 521, §5 (RP).

#### **32 §3454. Annual reports (REPEALED)**

#### SECTION HISTORY

1973, c. 521, §5 (RP).

## Subchapter 5: LICENSES

### 32 §3501. Issuance of licenses

#### 1. License required.

[ 1999, c. 386, Pt. L, §6 (RP) .]

**1-A. Application; qualifications.** The board shall issue a license to any person who files a sworn application, who passes an examination approved by the board and who meets the qualifications set forth in this section.

[ 1999, c. 386, Pt. L, §6 (NEW) .]

**2. Journeyman or limited license.** The board may issue a journeyman plumber or limited plumber license to persons who submit an application on a form prescribed by the board with the required fee as set under section 3501-B and who provide satisfactory evidence of the following qualifications:

A. A minimum of at least 2 years with 4,000 hours of work in the field of plumbing installations as a licensed trainee plumber under the supervision of a master plumber, or the equivalent thereof, and obtaining a passing grade as determined by the board on the journeyman's examination; or [1999, c. 386, Pt. L, §6 (AMD).]

B. A minimum of 2,000 hours of work in the field of plumbing installations as a journeyman-in-training under the supervision of a licensed master plumber, as long as the work experience is obtained within 4 years of the date upon which the applicant was issued a journeyman-in-training license. A journeyman-in-training license must be issued upon sworn application to any person who has satisfactorily completed one academic year of instruction in plumbing at a board-approved technical college or community college or a registered Department of Labor joint apprenticeship program and who has obtained a passing grade, as determined by the board on the journeyman's examination. [2005, c. 520, §1 (AMD).]

[ 2005, c. 520, §1 (AMD) .]

**2-A. Master plumber license.** The board may issue a master plumber license to a person who submits an application on a form prescribed by the board with the required fee as set under section 3501-B and who provides satisfactory evidence of the following qualifications:

A. A minimum of at least one year with 2,000 hours of work in the field of plumbing installations as a journeyman plumber or a minimum of at least 4 years with 8,000 hours of work in the field of plumbing installations as a trainee plumber under the supervision of a master plumber, or the equivalent; and [1987, c. 597, §11 (AMD).]

B. Obtaining a passing grade, as determined by the board on the master's examination. [1983, c. 468, §18 (NEW).]

[ 2003, c. 250, Pt. B, §1 (AMD) .]

**2-B. Journeyman-in-training.** The board may issue a journeyman-in-training license to a person who provides satisfactory evidence of completion of a plumbing course consisting of one year or 2 semesters at a board-approved technical college or community college and who submits the required fee set under section 3501-B. A journeyman-in-training license is valid for a single nonrenewable period of 4 years and may be issued only once to any individual.

[ 2003, c. 688, Pt. A, §38 (AMD) .]

**3. Trainee license.** The board may issue a trainee plumber license without examination to any person who submits a written application on a form supplied by the board with the required fee set under section 3501-B and who provides satisfactory evidence that the person has entered the employ of a licensed master plumber to assist the licensed master plumber as a plumber's trainee. Any person employed as a trainee plumber shall apply for a license within 10 business days after the day the person commences employment.

[ 2003, c. 250, Pt. B, §3 (AMD) .]

**4. License displayed.** All persons licensed by the board must receive a license that must be publicly displayed at the principal place of business of the plumber, if any, and a pocket card license that must be carried on the person and displayed at any time upon request.

[ 2007, c. 402, Pt. O, §7 (AMD) .]

## **5. Examinations.**

[ 1999, c. 386, Pt. L, §6 (RP) .]

**6. Installation, repair or replacement of well pumps.** A person licensed under this subchapter who performs the installation, repair or replacement of a pump in a well, as defined in section 4700-E, subsection 8, shall install, repair or replace that pump in compliance with the code of performance adopted by the Maine Water Well Commission pursuant to section 4700-H, subsection 5. Any person, company, firm, partnership or corporation who installs, alters, repairs or replaces a pump system without being licensed as provided in this chapter or in violation of the code of performance, except for an apprentice pump installer as set forth in this chapter, or any person, firm, partnership or corporation who procures a license as provided in this chapter wrongfully or by fraud commits a civil violation punishable by a fine of not more than \$1,000.

This subsection does not prevent a person from making pump system installations, alterations, repairs or replacements in a single-family residence occupied by that person or to be occupied by that person as a bona fide personal abode, providing the installation, alteration, repair or replacement conforms to the standards set forth in this chapter and any rules adopted by the Maine Water Well Commission or the department.

This subsection does not prevent a person from removing and replacing an existing pump for the purpose of well inspection or to test pumping if the pump and electrical system are not being modified.

[ 2001, c. 209, Pt. A, §4 (AMD) .]

#### SECTION HISTORY

1977, c. 696, §245 (AMD). 1977, c. 469, §15 (RPR). 1981, c. 470, §A153 (AMD). 1983, c. 468, §§17-19 (AMD). 1983, c. 553, §§43,44 (AMD). 1987, c. 597, §§10-12 (AMD). 1989, c. 443, §89 (AMD). 1991, c. 509, §24 (AMD). 1993, c. 25, §1 (AMD). 1999, c. 386, §L6 (AMD). 2001, c. 209, §A4 (AMD). 2003, c. 250, §§B1-3 (AMD). 2003, c. 688, §§A37,38 (AMD). 2005, c. 520, §1 (AMD). 2007, c. 402, Pt. O, §7 (AMD).

### **32 §3501-A. Examinations**

An applicant for a master, journeyman or journeyman-in-training plumbing license shall present to the board a written application for examination, containing information that the board requires, accompanied by the prescribed fee as set under section 3501-B. Examinations must be in whole or in part in writing and of a thorough and practical character commensurate with the responsibilities of the prospective license holder. [2003, c. 250, Pt. B, §4 (AMD).]

The passing grade on a master plumbing license examination may not be less than 75%. The passing grade on a journeyman plumbing license examination may not be less than 70%. A candidate failing one examination may apply for reexamination, which may be granted upon payment of a fee established by the board. Any candidate for licensure having an average grade of less than 50% may not apply for reexamination for one year. [1999, c. 386, Pt. L, §7 (NEW).]

#### SECTION HISTORY

1999, c. 386, §L7 (NEW). 2003, c. 250, §B4 (AMD).

### **32 §3501-B. Fees**

The Director of the Office of Licensing and Registration within the Department of Professional and Financial Regulation may establish by rule fees authorized under this chapter in amounts that are reasonable and necessary for their respective purposes, except that the fee for any one purpose may not exceed \$200 biennially. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A. [2003, c. 250, Pt. B, §5 (RPR).]

#### **1. Application.**

[ 2003, c. 250, Pt. B, §5 (RP) .]

#### **2. Examination.**

[ 2003, c. 250, Pt. B, §5 (RP) .]

#### **3. Licensure.**

[ 2003, c. 250, Pt. B, §5 (RP) .]

#### **4. Plan review fee.**

[ 2003, c. 250, Pt. B, §5 (RP) .]

#### SECTION HISTORY

1999, c. 386, §L8 (NEW). 2003, c. 250, §B5 (RPR).

#### **32 §3502. Examination (REPEALED)**

#### SECTION HISTORY

1965, c. 234, §3 (AMD). 1977, c. 469, §16 (RP).

#### **32 §3503. Master plumbers (REPEALED)**

#### SECTION HISTORY

1965, c. 234, §4 (AMD). 1977, c. 469, §17 (RP).

#### **32 §3504. Renewals**

All licenses expire 2 years from the original date of issue or at such other time as the commissioner may designate. [1999, c. 386, Pt. L, §9 (AMD).]

A license may be renewed up to 90 days after the date of its expiration upon payment of a late fee in addition to the renewal fee as set under section 3501-B. Any person who submits an application for renewal more than 90 days after the license expiration date shall pay an additional late fee as set under section 3501-B and is subject to all requirements governing new applications under this chapter, except that the board may in its discretion, giving due consideration to the protection of the public, waive examination or other requirements. Notwithstanding any other provision of this chapter, the board shall waive examination if a renewal application is made within 90 days after separation from the United States Armed Forces, under conditions other than dishonorable, by a person who has failed to renew the person's license because the person was on active duty in the United States Armed Forces; the waiver of examination may not be granted if the person served more than 4 years in the United States Armed Forces, except if the person is required by some mandatory provision to serve a longer period and the person submits satisfactory evidence to the board. [2007, c. 402, Pt. O, §8 (AMD).]

All journeyman-in-training licenses are issued for a single nonrenewable period of 4 years and are not subject to the requirements of this section. [2007, c. 402, Pt. O, §8 (AMD).]

#### SECTION HISTORY

1965, c. 234, §5 (AMD). 1977, c. 469, §18 (RPR). 1981, c. 703, §A80 (AMD). 1983, c. 413, §145 (AMD). 1983, c. 468, §20 (AMD). 1999, c. 386, §§L9,10 (AMD). 2003, c. 250, §B6 (AMD). 2007, c. 402, Pt. O, §8 (AMD).

### **32 §3504-A. Reciprocity**

The board shall issue a license to any person who files a sworn application and who is licensed under the laws of another state or territory of the United States as long as that state or territory has licensing standards and experience requirements at least equivalent to this State's and as long as that state or territory grants similar privileges to persons licensed under this chapter. Reciprocal licenses may not be denied on the basis of current residency. [1999, c. 386, Pt. L, §11 (NEW).]

#### SECTION HISTORY

1999, c. 386, §L11 (NEW).

### **32 §3505. Journeymen plumbers (REPEALED)**

#### SECTION HISTORY

1965, c. 234, §6 (AMD). 1971, c. 263, §3 (AMD). 1975, c. 118, §3 (AMD). 1975, c. 510, §43 (AMD). 1977, c. 469, §19 (RP).

### **32 §3505-A. Apprentice and trainee plumbers; fees (REPEALED)**

#### SECTION HISTORY

1965, c. 234, §7 (NEW). 1975, c. 118, §4 (RPR). 1977, c. 469, §20 (RP).

### **32 §3506. Renewal (REPEALED)**

#### SECTION HISTORY

1965, c. 234, §8 (AMD). 1977, c. 469, §21 (RP).

### **32 §3507. Corporations, firms and partnerships**

The board may issue a company license to a corporation, firm, partnership, limited partnership or limited liability company. Such a license may not be issued unless the applicant provides satisfactory evidence that it has a licensed master plumber directly in charge of its plumbing business activities who is an officer or full-time employee, in the case of a corporation, or a partner, member or full-time employee, in the case of a firm or partnership, and the license must be issued in the name of that master plumber. A master plumber may only be affiliated with one corporation. Upon the death or severance from the company of the licensed master plumber in whose name the company licensed is held, the company license automatically terminates 30 days from the date of that death or severance, unless the company applies for reissuance of its license in the name of another licensed master plumber who is qualified under this section. [1999, c. 386, Pt. L, §12 (AMD).]

#### SECTION HISTORY

1965, c. 234, §9 (AMD). 1983, c. 468, §21 (RPR). 1987, c. 597, §13 (AMD). 1999, c. 386, §L12 (AMD).

## **MRS Title 10, Chapter 901: DEPARTMENT OF BUSINESS REGULATION**

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### **10 §8001. Department; organization**

There is created and established the Department of Professional and Financial Regulation, in this chapter referred to as the "department," to regulate financial institutions, insurance companies, grantors of consumer credit and to license and regulate professions and occupations. The mission of the department is to encourage sound, ethical business practices through high-quality, impartial and efficient regulation of insurers, financial institutions, creditors, investment providers and numerous professions and occupations for the purpose of protecting consumers. The department is composed of the following: [1999, c. 687, Pt. C, §1 (AMD).]

#### **1. Bureau of Financial Institutions.** Bureau of Financial Institutions;

[ 2001, c. 44, §9 (AMD); 2001, c. 44, §14 (AFF) .]

#### **2. Bureau of Consumer Credit Protection.** Bureau of Consumer Credit Protection;

[ 1995, c. 309, §26 (AMD); 1995, c. 397, §4 (AMD); 1995, c. 309, §29 (AFF); 2007, c. 273, Pt. B, §7 (AFF); 2007, c. 273, Pt. B, §5 (REV) .]

#### **3. Bureau of Insurance.** Bureau of Insurance;

[ 1995, c. 397, §4 (AMD) .]

#### **3-A. Office of Securities.** Office of Securities; and

[ 2001, c. 182, §5 (NEW) .]

#### **4. Maine Athletic Commission.**

[ 1995, c. 397, §5 (RP) .]

#### **5. Maine State Pilotage Commission.**

[ 1995, c. 397, §5 (RP) .]

#### **6. Real Estate Commission.**

[ 1995, c. 397, §5 (RP) .]

**7. Arborist Examining Board.**

[ 1995, c. 397, §5 (RP) .]

**8. Board of Licensing of Auctioneers.**

[ 1995, c. 397, §5 (RP) .]

**9. Board of Barbering and Cosmetology.**

[ 1995, c. 397, §5 (RP) .]

**10. Board of Commercial Driver Education.**

[ 1995, c. 397, §5 (RP) .]

**10. Board of Driver Education.**

[ 1995, c. 505, §22 (AFF); 1995, c. 505, §4 (RP) .]

**11. Board of Licensing of Dietetic Practice.**

[ 1995, c. 397, §5 (RP) .]

**12. Electricians' Examining Board.**

[ 1995, c. 397, §5 (RP) .]

**13. State Board of Licensure for Professional Foresters.**

[ 1995, c. 397, §5 (RP) .]

**14. State Board of Funeral Service.**

[ 1995, c. 397, §5 (RP) .]

**15. State Board of Certification for Geologists and Soil Scientists.**

[ 1995, c. 397, §5 (RP) .]

**16. Board of Hearing Aid Dealers and Fitters.**

[ 1995, c. 397, §5 (RP) .]

**17. Manufactured Housing Board.**

[ 1995, c. 397, §5 (RP) .]

**18. Nursing Home Administrators Licensing Board.**

[ 1995, c. 397, §5 (RP) .]

**19. Board of Occupational Therapy Practice.**

[ 1995, c. 397, §5 (RP) .]

**20. Oil and Solid Fuel Board.**

[ 1995, c. 397, §5 (RP) .]

**21. Board of Examiners in Physical Therapy.**

[ 1995, c. 397, §5 (RP) .]

**22. Plumbers' Examining Board.**

[ 1995, c. 397, §5 (RP) .]

**22-A. Board of Licensure of Podiatric Medicine.**

[ 1995, c. 397, §6 (RP) .]

**23. State Board of Examiners of Psychologists.**

[ 1995, c. 397, §7 (RP) .]

**24. Radiologic Technology Board of Examiners.**

[ 1995, c. 397, §7 (RP) .]

**25. Board of Respiratory Care Practitioners.**

[ 1995, c. 397, §7 (RP) .]

**26. State Board of Social Worker Licensure.**

[ 1995, c. 397, §7 (RP) .]

**27. Board of Examiners on Speech Pathology and Audiology.**

[ 1995, c. 397, §7 (RP) .]

**28. State Board of Substance Abuse Counselors.**

[ 1995, c. 397, §7 (RP) .]

**29. State Board of Veterinary Medicine.**

[ 1995, c. 397, §7 (RP) .]

**30. Acupuncture Licensing Board.**

[ 1995, c. 397, §7 (RP) .]

**31. Board of Commissioners of the Profession of Pharmacy.**

[ 1995, c. 397, §7 (RP) .]

**32. Board of Licensure for Professional Land Surveyors.**

[ 1995, c. 397, §7 (RP) .]

**32-A. Maine State Board for Licensure of Architects, Landscape Architects and Interior Designers.**

[ 1995, c. 397, §8 (RP) .]

**33. Board of Chiropractic Licensure.**

[ 1995, c. 397, §9 (RP) .]

**34. Board of Licensure of Railroad Personnel.**

[ 1993, c. 428, §2 (RP) .]

**35. Board of Counseling Professionals Licensure.**

[ 1995, c. 625, Pt. A, §17 (RP) .]

**36. Board of Real Estate Appraisers.**

[ 1995, c. 625, Pt. A, §17 (RP) .]

**37. Real Estate Commission.**

[ 1995, c. 502, Pt. H, §7 (RP) .]

P. [2007, c. 369, Pt. C, §5 (AFF); 2007, c. 369, Pt. B, §2 (RP).]

Q. Board of Licensure for Professional Land Surveyors; [1995, c. 397, §11 (NEW).]

R. Manufactured Housing Board; [1995, c. 397, §11 (NEW).]

S. Nursing Home Administrators Licensing Board; [1995, c. 397, §11 (NEW).]

T. Board of Occupational Therapy Practice; [1995, c. 397, §11 (NEW).]

U. Oil and Solid Fuel Board; [1995, c. 397, §11 (NEW).]

V. Maine Board of Pharmacy; [1995, c. 397, §11 (NEW); 1997, c. 245, §19 (AMD).]

W. Board of Examiners in Physical Therapy; [1995, c. 397, §11 (NEW).]

Y. Plumbers' Examining Board; [1995, c. 397, §11 (NEW).]

Z. Board of Licensure of Podiatric Medicine; [1995, c. 397, §11 (NEW).]

AA. State Board of Examiners of Psychologists; [1995, c. 397, §11 (NEW).]

- BB. Radiologic Technology Board of Examiners; [1995, c. 397, §11 (NEW).]
- CC. Board of Real Estate Appraisers; [1995, c. 397, §11 (NEW).]
- DD. Board of Respiratory Care Practitioners; [1995, c. 397, §11 (NEW).]
- EE. State Board of Social Worker Licensure; [1995, c. 397, §11 (NEW).]
- FF. [2007, c. 369, Pt. C, §5 (AFF); 2007, c. 369, Pt. B, §3 (RP).]

**38. Office of Licensing and Registration.** The Office of Licensing and Registration 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; and licensure of transient sellers, including door-to-door home repair transient sellers.

Office of Licensing and Registration. The Office of Licensing and Registration is composed of the following:

- A. Board of Accountancy; [1995, c. 397, §11 (NEW).]
- D. Maine State Board for Licensure of Architects, Landscape Architects and Interior Designers; [1995, c. 397, §11 (NEW).]
- E. Maine Athletic Commission; [1995, c. 397, §11 (NEW).]
- F. Board of Licensing of Auctioneers; [1995, c. 397, §11 (NEW).]
- G. Board of Barbering and Cosmetology; [1995, c. 397, §11 (NEW).]
- H. Board of Chiropractic Licensure; [1995, c. 397, §11 (NEW).]
- H-1. Board of Complementary Health Care Providers; [1995, c. 671, §7 (NEW).]
- I. Board of Driver Education; [1995, c. 397, §11 (NEW); 1995, c. 402, Pt. A, §47 (AMD).]
- J. Board of Counseling Professionals Licensure; [1995, c. 397, §11 (NEW).]
- K. Board of Licensing of Dietetic Practice; [1995, c. 397, §11 (NEW).]
- L. Electricians' Examining Board; [1995, c. 397, §11 (NEW).]
- M. Board of Licensure of Foresters; [1995, c. 397, §11 (NEW); 2001, c. 261, §5 (AMD).]
- N. State Board of Funeral Service; [1995, c. 397, §11 (NEW).]
- O. State Board of Certification for Geologists and Soil Scientists; [1995, c. 397, §11 (NEW).]
- GG. State Board of Alcohol and Drug Counselors; [1995, c. 502, Pt. H, §8 (AMD).]
- HH. State Board of Veterinary Medicine; [1995, c. 502, Pt. H, §8 (AMD).]
- II. Propane and Natural Gas Board; [1995, c. 560, Pt. H, §3 (AMD); 1995, c. 560, Pt. H, §17 (AFF).]
- JJ. Real Estate Commission; [1995, c. 560, Pt. H, §3 (AMD); 1995, c. 560, Pt. H, §17 (AFF).]
- KK. Board of Boiler Rules; [2007, c. 369, Pt. B, §4 (AMD); 2007, c. 369, Pt. C, §5 (AFF).]
- LL. Board of Elevator and Tramway Safety; and [2007, c. 369, Pt. B, §5 (AMD); 2007, c. 369, Pt. C, §5 (AFF).]

MM. Board of Speech-language Pathology, Audiology and Hearing Aid Dealing and Fitting. [2007, c. 369, Pt. B, §6 (NEW); 2007, c. 369, Pt. C, §5 (AFF).]

[ 2007, c. 369, Pt. B, §§2-6 (AMD); 2007, c. 402, Pt. C, §1 (AMD); 2007, c. 369, Pt. C, §5 (AFF) .]

#### SECTION HISTORY

1971, c. 488, §§1,3 (NEW). 1973, c. 537, §15 (RP). 1973, c. 585, §4 (RPR). 1973, c. 788, §43 (RPR). 1975, c. 134, §4 (AMD). 1975, c. 547, §4 (AMD). 1975, c. 579, §1 (AMD). 1975, c. 770, §58 (AMD). 1975, c. 771, §122 (AMD). 1975, c. 767, §9 (RPR). 1977, c. 160, §2 (AMD). 1977, c. 466, §1 (AMD). 1977, c. 673, §1 (AMD). 1977, c. 78, §36 (RPR). 1979, c. 606, §2 (AMD). 1981, c. 501, §37 (AMD). 1981, c. 703, §A2 (AMD). 1983, c. 553, §11 (AMD). 1983, c. 746, §1 (AMD). 1983, c. 758, §1 (AMD). 1985, c. 819, §§A15,16 (AMD). 1985, c. 233, §2 (RPR). 1985, c. 288, §2 (RPR). 1985, c. 389, §6 (RPR). 1985, c. 737, §A21 (RPR). 1985, c. 748, §15 (RPR). 1987, c. 395, §A34 (RPR). 1987, c. 488, §2 (RPR). 1989, c. 450, §4 (RPR). 1989, c. 465, §2 (RPR). 1989, c. 502, §A31 (RPR). 1989, c. 806, §2 (RPR). 1989, c. 878, §D6 (RPR). 1991, c. 396, §1 (AMD). 1991, c. 397, §3 (AMD). 1991, c. 548, §B1 (RPR). 1993, c. 389, §3 (AMD). 1993, c. 428, §2 (AMD). 1993, c. 600, §§A6,7 (AMD). 1995, c. 309, §26 (AMD). 1995, c. 389, §§2,3 (AMD). 1995, c. 397, §§3-11 (AMD). 1995, c. 402, §§A3,47 (AMD). 1995, c. 502, §§H6-8 (AMD). 1995, c. 505, §4 (AMD). 1995, c. 560, §§H3,4 (AMD). 1995, c. 625, §A17 (AMD). 1995, c. 671, §§6,7 (AMD). 1995, c. 309, §29 (AFF). 1995, c. 505, §22 (AFF). 1995, c. 560, §H17 (AFF). 1997, c. 727, §C1 (AMD). 1997, c. 749, §2 (AMD). 1999, c. 386, §B1 (AMD). 1999, c. 399, §2 (AMD). 1999, c. 687, §C1 (AMD). 1999, c. 399, §20 (AFF). 2001, c. 44, §9 (AMD). 2001, c. 182, §5 (AMD). 2001, c. 261, §5 (AMD). 2001, c. 44, §14 (AFF). 2007, c. 369, Pt. B, §§2-6 (AMD). 2007, c. 402, Pt. C, §1 (AMD). 2007, c. 273, Pt. B, §7 (AFF). 2007, c. 369, Pt. C, §5 (AFF). 2007, c. 273, Pt. B, §5 (REV).

#### **10 §8001-A. Department; affiliation**

The following boards and commissions are affiliated with the Department of Professional and Financial Regulation: [1989, c. 450, §5 (NEW).]

##### **1. State Board of Registration of Architects and Landscape Architects.**

[ 1991, c. 396, §2 (RP) .]

##### **2. State Board of Cosmetology.**

[ 1991, c. 397, §4 (RP) .]

##### **3. Board of Dental Examiners.** Dental Examiners, Board of;

[ 1989, c. 450, §5 (NEW) .]

##### **4. Board of Licensure in Medicine.** Medicine, Board of Licensure in;

[ 1993, c. 600, Pt. A, §8 (AMD) .]

##### **5. State Board of Nursing.** Nursing, State Board of;

[ 1989, c. 450, §5 (NEW) .]

**6. Board of Optometric Examiners.** Optometric Examiners, Board of;

[ 1989, c. 450, §5 (NEW) .]

**7. Board of Osteopathic Licensure.** Osteopathic Licensure, Board of;

[ 1993, c. 600, Pt. A, §9 (AMD) .]

**8. Board of Examiners of Podiatrists.**

[ 1993, c. 600, Pt. A, §10 (RP) .]

**9. Board of Registration for Professional Engineers.** Professional Engineers, Board of Registration for.

[ 1989, c. 450, §5 (NEW) .]

#### SECTION HISTORY

1989, c. 450, §5 (NEW). 1991, c. 396, §2 (AMD). 1991, c. 397, §4 (AMD). 1993, c. 600, §§A8,10 (AMD).

#### **10 §8002. Duties and authority of commissioner**

The Commissioner of Professional and Financial Regulation, referred to in this chapter as the "commissioner," is the chief administrative officer of the department and is responsible for supervising the administration of the department. The commissioner is appointed by the Governor, subject to review by the joint standing committee of the Legislature having jurisdiction over banking and insurance matters, and to confirmation by the Legislature. The commissioner serves at the pleasure of the Governor. Unless otherwise provided in law, the commissioner may not exercise or interfere with the exercise of discretionary regulatory authority granted by statute to the bureaus, offices, boards or commissions within and affiliated with the department. As chief administrative officer of the department, the commissioner has the following duties and authority to: [1999, c. 687, Pt. C, §2 (AMD).]

**1. Budget.** Prepare the budget for the department;

[ 1975, c. 767, §9 (RPR) .]

**2. Personnel.** Except as otherwise specified, appoint and remove, subject to the Civil Service Law, all personnel considered necessary to fulfill the duties and functions of the department; appoint an assistant to the commissioner to serve at the commissioner's pleasure; and transfer personnel within the department to ensure efficient utilization of department personnel;

[ 1995, c. 502, Pt. H, §9 (AMD) .]

**3. Purchases.** Coordinate the purchase and use of all equipment and supplies within the department;

[ 1995, c. 502, Pt. H, §9 (AMD) .]

**4. Review.** Review the organization, functions and operation of bureaus, offices, boards and commissions within and affiliated with the department to ensure that overlapping functions and operations are eliminated and that each complies fully with its statutory and public service responsibilities;

[ 1995, c. 502, Pt. H, §9 (AMD) .]

**5. Liaison.** Act as a liaison among the bureaus, offices, boards and commissions within and affiliated with the department and act as liaison between them and the Governor;

[ 1995, c. 502, Pt. H, §9 (AMD) .]

**6. Recommendations.** Recommend to the Governor and Legislature those changes in the laws relating to the organization, functions, services or procedures of the bureaus, offices, boards and commissions of the department as the commissioner determines desirable;

[ 1995, c. 502, Pt. H, §9 (NEW) .]

**7. Delegate authority.** Authorize the heads of bureaus, offices, boards and commissions within the department to carry out the commissioner's duties and authority;

[ 1997, c. 727, Pt. A, §4 (AMD) .]

**8. Adequate resources.** Ensure that each bureau, office, board and commission has adequate resources to carry out regulatory functions and that the department's expenditures are equitably apportioned;

[ 1999, c. 184, §12 (AMD) .]

**9. Licensing.** Coordinate all administrative processes related to licensing functions of bureaus, offices, boards and commissions within the department, including but not limited to the frequency and form of applications and licenses;

[ 2007, c. 466, Pt. C, §3 (AMD) .]

**10. Confidentiality of shared information.** Keep confidential any information provided by or to the commissioner that has been designated confidential by the agency, bureau, board or commission within or affiliated with the department that furnished the information and that is the property of the agency, bureau, board or commission that furnished the information. Any information provided pursuant to this subsection may not be disclosed by the recipient of the information unless disclosure has been authorized by the agency, bureau, board or commission that furnished the information; and

[ 2007, c. 466, Pt. C, §4 (AMD) .]

**11. Report on fees.** By December 1st of each even-numbered year, conduct a review of the fees assessed by the department and provide a written report to the State Budget Officer and the

joint standing committees of the Legislature having jurisdiction over appropriations and financial affairs, insurance and financial services matters and business, research and economic development matters identifying any fee changes the commissioner recommends for the next biennium.

[ 2007, c. 466, Pt. C, §5 (NEW) .]

#### SECTION HISTORY

1973, c. 585, §4 (RPR). 1975, c. 134, §5 (AMD). 1975, c. 579, §2 (AMD). 1975, c. 770, §59 (AMD). 1975, c. 767, §9 (RPR). 1977, c. 78, §37 (AMD). 1977, c. 564, §49 (AMD). 1983, c. 489, §7 (AMD). 1983, c. 553, §12 (AMD). 1985, c. 748, §§16,17 (AMD). 1993, c. 659, §B1 (AMD). 1995, c. 502, §H9 (AMD). 1997, c. 727, §§A3-5 (AMD). 1999, c. 184, §§12-14 (AMD). 1999, c. 687, §§C2-4 (AMD). 2007, c. 466, Pt. C, §§3-5 (AMD).

### **10 §8003. Departmental organization; duties**

**1. Division of Administrative Services.** There is created a Division of Administrative Services, which is a division within the department under the commissioner's office, to provide assistance to the commissioner and to the agencies within and affiliated with the department in civil service matters, budgeting and financial matters, purchasing, and clerical and support services, and to perform other duties the commissioner designates. The commissioner may employ a Director of Administrative Services and clerical and technical assistants necessary to discharge the duties of the division and shall outline their duties and fix their compensation, subject to the Civil Service Law.

A. Within the Division of Administrative Services, there is a computer services section. It is the responsibility of the computer services section to provide technical assistance to the Office of Licensing and Registration to process and issue original and renewal licenses for the department and for bureaus, offices, boards and commissions within the department as the commissioner directs. The licenses may be processed and issued only upon authorization of the appropriate bureau, office, board or commission or upon the authorization of the commissioner in the case of licenses granted directly by the department. The computer services section shall maintain a central register containing the name and address of each person or firm licensed by profession, occupation or industry and such other information as the commissioner may direct for administration, information or planning purposes. The commissioner, with the advice of the respective bureaus, offices, boards and commissions, may determine the type and form of licenses issued by all agencies within the department. The computer services section shall perform such other administrative services for the agencies within the department as the commissioner directs. [1995, c. 502, Pt. H, §10 (AMD).]

[ 1995, c. 502, Pt. H, §10 (AMD) .]

### **2. Office of Licensing and Registration.**

[ 1999, c. 687, Pt. C, §5 (RP) .]

**2-A. Office of Licensing and Registration.** There is created an Office of Licensing and Registration, referred to in this subsection as the "office," composed of the boards, commissions and regulatory functions set forth in section 8001, subsection 38. The commissioner may appoint

a Director of the Office of Licensing and Registration and those clerical and technical assistants who are necessary to discharge the duties of the office and shall outline their duties and fix their compensation, subject to the Civil Service Law. Notwithstanding any other provision of law granting authority to a board or commission, the Director of the Office of Licensing and Registration has the following superseding powers, duties and functions:

A. To administer the office and maximize and direct the use of personnel and financial resources to regulate professionals in the best interest of the public; [1999, c. 687, Pt. C, §6 (NEW).]

B. To prepare and administer, with the advice of the boards and commissions, budgets necessary to carry out the regulatory purposes of the boards and commissions. The Director of the Office of Licensing and Registration shall maintain one office budget that includes a separate account for each board or commission. The Director of the Office of Licensing and Registration has the authority to disapprove expenditures by boards and commissions that are not necessary to protect the public health and welfare or that would seriously jeopardize a board's or commission's fiscal well-being; [1999, c. 687, Pt. C, §6 (NEW).]

C. To provide all staffing necessary and appropriate to administer the office and carry out the statutory missions of the boards, commissions and regulatory functions. All clerks, technical support staff and supervisors must be assigned to the office and allocated by the director to perform functions on behalf of the various boards, commissions and regulatory functions according to need; [1999, c. 687, Pt. C, §6 (NEW).]

D. To establish by rule and after reasonable notice to the affected board all fees necessary and appropriate for all boards, commissions and regulatory functions within the office, subject to any fee cap established by statute and applicable to that board, commission or regulatory function. The Director of the Office of Licensing and Registration shall set the criteria for all fees. The criteria must include, but are not limited to, the costs, statutory requirements, enforcement requirements and fees and expenses of each board, commission or regulatory function. Rules adopted pursuant to this paragraph are routine technical rules pursuant to Title 5, chapter 375, subchapter II-A; [2001, c. 323, §9 (AMD).]

E. To establish by rule, such processes and procedures necessary to administer the various boards, commissions and regulatory functions of the office, including, but not limited to, a uniform complaint procedure, a uniform procedure regarding protested checks, a uniform policy regarding the treatment of late renewals and a uniform procedure for substantiating continuing education requirements. Rules adopted pursuant to this paragraph are routine technical rules pursuant to Title 5, chapter 375, subchapter II-A; [1999, c. 687, Pt. C, §6 (NEW).]

F. To keep records of public meetings, proceedings and actions and to make those records available to the public at cost upon request, unless otherwise prohibited by state or federal law; [1999, c. 687, Pt. C, §6 (NEW).]

G. To enter into contracts to ensure the provision of goods and services necessary to perform regulatory functions and to fulfill statutory responsibilities. This authority includes the ability to employ and engage experts, professionals or other personnel of other state or federal regulatory agencies as necessary to assist the office in carrying out its regulatory functions and to contract office staff to other state and federal regulatory agencies to assist those agencies in carrying out their regulatory functions; [1999, c. 687, Pt. C, §6 (NEW).]

H. To perform licensing functions for other state agencies on a fee-for-service basis; [1999, c. 687, Pt. C, §6 (NEW).]

I. To enter into cooperative agreements with other state, federal or foreign regulatory agencies to facilitate the regulatory functions of the office, including, but not limited to, information sharing, coordination of examinations or inspections and joint examinations or inspections. Any information furnished pursuant to this paragraph by or to the office that has been designated confidential by the agency furnishing the information remains confidential and the property of the agency furnishing the information and may not be disclosed by the recipient of the information unless disclosure has been authorized by the agency that furnished the information; [1999, c. 687, Pt. C, §6 (NEW).]

J. To direct staff to review and approve applications for licensure or renewal in accordance with criteria established in statute or in rules adopted by a board or commission. Licensing decisions made by staff may be appealed to the full board or commission; [1999, c. 687, Pt. C, §6 (NEW).]

K. To prepare and submit to the commissioner an annual report of the office's operations, activities and goals; and [1999, c. 687, Pt. C, §6 (NEW).]

L. To study jurisdictional overlap between the department's boards and commissions and other state agencies for purposes of streamlining and consolidating related legal authorities and administrative processes. [1999, c. 687, Pt. C, §6 (NEW).]

[ 2001, c. 323, §9 (AMD) .]

**3. License defined.** For purposes of this section, the term "license" means a license, certification, registration, permit, approval or other similar document evidencing admission to or granting authority to engage in a profession, occupation, business or industry but does not mean a registration, permit, approval or similar document evidencing the granting of authority to engage in the business of banking pursuant to Title 9-B.

[ 1991, c. 509, §1 (AMD) .]

**4. Licensing periods; renewal dates.** The commissioner may establish expiration or renewal dates and establish whether licenses are issued annually or biennially for all licenses authorized to be issued by bureaus, offices, boards and commissions within the department, notwithstanding any other provisions of law. If an expiration or renewal date established by the commissioner has the effect of shortening the term of a license currently in effect, the bureau, office, board or commission, or the department in the case of a license that it issues directly, shall credit the fee paid, on a prorated basis, for the unexpired term of the current license toward the renewal fee of the renewal license. If a license is not renewed on the new expiration or renewal date established by the commissioner, the license remains in effect through its original term, unless suspended or revoked sooner under laws or regulations of the respective bureau, office, board or commission. Should a licensee seek to renew the license at the end of the original term, the law or regulations established by the respective bureau, office, board or commission for late renewals or reregistrations apply. For the purpose of implementing and administering biennial licensing, the commissioner may permit bureaus, offices, boards and commissions within the department to issue licenses and establish renewal fees for less than a 2-year term. This section may not change the term or fee for one-time licenses, except as specifically stated.

[ 1999, c. 386, Pt. B, §3 (AMD) .]

**4-A. Disclosure and recording of social security numbers.** An individual who applies for a license shall provide that individual's social security number on the application, which must be recorded.

[ 1997, c. 537, §3 (NEW); 1997, c. 537, §62 (AFF) .]

**5. Authority of bureaus, offices, boards or commissions.** In addition to authority otherwise conferred, unless expressly precluded by language of denial in its own governing law, each bureau, office, licensing board and commission within or affiliated with the department may take one or more of the following actions, except that this subsection does not apply to the Bureau of Financial Institutions or the Office of Licensing and Registration, including the licensing boards and commissions and regulatory functions within the Office of Licensing and Registration.

A. [1989, c. 450, §6 (RP).]

A-1. For each violation of applicable laws, rules or conditions of licensure or registration, the bureau, office, board or commission may take one or more of the following actions:

(1) Issue warnings, censures or reprimands to a licensee or registrant. Each warning, censure and reprimand issued must be based upon violations of different applicable laws, rules or conditions of licensure or must be based upon separate instances of actionable conduct or activity;

(2) Suspend a license or registration for up to 90 days for each violation of applicable laws, rules and conditions of licensure or registration or for 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 or registrant's record;

(2-A) Revoke a license or registration;

(3) Impose civil penalties of up to \$1,500 for each violation of applicable laws, rules and conditions of licensure or registration or for instances of actionable conduct or activity; and

(4) Impose conditions of probation upon an applicant, licensee or registrant. Probation may run for such time period as the bureau, 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, licensee or registrant; and other conditions as the bureau, office, board or commission determines appropriate. Costs incurred in the performance of terms of probation are borne by the applicant, licensee or registrant. Failure to comply with the conditions of probation is a ground for disciplinary action against a licensee or registrant. [2001, c. 167, §1 (AMD).]

B. The bureau, 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, licensee or registrant; the bureau, 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 or registration. 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. [2001, c. 167, §1 (AMD).]

C. The bureau, office, board or commission may:

(1) Require all applicants for license or registration renewal to have responded under oath to all inquiries set forth on renewal forms;

(2) Except as provided in Title 37-B, section 390-A, require applicants for license or registration renewal to present proof of satisfactory completion of continuing professional or occupational education in accordance with each bureau's, office's, board's or commission's rules. Failure to comply with the continuing education rules may, in the bureau's, office's, board's or commission's discretion, result in a decision to deny license or registration renewal or may result in a decision to enter into a consent agreement and probation setting forth terms and conditions to correct the licensee's or registrant's failure to complete continuing education. Terms and conditions of a consent agreement may include requiring completion of increased hours of continuing education, civil penalties, suspension and other terms as the bureau, office, board, commission, the licensee or registrant and the Department of the Attorney General determine appropriate. Notwithstanding any contrary provision set forth in a bureau's, office's, board's or commission's governing law, continuing education requirements may coincide with the license or registration renewal period;

(3) Refuse to renew a license or registration or deny a license when the bureau, office, board or commission finds a licensee or registrant to be in noncompliance with a bureau, office, board or commission order or consent agreement;

(4) Allow licensees or registrants to hold inactive status licenses or registrations in accordance with each bureau's, office's, board's or commission's rules. The fee for an inactive license or registration may not exceed the statutory fee cap established for the bureau's, office's, board's or commission's license or registration renewal set forth in its governing law; or

(5) Delegate to staff the authority to review and approve applications for licensure pursuant to procedures and criteria established by rule. Rules developed pursuant to this subparagraph are routine technical rules as described in Title 5, chapter 375, subchapter 2-A. [2005, c. 111, §1 (AMD).]

D. The bureau, office, board or commission may require surrender of licenses and registrations. In order for a licensee's or registrant's surrender of a license or registration to be effective, a surrender must first be accepted by vote of the bureau, office, board or commission. Bureaus, offices, boards and commissions may refuse to accept surrender of licenses and registrations if the licensee or registrant is under investigation or is the subject of a pending complaint or proceeding, unless a consent agreement is first entered into pursuant to this chapter. [1995, c. 502, Pt. H, §10 (AMD).]

E. The bureau, office, board or commission may issue letters of guidance or concern to a

licensee or registrant. Letters of guidance or concern may be used to educate, reinforce knowledge regarding legal or professional obligations and express concern over action or inaction by the licensee or registrant 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 bureau, office, board or commission may place letters of guidance or concern, together with any underlying complaint, report and investigation materials, in a licensee's or registrant's file for a specified amount of time, not to exceed 10 years. Any letters, complaints and materials placed on file may be accessed and considered by the bureau, office, board or commission in any subsequent action commenced against the licensee or registrant within the specified time frame. Complaints, reports and investigation materials placed on file are only confidential to the extent that confidentiality is required pursuant to Title 24, chapter 21, the Maine Health Security Act. [1999, c. 386, Pt. B, §5 (AMD).]

F. A bureau, 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. [2007, c. 402, Pt. C, §2 (AMD).]

G. Notwithstanding any other provision of law, any bureau, office, board or commission within or affiliated with the department may issue a temporary license for a period of 6 months and waive all licensing requirements, except for fees, to any applicant upon a showing of current, valid licensure in that profession in another state. [2005, c. 474, §1 (NEW).]

The jurisdiction to suspend and revoke 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 may be imposed only after a hearing conforming to the requirements of Title 5, chapter 375, subchapter 4, and, except for revocation actions, is subject to judicial review exclusively in the Superior Court in accordance with Title 5, chapter 375, subchapter 7.

Any nonconsensual revocation of an occupational or professional license taken under authority of this subsection is subject to, upon appeal within the time frames provided in Title 5, section 11002, subsection 3, de novo judicial review exclusively in District Court. Rules adopted to govern judicial appeals from agency action apply to cases brought under this section.

[ 2007, c. 402, Pt. C, §2 (AMD) .]

**5-A. Authority of Office of Licensing and Registration.** In addition to authority otherwise conferred, unless expressly precluded by language of denial in its own governing law, the Office of Licensing and Registration, 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) Subject to the limitations of Title 5, chapter 341, conviction of a Class A, B or C crime or of a crime that bears directly on the licensed profession or occupation;
- (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 paragraph D, subparagraph (1) or (2). [2007, c. 402, Pt. C, §3 (NEW).]

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;

(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. [2007, c. 402, Pt. C, §3 (NEW).]

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. [2007, c. 402, Pt. C, §3 (NEW).]

D. The office, board or commission may:

(1) Require all applicants for license renewal to respond to all inquiries set forth on renewal forms;

(2) Require all licensees and applicants for licensure to report in writing any of the following to the office, board or commission no later than 10 days after the change or event, as the case may be:

(a) Change of name or address;

(b) Criminal conviction;

(c) Revocation, suspension or other disciplinary action taken in this or any other jurisdiction against any occupational or professional license held by the applicant or licensee; or

(d) Any material change in the conditions or qualifications set forth in the original application for licensure submitted to the office, board or commission.

(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 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. [2007, c. 402, Pt. C, §3 (NEW).]

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. [2007, c. 402, Pt. C, §3 (NEW).]

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. [2007, c. 402, Pt. C, §3 (NEW).]

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. [2007, c. 402, Pt. C, §3 (NEW).]

The jurisdiction to suspend and revoke 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, except for revocation actions, 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.

Any nonconsensual revocation of a professional or occupational license taken under authority of this subsection is subject to, upon appeal within the time frames provided in Title 5, section 11002, subsection 3, de novo judicial review exclusively in District Court. Rules adopted to govern judicial appeals from agency action apply to cases brought under this subsection.

[ 2007, c. 402, Pt. C, §3 (NEW) .]

**6. Funding.** The commissioner may assess each internal bureau, office, board or commission served by the commissioner's office, the Division of Administrative Services or the Office of Licensing and Registration its reasonable share of an amount sufficient to cover the cost of operating those service agencies. The commissioner may assess any board affiliated with the department for the services the board receives from the department. The commissioner may assess other state agencies for licensing functions performed on behalf of those agencies by the Office of Licensing and Registration.

[ 1999, c. 687, Pt. C, §8 (AMD) .]

**7. Evidentiary effect of certificate.** Notwithstanding any provision of law or rule of evidence, the certificate of the commissioner under the seal of the State must be received by any court in this State as prima facie evidence of the issuance, suspension or revocation of any license issued by the department.

[ 1991, c. 509, §3 (NEW) .]

**8. Display of license.** In addition to authority otherwise conferred, bureaus, offices, boards or commissions within or affiliated with the department may specify by rule the conditions under which a licensee's number, name and address are to be displayed to the public.

[ 1995, c. 502, Pt. H, §10 (AMD) .]

## 9. Construction.

[ 1999, c. 687, Pt. C, §9 (RP) .]

**10. National disciplinary record system.** Within the limits of available revenues, all bureaus, offices, boards or commissions internal or affiliated with the department shall join or subscribe to a national disciplinary record system used to track interstate movement of regulated professionals who have been the subject of discipline by state boards, commissions or agencies and report disciplinary actions taken within this State to that system.

[ 1995, c. 502, Pt. H, §10 (AMD) .]

### SECTION HISTORY

1975, c. 556, §1 (NEW). 1975, c. 705, §3 (AMD). 1975, c. 767, §9 (RPR). 1977, c. 113, (AMD). 1977, c. 273, §§1,2 (AMD). 1983, c. 553, §13 (RPR). 1985, c. 748, §18 (AMD). 1985, c. 785, §B55 (AMD). 1987, c. 595, §2 (AMD). 1987, c. 609, §§1,2 (AMD). 1989, c. 450, §6 (AMD). 1991, c. 509, §§1-3 (AMD). 1993, c. 600, §A11 (AMD). 1993, c. 659, §§B2,3 (AMD). 1995, c. 397, §12 (AMD). 1995, c. 502, §H10 (AMD). 1997, c. 210, §§1-3 (AMD). 1997, c. 537, §3 (AMD). 1997, c. 680, §A1 (AMD). 1997, c. 537, §62 (AFF). 1999, c. 184, §§15-17 (AMD). 1999, c. 386, §§B2-5 (AMD). 1999, c. 547, §B78 (AMD). 1999, c. 687, §§C5-9 (AMD). 1999, c. 547, §B80 (AFF). 2001, c. 44, §10 (AMD). 2001, c. 167, §1 (AMD). 2001, c. 323, §9 (AMD). 2001, c. 44, §14 (AFF). 2003, c. 204, §B1 (AMD). 2005, c. 111, §1 (AMD). 2005, c. 474, §1 (AMD). 2007, c. 402, Pt. C, §§2, 3 (AMD).

## 10 §8003-A. Complaint investigation

**1. Affiliated boards.** In aid of their investigative authority, the licensing boards and commissions affiliated with the department pursuant to section 8001-A may issue subpoenas in the name of the relevant licensing board or commission, in accordance with the terms of Title 5, section 9060, except that the authority applies to any stage of an investigation and is not limited to an adjudicatory proceeding.

[ 2007, c. 402, Pt. C, §4 (NEW) .]

**2. Office of Licensing and Registration.** The Office of Licensing and Registration, including the licensing boards and commissions and regulatory functions within the office, may receive, initiate and investigate complaints alleging any ground for disciplinary action set forth in section 8003, subsection 5-A. To assist with complaint or other investigations, or as otherwise considered necessary for the fulfillment of their responsibilities, the office, boards and commissions may hold hearings and may issue subpoenas for witnesses, records and documents in the name of the office, board or commission, as the case may be, in accordance with the terms of Title 5, section 9060, except that the subpoena authority applies to any stage or type of an investigation and is not limited to an adjudicatory hearing held pursuant to section 8003, subsection 5-A.

Investigative personnel of the Office of Licensing and Registration, during the normal conduct of their work for boards, commissions and regulatory functions within the office, may conduct investigations, issue citations, serve summonses and order corrections of violations in accordance with specific statutory authority. When specific authority does not exist to appeal an

order to correct, that process must be established by rule by the respective board.

[ 2007, c. 402, Pt. C, §4 (NEW) .]

**3. Dispositions available to the public.** Upon disposition of each complaint and investigation, the office and all boards and commissions shall make such disposition available to the public.

[ 2007, c. 402, Pt. C, §4 (NEW) .]

#### SECTION HISTORY

1985, c. 748, §19 (NEW). 1991, c. 509, §4 (AMD). 1995, c. 502, §H11 (AMD). 2007, c. 402, Pt. C, §4 (RPR).

### 10 §8003-B. Confidentiality of investigative records

**1. During investigation.** Unless otherwise provided by Title 24, chapter 21, all complaints and investigative records of the licensing boards and commissions within or affiliated with the Department of Professional and Financial Regulation are confidential during the pendency of an investigation. Those records become public records upon the conclusion of an investigation unless confidentiality is required by some other provision of law. For purposes of this section, an investigation is concluded when:

- A. A notice of an adjudicatory hearing under Title 5, chapter 375, subchapter IV has been issued; [1989, c. 173, (NEW).]
- B. [1999, c. 687, Pt. C, §10 (RP).]
- C. A consent agreement has been executed; or [1989, c. 173, (NEW).]
- D. A letter of dismissal has been issued or the investigation has otherwise been closed. [1989, c. 173, (NEW).]

[ 1999, c. 687, Pt. C, §10 (AMD) .]

**2. Exceptions.** Notwithstanding subsection 1, during the pendency of an investigation, a complaint or investigative record may be disclosed:

- A. To department employees designated by the commissioner; [1989, c. 173, (NEW).]
- B. To designated complaint officers of the appropriate board or commission; [1989, c. 173, (NEW).]
- C. By a department employee or complaint officer designated by the commissioner when, and to the extent, deemed necessary to facilitate the investigation; [1989, c. 173, (NEW).]
- D. To other state or federal agencies when the files contain evidence of possible violations of laws enforced by those agencies; [1989, c. 173, (NEW).]
- E. When, and to the extent, deemed necessary by the commissioner to avoid imminent and serious harm. The authority of the commissioner to make such a disclosure shall not be delegated; [1989, c. 173, (NEW).]
- F. Pursuant to rules which shall be promulgated by the department, when it is determined

that confidentiality is no longer warranted due to general public knowledge of the circumstances surrounding the complaint or investigation and when the investigation would not be prejudiced by the disclosure; and [1989, c. 173, (NEW).]

G. To the person investigated on request. The commissioner may refuse to disclose part or all of any investigative information, including the fact of an investigation, when the commissioner determines that disclosure would prejudice the investigation. The authority of the commissioner to make such a determination shall not be delegated. [1989, c. 173, (NEW).]

[ 1989, c. 173, (NEW) .]

**2-A. Certain client records confidential.** Notwithstanding subsections 1 and 2, a treatment record provided to a licensing board or commission within or affiliated with the department during investigation of a person licensed by the department in a medical, mental health, substance abuse, psychological or health field that contains information personally identifying a licensee's client or patient is confidential during the pendency of the investigation and remains confidential upon the conclusion of the investigation. A treatment record may be disclosed only if:

A. The client or patient executes a written release that states that:

(1) Unless the release provides for more limited disclosure, execution of the release may result in the record becoming a public record; or

(2) If the client or patient wishes, execution of the release allows disclosure to only the person or persons clearly identified in the release. The release must require the person or persons identified in the release not to make a disclosure to another person; [1993, c. 552, §1 (NEW).]

B. The disclosure is necessary under Title 22, chapter 857 concerning personnel and licensure actions; [1993, c. 552, §1 (NEW).]

C. The disclosure is necessary under Title 22, section 3474 concerning reports of suspected adult abuse or exploitation; [1993, c. 552, §1 (NEW).]

D. The disclosure is necessary under Title 22, section 4011-A concerning reports of suspected child abuse or neglect; or [2001, c. 345, §1 (AMD).]

E. The disclosure is necessary under Title 22, section 7703 concerning reports of suspected child or adult abuse or neglect. [1993, c. 552, §1 (NEW).]

A release executed by a client or patient does not operate to disclose a record otherwise made confidential by law.

This subsection does not prevent disclosure of records pursuant to an order of a court of competent jurisdiction upon good cause shown.

[ 2001, c. 345, §1 (AMD) .]

**3. Attorney General records.** The provision or disclosure of investigative records of the Department of the Attorney General to a departmental employee designated by the commissioner or to a complaint officer of a board or commission does not constitute a waiver of the confidentiality of those records for any other purposes. Further disclosure of those investigative

records is subject to Title 16, section 614 and the discretion of the Attorney General.

[ 1993, c. 719, §4 (AMD); 1993, c. 719, §12 (AFF) .]

**4. Violation.** A person who knowingly or intentionally makes a disclosure in violation of this section or who knowingly violates a condition of a release pursuant to subsection 2-A commits a civil violation for which a forfeiture not to exceed \$1,000 may be adjudged.

[ 1993, c. 552, §2 (AMD) .]

#### SECTION HISTORY

1989, c. 173, (NEW). 1993, c. 552, §§1,2 (AMD). 1993, c. 719, §4 (AMD). 1993, c. 719, §12 (AFF). 1999, c. 386, §B6 (AMD). 1999, c. 687, §§C10,11 (AMD). 2001, c. 345, §1 (AMD).

### 10 §8003-C. Unlicensed practice

**1. Complaints of unlicensed practice.** A board or commission listed in section 8001, subsection 38 or section 8001-A may receive or initiate complaints of unlicensed practice.

[ 1999, c. 687, Pt. C, §12 (NEW) .]

**2. Investigation of unlicensed practice.** Complaints or allegations of unlicensed practice may be investigated by the Office of Licensing and Registration, the Attorney General's office or a board's or commission's complaint officer or inspector. If sufficient evidence of unlicensed practice is uncovered, the evidence must be compiled and presented to the Department of the Attorney General or the local district attorney's office for prosecution.

[ 1999, c. 687, Pt. C, §12 (NEW) .]

**3. Unlicensed practice; criminal penalties.** Notwithstanding any other provision of law:

A. A person who practices or represents to the public that the person is authorized to practice a profession or trade and intentionally, knowingly or recklessly fails to obtain a license as required by this Title or intentionally, knowingly or recklessly practices or represents to the public that the person is authorized to practice after the license required by this Title has expired or been suspended or revoked commits a Class E crime; and [2003, c. 452, Pt. E, §10 (NEW); 2003, c. 452, Pt. X, §2 (AFF).]

B. A person who practices or represents to the public that the person is authorized to practice a profession or trade and intentionally, knowingly or recklessly fails to obtain a license as required by this Title or intentionally, knowingly or recklessly practices or represents to the public that the person is authorized to practice after the license required by this Title has expired or been suspended or revoked when the person has a prior conviction under this subsection commits a Class D crime. Title 17-A, section 9-A governs the use of prior convictions when determining a sentence, except that, for purposes of this paragraph, the date of the prior conviction must precede the commission of the offense being enhanced by no more than 3 years. [2003, c. 452, Pt. E, §10 (NEW); 2003, c. 452, Pt. X, §2 (AFF).]

[ 2003, c. 452, Pt. X, §2 (AFF); 2003, c. 452, Pt. E, §10 (RPR) .]

**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 without first obtaining a license as required by this Title or after the license has expired or has been suspended or revoked commits a civil violation punishable by a fine of not less than \$100 but not more than \$2,000 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.

[ 1999, c. 687, Pt. C, §12 (NEW) .]

**5. Unlicensed practice; injunctions.** The Attorney General may bring an action in Superior Court to enjoin any person from violating subsection 4, whether or not proceedings have been or may be instituted in District Court or whether criminal proceedings have been or may be instituted, and to restore to any person who has suffered any ascertainable loss by reason of that violation any money or personal or real property that may have been acquired by means of that violation and to compel the return of compensation received for engaging in that unlawful conduct.

A person who violates the terms of an injunction issued under this subsection shall pay to the State a fine of not more than \$10,000 for each violation. In any action under this subsection, when a permanent injunction has been issued, the court may order the person against whom the permanent injunction is issued to pay to the General Fund the costs of the investigation of that person by the Attorney General and the costs of suit, including attorney's fees. In any action by the Attorney General brought against a person for violating the terms of an injunction issued under this subsection, the court may make the necessary orders or judgments to restore to any person who has suffered any ascertainable loss of money or personal or real property or to compel the return of compensation received by reason of such conduct found to be in violation of an injunction.

[ 2007, c. 402, Pt. C, §5 (AMD) .]

**6. Unlicensed practice; private cause of action; repeal.**

[ 2005, c. 378, §1 (NEW); 2005, c. 378, §29 (AFF); T. 10, §8003-C, sub-§6 (RP) .]

**SECTION HISTORY**

1999, c. 687, §C12 (NEW). 2003, c. 452, §E10 (AMD). 2003, c. 452, §X2 (AFF). 2005, c. 378, §1 (AMD). 2005, c. 378, §29 (AFF). 2007, c. 402, Pt. C, §5 (AMD).

**10 §8003-D. Investigations; enforcement duties; assessments**

When there is a finding of a violation, a board or commission listed in section 8001, subsection 38 or section 8001-A may assess the licensed person or entity for all or part of the actual expenses incurred by the board, commission or its agents for investigations and enforcement duties performed. [1999, c. 687, Pt. C, §12 (NEW).]

"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. [1999, c. 687, Pt. C, §12 (NEW).]

The board or commission, 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 or commission, which may not be less than 30 days. [1999, c. 687, Pt. C, §12 (NEW).]

#### SECTION HISTORY

1999, c. 687, §C12 (NEW).

#### **10 §8003-E. Citations and fines**

Any board or commission listed in section 8001, subsection 38 or section 8001-A may adopt by rule a list of violations for which citations may be issued by professional technical support staff. A violation may carry a fine not to exceed \$200. Citations issued by employees of the Office of Licensing and Registration or an affiliated board must expressly inform the licensee that the licensee may pay the fine or request a hearing before the board or commission regarding the violation. [1999, c. 687, Pt. C, §12 (NEW).]

#### SECTION HISTORY

1999, c. 687, §C12 (NEW).

#### **10 §8003-F. Disposition of fees**

All money received by the Office of Licensing and Registration on behalf of a board or commission listed in section 8001, subsection 38 or by the Office of Licensing and Registration to perform the regulatory functions listed in section 8001, subsection 38 must be paid to the Treasurer of State and credited to the account for that board, commission or regulatory function within the budget of the Office of Licensing and Registration. [1999, c. 687, Pt. C, §12 (NEW).]

Money received by the Office of Licensing and Registration on behalf of a board or commission listed in section 8001, subsection 38 or by the Office of Licensing and Registration to perform the regulatory functions listed in section 8001, subsection 38 must be used for the expenses of administering its statutory responsibilities, including, but not limited to, the costs of conducting investigations, taking testimony, procuring the attendance of witnesses, all legal proceedings initiated for enforcement and administering the office. [1999, c. 687, Pt. C, §12 (NEW).]

Any balance of these fees may not lapse but must be carried forward as a continuing account to be expended for the same purposes in the following fiscal years. [1999, c. 687, Pt. C, §12 (NEW).]

#### SECTION HISTORY

1999, c. 687, §C12 (NEW).

#### **10 §8004. Annual reports**

Notwithstanding any other provision of law, all annual reports or statements required of bureaus and offices within the department must be submitted to the commissioner not later than August 1st of each year and must summarize the operations and financial position of the bureau or office for the preceding fiscal year ending June 30th. After reviewing such reports and statements, the commissioner shall compile them into a report for submission to the Governor, together with such analysis as the Governor may direct. [1999, c. 687, Pt. C, §13 (AMD).]

## SECTION HISTORY

1975, c. 767, §9 (NEW). 1999, c. 687, §C13 (AMD).

### **10 §8004-A. Legislative reports**

The Director of the Office of Licensing and Registration shall report annually to the joint standing committee of the Legislature having jurisdiction over professional licensing and registration on the status of licensing fees and fee caps. [2001, c. 323, §10 (NEW).]

## SECTION HISTORY

2001, c. 323, §10 (NEW).

### **10 §8005. Compliance with support orders; license qualifications and conditions**

In addition to other qualifications for licensure or registration and conditions for continuing eligibility to hold a license as prescribed by the various acts of bureaus, boards or commissions that compose or are affiliated with the department, applicants for licensure or registration, licensees renewing their licenses and existing licensees must also comply with the requirements of Title 19-A, section 2201. [1995, c. 694, Pt. D, §7 (AMD); 1995, c. 694, Pt. E, §2 (AFF).]

## SECTION HISTORY

1993, c. 410, §V1 (NEW). 1995, c. 694, §D7 (AMD). 1995, c. 694, §E2 (AFF).

### **10 §8005-A. Licensees not in compliance with court-ordered fine, fee or restitution; license qualifications and conditions**

In addition to other qualifications for licensure or registration and conditions for continuing eligibility to hold a license as required by bureaus, boards and commissions within or affiliated with the department, applicants for licensure or registration, licensees renewing their licenses and existing licensees may not hold any such license when there has been a court-ordered suspension of that license as provided by Title 14, sections 3141 and 3142. [2003, c. 193, §1 (NEW).]

## SECTION HISTORY

2003, c. 193, §1 (NEW).

### **10 §8006. Licensees not in compliance with court order of support and other court orders; enforcement of parental support obligations and suspensions**

**1. Definitions.** As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Board" means any bureau, board or commission listed in section 8001 or 8001-A, other licensors that are affiliated with or are a part of the department and the Board of Overseers of the Bar. [1993, c. 410, Pt. V, §1 (NEW).]

B. "Compliance with a support order" means that the support obligor has obtained or maintained health insurance coverage if required by a support order and is:

- (1) No more than 60 days in arrears in making any of the following payments:
  - (a) Payments in full for current support;
  - (b) Periodic payments on a support arrearage pursuant to a written agreement with

the Department of Health and Human Services; and

(c) Periodic payments as set forth in a support order; and

(2) No more than 30 days in arrears in making payments as described in subparagraph (1) if the obligor has been in arrears for more than 30 days in making payments as described in subparagraph (1) at least 2 times within the past 24 months. [2003, c. 396, §1 (RPR); 2003, c. 689, Pt. B, §6 (REV).]

C. "Support order" means a judgment, decree or order, whether temporary, final or subject to modification, issued by a court or an administrative agency of competent jurisdiction for the support and maintenance of a child, including a child who has attained the age of majority under the law of the issuing state, or a child and the parent with whom the child is living, that provides for monetary support, health care, arrearages or reimbursement and may include related costs and fees, interest and penalties, income withholding, attorney's fees and other relief. [2003, c. 396, §1 (RPR).]

D. "Court-ordered suspension" means a suspension by a court of the right of a licensee to hold a professional license based on the contempt procedures pursuant to Title 14, sections 3141 and 3142. [2003, c. 193, §2 (NEW).]

[ 2003, c. 193, §2 (AMD); 2003, c. 396, §1 (AMD); 2003, c. 689, Pt. B, §6 (REV) .]

**2. Noncompliance with a support order.** An applicant for the issuance or renewal of a license or an existing licensee regulated by a board who is not in compliance with a support order is subject to the requirements of Title 19-A, section 2201.

[ 2003, c. 396, §2 (AMD) .]

**3. Court-ordered suspension.** An applicant for the issuance or renewal of a license or an existing licensee regulated by a board who has not paid a court-ordered fine, court-appointed attorney's fees or court-ordered restitution is subject to court suspension of all licenses as provided in Title 14, sections 3141 and 3142.

[ 2003, c. 193, §2 (NEW) .]

#### SECTION HISTORY

1993, c. 410, §V1 (NEW). 1995, c. 694, §D8 (AMD). 1995, c. 694, §E2 (AFF). 2003, c. 193, §2 (AMD). 2003, c. 396, §§1,2 (AMD). 2003, c. 689, §B6 (REV).

#### **10 §8007. Board member candidate information**

The Commissioner of Professional and Financial Regulation or the chief staff administrator for an occupational and professional regulatory board shall work with the Executive Department to prepare general information regarding the purpose of an occupational and professional regulatory board and the role, responsibility and perspective of a member of an occupational and professional regulatory board, including a public member. The material must also include information specific to the board for which the individual is a prospective member, including but not limited to the time commitment, remuneration and any other pertinent details. [1993, c. 600, Pt. A, §12 (NEW).]

This information must be provided to all new candidates for membership on an occupational

and professional regulatory board and to members seeking reappointment in order to fully inform the candidate or member about the nature of the position. Prior to gubernatorial appointment or reappointment, the candidate or member shall sign a statement indicating that the candidate or member has read the material and is prepared to properly discharge the duties of a member of an occupational and professional regulatory board. Failure to sign this statement disqualifies the candidate or member for appointment or reappointment on a board. [1993, c. 600, Pt. A, §12 (NEW).]

#### SECTION HISTORY

1993, c. 600, §A12 (NEW).

### **10 §8008. Purpose of occupational and professional regulatory boards**

The sole purpose of an occupational and professional regulatory board is to protect the public health and welfare. A board carries out this purpose by ensuring that the public is served by competent and honest practitioners and by establishing minimum standards of proficiency in the regulated professions by examining, licensing, regulating and disciplining practitioners of those regulated professions. Other goals or objectives may not supersede this purpose. [1993, c. 600, Pt. A, §12 (NEW).]

#### SECTION HISTORY

1993, c. 600, §A12 (NEW).

### **10 §8009. Standardized terms**

Notwithstanding any other provision of law, upon expiration of a professional or occupational licensing board member's term, that member serves until a successor is appointed. The successor's term commences at the expiration of the preceding term, regardless of the date of appointment. A vacancy occurring prior to the expiration of a specified term must be filled by appointment of a similarly qualified individual as a replacement. The replacement member serves for the remainder of the unexpired term, regardless of the date of appointment. [2007, c. 402, Pt. C, §6 (NEW).]

#### SECTION HISTORY

2007, c. 402, Pt. C, §6 (NEW).

**PLUMBERS'  
EXAMINING BOARD  
RULES**



## **02 DEPARTMENT OF PROFESSIONAL & FINANCIAL REGULATION**

### **395 PLUMBERS' EXAMINING BOARD**

#### **CHAPTER 1 - GENERAL PROVISIONS**

Summary: This rule establishes guidelines relating to meetings, advisory rulings, and maintenance of records.

##### **1. MEETING NOTICES**

The Department shall be responsible for distributing meeting notices to the board members and to others as required by statute or rule. Upon request, notices may also be provided to others deemed to have an interest in the business before the Board.

##### **2. MEETING AGENDAS**

A. An agenda for meetings shall be prepared by the Department and shall include business requiring consideration or action by the board members. The agenda shall also include all business items requested by the board members provided such request is received by the Board at least ten days in advance of the meeting.

B. Business not included on the agenda may be considered following an affirmative vote of a majority of the board members present.

##### **3. RECORDS**

The Department shall maintain a record of all business conducted by the Board and shall preserve, subject to the provisions of 5 M.R.S.A. Chapter 6, all books, documents and papers entrusted to their care. Records shall be opened to public inspection subject to 1 M.R.S.A. Chapter 13. Delays in making records available for inspection may be occasioned by action necessary to preserve the security of records, to obtain legal advice, or to avoid disrupting regular business activities and for these reasons, it is recommended that requests be submitted three business days in advance of anticipated inspection.

Access to written communication with the Department of the Attorney General, criminal history records, materials relating to license examinations, pending complaints, and other records may be restricted subject to 1 M.R.S.A. Chapter 13 and other applicable laws.

#### **4. ADVISORY RULINGS**

##### **A. Authority and Scope**

The Board may issue an advisory ruling pursuant to 5 M.R.S.A. § 9001 concerning the applicability to an existing factual situation of any statutes or rule it administers. Each request shall be reviewed individually by the Board to determine whether an advisory ruling is appropriate. The Board may, at its discretion, decline the request for an advisory ruling. An advisory ruling is not legally binding upon the Board pursuant to Title 5 M.R.S.A. §9001 of the Administrative Procedure Act.

##### **B. Submission**

A request for an advisory ruling shall be submitted to the Board in writing and shall set forth in detail all facts pertinent to the question. The Board may require the submission of additional information as necessary to complete a factual background for a ruling by the Board.

##### **C. Ruling**

An advisory ruling shall be in writing and shall include a statement of facts or assumptions, or both, upon which the ruling is based. The statement, without reference to other documents, shall be sufficiently detailed to apprise the reader of the basis of the opinion. A ruling shall be rendered with the assent of four members of the Board. An advisory ruling shall be signed by the Chairperson of the Board, shall be identified specifically as an advisory ruling, and shall be numbered serially.

##### **D. Publication**

An advisory ruling shall be mailed to the requesting party and a copy shall be kept by the Board Administrator. An advisory ruling is a public document and shall be available for public inspection during the normal working hours of the Board. In addition, the Board, as it deems appropriate, may otherwise publish or circulate an advisory ruling.

**AUTHORITY:** 32 M.R.S.A. Chapter 49, §3403-A

**EFFECTIVE DATE:** April 28, 1997

## **02 DEPARTMENT OF PROFESSIONAL & FINANCIAL REGULATION**

### **395 PLUMBERS' EXAMINING BOARD**

#### **CHAPTER 2 - COMPLAINTS, INVESTIGATIONS AND ADJUDICATORY HEARINGS**

Summary: This Chapter describes the procedure by which complaints and adjudicatory hearings will be handled by the Board.

##### **1. WRITTEN COMPLAINTS.**

Complaints are filed in accordance with the procedures established by the Department of Professional & Financial Regulation, Office of Licensing and Registration. Members of the public may receive materials for initiating a complaint from:

Office of Licensing & Registration  
Complaints & Investigations Unit  
35 State House Station  
Augusta, ME 04333-0035  
Tel: 207/624-8603

##### **2. GROUNDS FOR DISCIPLINE.**

In addition to the grounds for discipline set forth in 32 M.R.S.A. Section 3404, the Board may refuse to issue or renew a license or may take disciplinary action against a licensee for any of the following reasons:

###### **A. Fraud or Deceit**

The practice of fraud or deceit in connection with service rendered as a plumber.

###### **B. Addiction**

Addiction, as confirmed by medical findings, to the use of alcohol or other drugs, which has resulted in the licensee being unable to perform his or her duties in a manner that does not endanger the health or safety of consumers or the public.

**C. Mental Incompetency**

A medical findings of mental incompetency.

**D. Aiding or abetting**

Aiding or abetting a person not duly licensed as a plumber in representing him- or herself to be a licensed plumber.

**E. Violation of plumbing code**

Violation of any provision of the International Association of Plumbing and Mechanical Officials Uniform Plumbing Code, 2000 edition, State of Maine Internal Plumbing Code, as adopted by the Board in Chapter 4 of these rules.

**3. OTHER INVESTIGATIONS**

An investigation may be conducted based upon information other than a written complaint if such information provides prima facie evidence of a violation of 32 M.R.S.A. Chapter 130, or if the information raises a substantial question regarding the qualifications of any applicant or licensee.

**4. BOARD MEMBER REQUEST FOR INVESTIGATION**

A member of the Board may file a complaint or request an investigation, but such complaint or request shall serve to disqualify that member from participating in the Board's disposition of that complaint. The complaining board member shall be prohibited from discussing the issue with other members, except as a witness or party to the proceeding, until after final agency action and the time for appeal has lapsed or appeal rights have been exhausted.

**5. PROHIBITED COMMUNICATIONS**

The board members shall avoid discussing, except with adequate notice and opportunity for all parties to participate, any specific case under investigation, or any case which may reasonably be expected to be the subject of investigations, until after final agency action and the time for filing an appeal has lapsed or appeal remedies have been exhausted, except in accordance with the Standard Complaint Procedure of the Department of Professional and Financial Regulation, Office of Licensing and Registration. This rule shall not be construed to limit the board members at a Board meeting from discussion among themselves or with the attorney for the Board. This rule shall not be construed to limit communications regarding matters which have reached final disposition, investigatory procedures in general, inquiries regarding the procedural status of a specific case, or other matters not relating to issues of fact or law concerning a specific case.

## **6. ADJUDICATORY HEARINGS**

Board hearings shall conform to the requirements of the Maine Administrative Procedure Act, 5 M.R.S.A. Chapter 375.

AUTHORITY: 32 M.R.S.A. §§3403-A, 3403-B, and 3404

EFFECTIVE: January 20, 2002

## **02 DEPARTMENT OF PROFESSIONAL & FINANCIAL REGULATION**

### **395 PLUMBERS' EXAMINING BOARD**

#### **CHAPTER 3 –LICENSING REQUIREMENTS**

Summary: This chapter sets forth the requirements for licensure to be a plumber for the following categories: Trainee, Journeyman-in-Training, Journeyman, and Master.

[Note: See 32 M.R.S.A. §3501 for additional requirements for licensure.]

#### **1. TRAINEE PLUMBER.**

- A. Each applicant for a trainee license shall make application on forms supplied by the Board together with payment of the application and license fee.
- B. A person may be issued a trainee license without examination, upon submission of the appropriate fee and application signed by a licensed master or journeyman plumber. By the signature, the signing master or journeyman plumber acknowledges supervisory responsibility for the work ethics, performance, and training required of the trainee.
- C. Whenever a licensed trainee plumber is no longer employed or supervised by a licensed master or journeyman plumber, the trainee may not actively perform any plumbing work. To continue would be a violation of 32 M.R.S.A. §3304 and Board rules.
- D. Hours accumulated by a trainee plumber shall commence from the date of licensure.
- E. The minimum age for a trainee plumber license is 16. Hours of work applicable toward licensure as work experience are only valid after the applicant's 16th birthday.

#### **2. JOURNEYMAN-IN-TRAINING.**

- A. Upon successful completion of the journeyman examination, an applicant for a journeyman-in-training license shall make application on forms supplied by the Board, with payment of the license fee. The applicant must apply for a journeyman-in-training license to gain the required licensed practical experience to be eligible for licensure as a journeyman plumber.

- B. Whenever a licensed journeyman-in-training is no longer supervised by a licensed master or journeyman plumber, the journeyman-in-training may not actively perform any plumbing work. To continue would be a violation of 32 M.R.S.A. §3304 and Board rules.

### **3. JOURNEYMAN PLUMBER.**

- A. Upon successful completion of the journeyman examination, an applicant for a journeyman license shall make application on forms supplied by the Board, with payment of the license fee.
- B. Whenever a licensed journeyman plumber is no longer employed by a licensed master plumber, or not being a master plumber, does plumbing repair work as a regular part-time occupation, the journeyman may no longer perform the work of installing plumbing and drainage. To continue would be a violation of 32 M.R.S.A. §3304 and Board rules.

### **4. MASTER PLUMBER.**

Upon successful completion of the master examination, an applicant for a master license shall make application on forms supplied by the Board, with payment of the license fee.

### **5. RESPONSIBILITY OF THE MASTER OR JOURNEYMAN PLUMBER REGARDING SUPERVISION.**

- A. By the supervising master's or journeyman's signature on a journeyman-in-training and trainee application, that master or journeyman acknowledges supervisory responsibility for the work ethics, performance, and training required of the trainee being supervised.
- B. By the supervising master's signature on a journeyman application, that master acknowledges employment and supervisory responsibility for the work ethics, performance, and training required of the journeyman being supervised.
- C. The master or journeyman plumber, as the case may be, shall be responsible for making sure that all journeyman, journeyman-in-training or trainees in his/her employ or under his/her supervision are licensed.
- D. Upon request, the signing supervisory master or journeyman, as the case may be, must provide to the journeyman, journeyman-in-training or trainee, a signed affidavit for all practical experience performed under the master's or journeyman's supervision.

- E. Whenever the signing supervisory master or journeyman plumber, as the case may be, ceases to provide supervision to the journeyman, journeyman-in-training, or trainee, the master or journeyman shall notify the Board in writing.

## **7. LICENSE EXPIRATION.**

All Master, Journeyman and Trainee licenses expire two years from the date of issuance. Journeyman-in-Training licenses expire four years from the date of issuance and cannot be renewed.

## **8. RENEWALS.**

- A. The Board shall notify licensees of the date of expiration of their licenses and the renewal fee amounts. The notice shall be mailed to the licensee's last known address at least thirty (30) days prior to the expiration of the license.
- B. A person may renew a license for up to 90 days after the date of expiration upon payment of the license renewal fee and a late fee of \$10.00. **The 90-day period is for the purpose of expediting license renewals only and does not postpone the license expiration date.**

## **9. LICENSE REINSTATEMENT.**

- A. An individual whose license has lapsed for more than 90 days but less than two (2) years from the date of expiration may again obtain a license by choosing one of the following options:
  - 1. Reinstatement without examination by filing and paying the application fee, license fee, and late fee; or
  - 2. By filing a new application, taking and passing the examination, and paying the application, examination, and license fees.
- B. Individuals wishing to reinstate a license two (2) years or more after the date of expiration will be treated as new applicants and must fulfill all requirements of 32 M.R.S.A. Chapter 49 and these rules.

AUTHORITY: 32 M.R.S.A. §§ 3301, 3403-A, 3501, and 3504

EFFECTIVE DATE: January 20, 2002

## **02 DEPARTMENT OF PROFESSIONAL & FINANCIAL REGULATION**

### **395 PLUMBERS' EXAMINING BOARD**

#### **CHAPTER 4 - INSTALLATION STANDARDS**

Summary: This Chapter adopts standards for plumbing installations in the State of Maine.

#### **1. PLUMBING INSTALLATIONS**

- A. The Plumbers' Examining Board adopts and incorporates herein the International Association of Plumbing and Mechanical Officials Uniform Plumbing Code, 2000 edition, State of Maine Internal Plumbing Code as the standard for plumbing installations in the State of Maine, effective September 17, 2005.

The above Code may be purchased from:

International Association of Plumbing and Mechanical Officials  
5001 E. Philadelphia Street  
Ontario, CA 91761-2816  
Telephone: 909/472-4100 or 1-800-85-IAPMO  
Webpage: [www.iapmo.org](http://www.iapmo.org)

- B. Plumbing installations must also comply with all applicable statutes or rules of the State and all applicable ordinances, orders, rules and regulations of local municipalities.

AUTHORITY: 32 M.R.S.A. §§3403-A and 3403-B

EFFECTIVE DATE: September 17, 2005

## **02 DEPARTMENT OF PROFESSIONAL AND FINANCIAL REGULATION**

### **395 PLUMBERS' EXAMINING BOARD**

#### **CHAPTER 5 – EXAMINATION REQUIREMENTS**

SUMMARY: This chapter sets forth specific information pertaining to the examination.

##### **1. TRAINEE PLUMBER.**

An examination is not required to become licensed as a trainee plumber.

##### **2. JOURNEYMAN-IN-TRAINING.**

Applicants are eligible to sit for the journeyman examination once they have completed a plumbing course consisting of one year or two semesters at a technical college; however, they must apply for a journeyman-in-training license to gain the required licensed practical experience.

##### **3. JOURNEYMAN PLUMBER.**

Applicants for a Journeyman Plumber's examination must meet the requirements of 32 M.R.S.A. §3501(2)(A) or (B).

##### **4. MASTER PLUMBER.**

Applicants for a Master Plumber's examination must meet the requirements of 32 M.R.S.A. §3501(2-A)(A).

##### **5. APPLICATION FOR EXAMINATION.**

A. Applicants for an examination(s) must submit all of the following:

1. Completed Application;
2. Application Fee (nonrefundable);
3. Examination Fee(s);
4. Completed Examination Registration Form;
5. School Certificate(s) (if applicable);
6. Out-of-state license certification (if applicable); and

7. Affidavit(s).

- B. Incomplete or illegible applications will be returned to the applicant together with any attachments and the examination fee. Resubmission of the application may result in a change in the scheduled examination date.

## **6. EXAMINATION.**

- A. The Board may contract out its testing services to a nationally recognized testing agency to conduct exams for the Board as needed.
- B. The examination will cover the theory of installing plumbing.
- C. Applicants who fail to pass an examination will be required to reapply on a form provided by the outside testing agency. Failure to retake the examination within two years from approval will necessitate a new application.
- D. Any candidate who fails to appear for a scheduled examination without appropriate notification to the testing agency may forfeit the examination fee.

## **7. REJECTED APPLICATIONS**

Rejected applications requiring no further Board action will be destroyed after six months. An applicant must file a new application in order to reapply.

AUTHORITY: 32 M.R.S.A. §§3403-A, 3501 and 3501-A  
EFFECTIVE DATE: January 20, 2002

## **02 DEPARTMENT OF PROFESSIONAL AND FINANCIAL REGULATION**

### **395 PLUMBERS' EXAMINING BOARD**

#### **CHAPTER 6 - RECIPROCITY**

SUMMARY: This Chapter defines the procedures for qualifying for licensure by reciprocity.

#### **1. RECIPROCAL AGREEMENTS**

- A. The Board may enter into reciprocal licensing agreements with other states, provided that the Board finds that the standards and conditions for licensure of plumbers for the other state are at least equal to those of this Board. In making this determination, the factors the Board shall consider include, but need not be limited to, the type of examination administered, the passing score and provisions (if any) for waiver of examination, and the length of time those standards have been in effect.
- B. If the reciprocal state uses different terminology for its licensing grades than Maine uses, or uses the same terms with different meanings, a reciprocity agreement shall specify which degrees of licensure are subject to reciprocity.
- C. An individual licensed by reciprocity shall comply with the Maine statutes and rules governing plumbers while engaged in plumbing installations in the State of Maine.
- D. If a reciprocity agreement is terminated by either Maine or the reciprocal state, no new licenses shall be granted on the basis of that agreement, but the termination of the agreement shall not impair the validity or renewability of licenses previously issued under the agreement.

#### **2. APPLICATION**

- A. If a reciprocity agreement has been ratified by both the Board and the licensing authority in the reciprocal state, any plumber licensed in the reciprocal state shall be issued a Maine license of the equivalent degree in Maine. Applicants for reciprocity must submit all of the following:
  - 1. Completed application;
  - 2. Application fee (nonrefundable);

3. License fee;
4. Documentation of experience;
5. Certified statement verifying licensure from the reciprocal state.

AUTHORITY: 32 M.R.S.A. §§3403-A(1), 3504-A, and 3501  
EFFECTIVE DATE: January 20, 2002

## **02 DEPARTMENT OF PROFESSIONAL & FINANCIAL REGULATION**

### **395 PLUMBERS' EXAMINING BOARD**

#### **CHAPTER 8 - CONFLICT OF INTEREST**

Summary: This Chapter contains the Conflict of Interest Policy which sets the professional standards for Plumbers' Examining Board members.

Any duly appointed and sworn member of the Maine Plumbers' Examining Board is charged with responsible conduct commensurate with the trust placed in him/her by the Governor. Such Board member is entrusted with the security, safety, health, prosperity and general well-being of the people of the State of Maine. With such a trust, high moral and ethical standards producing the public's confidence, with the reduction to a minimum of any conflict between private interests and official duties, should be observed. No Board Member will accept any employment which can possibly impair his/her independence and integrity of judgement nor will he/she exercise his/her position of trust to secure unwarranted privileges for himself/herself or for others. The Maine Plumbers' Examining Board member will endeavor conscientiously to pursue the highest standards of Board conduct.

STATUTORY AUTHORITY: 32 M.R.S.A. Chapter 49, §3403-A

EFFECTIVE DATE: April 28, 1997

**02 DEPARTMENT OF PROFESSIONAL AND FINANCIAL REGULATION**

**041 OFFICE OF LICENSING AND REGISTRATION**

**Chapter 10: ESTABLISHMENT OF LICENSE FEES**

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**Summary:** This chapter establishes fees for professional and occupational licenses and registrations issued by the Office of Licensing and Registration.

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**1. Definitions**

Unless the context otherwise indicates, the following words have the following meanings:

1. **3d party.** “3d party” refers to a fee for a standardized license examination that is paid directly by the applicant to the organization administering the examination or its designee.
2. **OLR.** “OLR” means the Office of Licensing and Registration.

**2. Establishment of Fees; Effective Dates**

OLR shall charge the license and other fees indicated in §§ 3 and 5 below. For initial licenses, and for applications and examinations, the fees set out below shall become effective upon the effective date of this chapter. For renewal licenses, the fees set out below shall become effective with the first renewal cycle occurring on or after the effective date of this chapter.

The license and other fees of OLR boards and regulatory functions not listed below are set by the statute and implementing rules governing the particular board or regulatory function.

**3. Fees Applicable to All Boards and Regulatory Functions Listed in §4**

Except as otherwise indicated, the fees listed in this section apply to all boards and regulatory functions listed in §5 below:

1. Replacement license ..... \$10
2. Verification of licensure ..... \$10
3. Photocopies..... No charge for first 7 pages, 25¢ for each page thereafter
4. Licensee register list on diskette or CD-ROM ..... \$10

#### 4. Refunds

If an applicant applies for a license listed in §5 for which a separate application fee is charged, the license fee will be refunded if the license is denied. All other fees listed in §§ 3 and 5 are nonrefundable.

#### 5. Fees to be Charged For Particular Occupational and Professional Licenses and Registrations and Related Fees

The following fees shall be charged for the licenses, registrations, permits and other services listed in subsections 1–40 below. For any given license or registration, the designated fee shall apply to both initial issuance and renewal unless otherwise indicated. The term of a license or registration ends on the uniform expiration or renewal date established for that license or registration by law.

#### **29. Plumbers' Examining Board**

Master	2 yr	\$200
Journeyman	2 yr	\$150
Journeyman-in-Training	4 yr	\$50
Trainee	2 yr	\$50
Corporation	2 yr	\$200
Application	NA	\$25
Late renewal:		
More than 90 days	NA	\$50

STATUTORY AUTHORITY: OLR director uniform fee authority: 10 MRSA §8003(2-A)(D) and (E). OLR director fee authority in board statutes: 32 MRSA §§67, 287-A, 558, 1203-A, 1504, 1527, 2402-B, 3116-A, 3501-B, 3652, 3833-A, 4863-A, 4912, 5507, 6215, 9859-A, 12514-A, 13724, 13910-A, 14012-A, 14306-G, 14358, 15109(9) and 15225-A. Additional late fee authority in board statutes: 32 MRSA §§224, 224-A, 553-A, 1204, 2404, 3504, 3652, 4863, 5515(8), 9859, 9909(1), 13734(1), 13908(1), 14025, 14235, 14238, 14814, 15109(3), 15216-C.

EFFECTIVE DATE: February 10, 2007

Chapter 11: LATE RENEWALS

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SUMMARY: This chapter establishes a uniform policy regarding the treatment of late renewals of licenses issued by the licensing boards and regulatory functions within the Office of Licensing and Registration (“OLR”).

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1. Applicability

This chapter applies to the OLR licensing boards and regulatory functions enumerated in 10 MRSA §8001(38). For those programs, this chapter supersedes existing statutory and rule provisions dealing with the consequences of late renewal.

2. Late Renewal Within 90 Days of Expiration

1. A licensee who applies for renewal after expiration of the license but within 90 days of expiration shall pay a late renewal fee of \$50. The license will be issued as of the date of late renewal and will not be retroactive to the expiration of the prior license.
2. The licensee is considered to have been unlicensed from the date of expiration to the date of late renewal.
3. A licensee who applies for renewal within 90 days after expiration and pays the \$50 late renewal fee will not be subject to disciplinary action by the licensing authority for unlicensed practice during the period of nonlicensure. The licensee will remain subject to disciplinary action for all other violations.

3. Late Renewal Beyond 90 Days of Expiration

A licensee who fails to renew within 90 days after expiration shall be subject to:

1. Applicable administrative and judicial penalties for all unlicensed practice that occurred subsequent to expiration; and
2. Applicable statutory provisions relating to late renewal.

4. Notice

Licensees who fail to timely renew shall be notified of the consequences of late renewal as soon as practicable after expiration.

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STATUTORY AUTHORITY: 32 MRSA §8003(2-A)(E)

EFFECTIVE DATE:

September 9, 2001

**MEMORANDUM OF UNDERSTANDING BETWEEN THE OIL AND SOLID FUEL BOARD AND THE PLUMBERS' EXAMINING BOARD FOR THE INSTALLATION OF HOT WATER OR STEAM & WARM AIR HEATING SYSTEMS**

**RADIATION SUPPLY AND RETURN CONNECTIONS**

***ALL TASKS TO BE PERFORMED UNDER THE SUPERVISION AND RESPONSIBILITY OF A LICENSED MASTER OIL BURNER TECHNICIAN***

**A Master Plumber; or a Journeyman Plumber, under the employment or direction of a Master Plumber,**

**SHALL NOT**

1. Pipe oil tank or run pipe from tank to oil burner.
2. Install any electric wiring unless he or she is licensed to do so.
3. Install any safety equipment.
4. Install smoke pipe.
5. Install thermostat and relays.

**A Master Plumber; or a Journeyman Plumber, under the employment and direction of a Master Plumber,**

**MAY INSTALL**

1. Radiation, supply mains and returns, fittings, vents, gate valves, ball valves, zone valves, check valves or other valves that apply directly to the mechanical function of the heating system. This section does not apply to Safety Valves.
2. Connect mains and returns to boiler.
3. Connect make-up water to boiler.
4. Install back flo preventer.
5. Connect tankless water heater.

**A Master Plumber or a Journeyman Plumber, holding an Apprentice Oil Burner license; under the direct supervision of a Master Oil Burner Technician,**

**MAY**

1. Set boiler.
2. Set warm air furnaces, install plenums, warm air and return ducts, registers and piping.

**A Master Oil Burner Technician or Solid Fuel Master, as appropriate; or**

**A Journeyman Burner Technician, under the indirect supervision of an appropriate Master; or**

**An Apprentice Oil Burner or Solid Fuel Technician, under the direct supervision of an appropriate Master or Journeyman,**

**MAY**

1. Set boiler.
2. Pipe radiation, vents, valves, etc.
3. Install mains and returns.
4. Connect mains and returns to boiler.
5. Connect make-up water to boiler.
6. Install back flo preventer.
7. Install and pipe oil tank.
8. Install set pump, if necessary.
9. Connect oil piping to boiler.
10. Install smoke pipe.
11. Install safety equipment to include safety valves.
12. Install thermostats and relays.
13. Install electric wiring to a breaker or fuse box.
14. Connect a tankless water heater within the boiler room or, if not enclosed, with 15' horizontally to the nearest branch water supply.

Date: April 3, 1991  
Lloyd Rainey, Chairperson  
Plumbers' Examining Board

Date: April 3, 1991  
James Carey, Chairperson  
Oil and Solid Fuel Board





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Office of Licensing and Registration  
Plumbers' Examining Board  
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