An Act To Correct Errors and Inconsistencies in the Laws of Maine

Emergency preamble. Whereas, acts and resolves of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, acts of this and previous Legislatures have resulted in certain technical errors and inconsistencies in the laws of Maine; and

Whereas, these errors and inconsistencies create uncertainties and confusion in interpreting legislative intent; and

Whereas, it is vitally necessary that these uncertainties and this confusion be resolved in order to prevent any injustice or hardship to the citizens of Maine; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

PART A

Sec. A-1. 1 MRSA §150, as enacted by PL 2007, c. 28, §1, is reallocated to 1 MRSA §150-B.

Sec. A-2. 1 MRSA §353, as amended by PL 2005, c. 316, §1, is further amended to read:

§ 353.Explanation of proposed amendments and statewide referenda

With the assistance of the Secretary of State, the Attorney General shall prepare a brief explanatory statement that must fairly describe the intent and content and what a "yes" vote favors and a "no" vote opposes for each constitutional resolution or statewide referendum that may be presented to the people and that must include any information prepared by the Treasurer of State under Title 5, section 152. The explanatory statement may not include comments of proponents or opponents as provided by section 354. In addition to the explanatory statement, beginning with the November 2006 election the Office of Fiscal and Program Review shall prepare an estimate of the fiscal impact of each constitutional resolution or statewide referendum on state revenues, appropriations and allocations within 30 days after the adjournment of the legislative session immediately prior to the statewide election when the constitutional resolution or referendum will appear on the ballot. The fiscal impact estimate must summarize the aggregate impact that the constitutional resolution or referendum will have on the General Fund, the Highway Fund, Other Special Revenue Funds and the amounts distributed by the ~~states~~State to local units of government. The Secretary of State shall publish the explanatory statement and the fiscal estimate in each daily newspaper of the State, not more than 10 and not less than 7 days prior to the voting. This information may be published in the English language in a foreign language newspaper.

Sec. A-3. 1 MRSA §535, sub-§3, ¶A, as amended by PL 2003, c. 681, §1, is further amended to read:

A. Negotiate and enter into contracts for professional consulting, research and other services; and

Sec. A-4. 1 MRSA §535, sub-§3, ¶B, as amended by PL 2003, c. 681, §1, is further amended to read:

B. To the extent permitted by the service level agreement between the network manager and the data custodian, have access to confidential information if it is necessary to carry out the duties of the network manager or the purposes of InforME. The network manager is subject to the same limitations and penalties as a data custodian concerning the use and disclosure of confidential information~~; and~~.

Sec. A-5. 2 MRSA §6, sub-§4, as amended by PL 2007, c. 240, Pt. HH, §1 and c. 273, Pt. B, §2 and affected by §7, is repealed and the following enacted in its place:

4. Range 88. The salaries of the following state officials and employees are within salary range 88:

Director, Bureau of Air Quality;

Director, Bureau of Land and Water Quality;

Director, Bureau of Remediation and Waste Management;

Deputy Commissioner, Environmental Protection;

Director, Office of Licensing and Registration;

Administrator, Office of Securities; and

Deputy Chief of the State Police.

Sec. A-6. 3 MRSA §959, sub-§1, ¶I, as amended by PL 2003, c. 600, §1, is further amended to read:

I. The joint standing committee of the Legislature having jurisdiction over labor matters shall use the following list as a guideline for scheduling reviews:

(1) Maine ~~State~~Public Employees Retirement System in ~~2005~~2013;

(2) Department of Labor in 2007;

(3) Maine Labor Relations Board in 2009; and

(4) Workers' Compensation Board in 2009.

Sec. A-7. 5 MRSA §4613, sub-§2, ¶B, as amended by PL 2007, c. 243, §8 and c. 457, §1, is repealed and the following enacted in its place:

B. If the court finds that unlawful discrimination occurred, its judgment must specify an appropriate remedy or remedies for that discrimination. The remedies may include, but are not limited to:

(1) An order to cease and desist from the unlawful practices specified in the order;

(2) An order to employ or reinstate a victim of unlawful employment discrimination, with or without back pay;

(3) An order to accept or reinstate such a person in a union;

(4) An order to rent or sell a specified housing accommodation, or one substantially identical to that accommodation if controlled by the respondent, to a victim of unlawful housing discrimination;

(5) An order requiring the disclosure of the locations and descriptions of all housing accommodations that the violator has the right to sell, rent, lease or manage and forbidding the sale, rental or lease of those housing accommodations until the violator has given security to ensure compliance with any order entered against the violator and with all provisions of this Act. An order may continue the court's jurisdiction until the violator has demonstrated compliance and may defer decision on some or all relief until after a probationary period and a further hearing on the violator's conduct during that period;

(6) An order to pay the victim, in cases of unlawful price discrimination, 3 times the amount of any excessive price demanded and paid by reason of that unlawful discrimination;

(7) An order to pay to the victim of unlawful discrimination, other than employment discrimination in the case of a respondent who has more than 14 employees, or, if the commission brings action on behalf of the victim, an order to pay to the victim, the commission or both, civil penal damages not in excess of $20,000 in the case of the first order under this Act against the respondent, not in excess of $50,000 in the case of a 2nd order against the respondent arising under the same subchapter of this Act and not in excess of $100,000 in the case of a 3rd or subsequent order against the respondent arising under the same subchapter of this Act, except that the total amount of civil penal damages awarded in any action filed under this Act may not exceed the limits contained in this subparagraph;

(8) In cases of intentional employment discrimination with respondents who have more than 14 employees, compensatory and punitive damages as provided in this subparagraph.

(a) In an action brought by a complaining party under section 4612 and this section against a respondent who engaged in unlawful intentional discrimination prohibited under sections 4571 to 4575, if the complaining party can not recover under 42 United States Code, Section 1981 (1994), the complaining party may recover compensatory and punitive damages as allowed in this subparagraph in addition to any relief authorized elsewhere in this subsection from the respondent.

(b) When a discriminatory practice involves the provision of a reasonable accommodation, damages may not be awarded under this subparagraph when the covered entity demonstrates good faith efforts, in consultation with the person with the disability who has informed the covered entity that accommodation is needed, to identify and make a reasonable accommodation that would provide that individual with an equally effective opportunity and would not cause an undue hardship on the operation of the business.

(c) A complaining party may recover punitive damages under this subparagraph against a respondent if the complaining party demonstrates that the respondent engaged in a discriminatory practice or discriminatory practices with malice or with reckless indifference to the rights of an aggrieved individual protected by this Act.

(d) Compensatory damages awarded under this subparagraph do not include back pay, interest on back pay or any other type of relief authorized elsewhere under this subsection.

(e) The sum of compensatory damages awarded under this subparagraph for future pecuniary losses, emotional pain, suffering, inconvenience, mental anguish, loss of enjoyment of life, other nonpecuniary losses and the amount of punitive damages awarded under this section may not exceed for each complaining party:

(i) In the case of a respondent who has more than 14 and fewer than 101 employees in each of 20 or more calendar weeks in the current or preceding calendar year, $50,000;

(ii) In the case of a respondent who has more than 100 and fewer than 201 employees in each of 20 or more calendar weeks in the current or preceding calendar year, $100,000;

(iii) In the case of a respondent who has more than 200 and fewer than 501 employees in each of 20 or more calendar weeks in the current or preceding calendar year, $300,000; and

(iv) In the case of a respondent who has more than 500 employees in each of 20 or more calendar weeks in the current or preceding calendar year, $500,000.

(f) Nothing in this subparagraph may be construed to limit the scope of, or the relief available under, 42 United States Code, Section 1981 (1994).

(g) If a complaining party seeks compensatory or punitive damages under this subparagraph, any party may demand a trial by jury, and the court may not inform the jury of the limitations described in division (e).

(h) This subparagraph does not apply to recoveries for a practice that is unlawful only because of its disparate impact.

(i) Punitive damages may not be included in a judgment or award against a governmental entity, as defined in Title 14, section 8102, subsection 2, or against an employee of a governmental entity based on a claim that arises out of an act or omission occurring within the course or scope of that employee's employment; and

(9) In addition to other remedies in subparagraphs (1) to (8), an order to pay actual damages in the case of discriminatory housing practices. This subparagraph is not intended to limit actual damages available to a plaintiff alleging other discrimination if the remedy of actual damages is otherwise available under this Act;

Sec. A-8. 5 MRSA §12004-I, sub-§3-D, as enacted by PL 2007, c. 146, §1, is amended to read:

3-D.

Conservation		
	Expenses/Legislative per diem	12 MRSA ~~§1891~~§1890-A
Allagash Wilderness Waterway Advisory Council		

Sec. A-9. 5 MRSA §18306-A, sub-§1, ¶D, as enacted by PL 2007, c. 137, §21, is amended to read:

D. Except when inclusion of a portion of employer contributions is required by ~~subsection 5~~paragraph E, only accumulated contributions made by the member or picked up by the employer may be refunded to that member under this section; and

Sec. A-10. 9 MRSA §5017, first ¶, as repealed and replaced by PL 2007, c. 402, Pt. A, §10, is amended to read:

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

Sec. A-11. 12 MRSA §685-A, sub-§10, ¶B, as enacted by PL 2001, c. 105, §1, is amended to read:

B. The access and use needs of a person with a physical disability as ~~defined~~described in Title 5, section ~~4553~~4553-A, subsection ~~7-B~~1, paragraphs C and D who resides in or regularly uses a structure; or

Sec. A-12. 12 MRSA §1891, as enacted by PL 2007, c. 146, §3, is reallocated to 12 MRSA §1890-A.

Sec. A-13. 12 MRSA §1891-A, as enacted by PL 2007, c. 146, §4, is reallocated to 12 MRSA §1890-B.

Sec. A-14. 12 MRSA §1891-B, as enacted by PL 2007, c. 146, §5, is reallocated to 12 MRSA §1890-C.

Sec. A-15. 12 MRSA §6434, sub-§4, as amended by PL 2007, c. 201, §15 and c. 283, §3, is repealed and the following enacted in its place:

4. Restitution. If the holder of a lobster and crab fishing license or a nonresident lobster and crab landing permit violates this section by cutting a lobster trap line, the court shall:

A. Order that person to pay to the owner of the trap line that was cut an amount equal to twice the replacement value of all traps lost as a result of that cutting; and

B. Direct that person to provide proof of payment of that restitution to the commissioner as required by section 6402, subsection 1.

Restitution imposed under this subsection is in addition to any penalty imposed under subsection 3-A.

Sec. A-16. 12 MRSA §11224, as enacted by PL 2007, c. 454, §1, is reallocated to 12 MRSA §11226.

Sec. A-17. 13-B MRSA §1401, sub-§35, as amended by PL 2007, c. 231, §18 and c. 323, Pt. B, §34 and affected by c. 323, Pt. G, §4, is repealed and the following enacted in its place:

35. Reinstatement fee after administrative dissolution of domestic or foreign corporation. For failure to file an annual report, $25 for each period of delinquency; for failure to pay the annual report late filing penalty, $25; for failure to appoint or maintain a registered agent, $25; for failure to notify the Secretary of State that its registered agent or the address of the registered agent has been changed or that its registered agent has resigned, $25; and for filing false information, $25; and

Sec. A-18. Effective date. That section of this Act that repeals and replaces the Maine Revised Statutes, Title 13-B, section 1401, subsection 35 takes effect July 1, 2008.

Sec. A-19. 15 MRSA §3314, sub-§2, as amended by PL 2007, c. 96, §6, is further amended to read:

2. Suspended disposition. The court may impose any of the dispositional alternatives provided in subsection 1 and may suspend its disposition and place the juvenile on a specified period of probation that is subject to such provisions of Title 17-A, section 1204 as the court may order and that is administered pursuant to the provisions of Title 34-A, chapter 5, subchapter 4, except that the court may not impose the condition set out in Title 17-A, section 1204, subsection 1-A. The court may impose as a condition of probation that a juvenile must reside outside the juvenile's home in a setting satisfactory to the juvenile community corrections officer if the court determines that reasonable efforts have been made to prevent or eliminate the need for removal of the juvenile from the juvenile's home or that no reasonable efforts are necessary because of the existence of an aggravating factor as defined in Title 22, section 4002, subsection 1-B, and that continuation in the juvenile's home would be contrary to the welfare of the juvenile. Imposition of such a condition does not affect the legal custody of the juvenile.

Modification of probation is governed by the procedures contained in Title 17-A, section 1202, subsection 2. Termination of probation is governed by the procedures contained in Title 17-A, section 1202, subsection 3. Revocation of probation is governed by the procedures contained in Title 17-A, sections 1205, 1205-B, 1205-C and 1206, except that this subsection governs the court's determinations concerning probable cause and continued detention and those provisions of Title 17-A, section 1206, subsection 7-A allowing a vacating of part of the suspension of execution apply only to a suspended fine under subsection 1, paragraph G or a suspended period of confinement under paragraph H. A suspended commitment under subsection 1, paragraph F may be modified to a disposition under subsection 1, paragraph H. When a revocation of probation results in the imposition of a disposition under subsection 1, paragraph F or a period of confinement under subsection 1, paragraph H, the court shall determine whether reasonable efforts have been made to prevent or eliminate the need for removal of the juvenile from the juvenile's home or that no reasonable efforts are necessary because of the existence of an aggravating factor as defined in Title 22, section 4002, subsection 1-B and whether continuation in the juvenile's home would be contrary to the welfare of the juvenile. This determination does not affect whether the court orders a particular disposition upon a revocation of probation. If the juvenile is being detained for an alleged violation of probation, the court shall review within 48 hours following the detention, excluding Saturdays, Sundays and legal holidays, the decision to detain the juvenile. Following that review, the court shall order the juvenile's release unless the court finds that there is probable cause to believe that the juvenile has violated a condition of probation and finds, by a preponderance of the evidence, that continued detention is necessary to meet one of the purposes of detention under section 3203-A, subsection 4, paragraph C. When a court orders continued detention, the court shall determine whether reasonable efforts have been made to prevent or eliminate the need for removal of the juvenile from the juvenile's home or that no reasonable efforts are necessary because of the existence of an aggravating factor as defined in Title 22, section 4002, subsection 1-B and whether continuation in the juvenile's home would be contrary to the welfare of the juvenile. This determination does not affect whether the court orders continued detention.

Sec. A-20. 17-A MRSA §1110, sub-§1-C, as enacted by PL 2007, c. 346, Pt. B, §3, is amended to read:

1-C. It is an affirmative defense to prosecution under ~~section~~subsection 1-A that the person furnishing the hypodermic apparatuses is enrolled in a hypodermic apparatus exchange program that is certified by the Department of Health and Human Services, Maine Center for Disease Control and Prevention and is furnishing the hypodermic apparatuses to an employee of such a program.

Sec. A-21. 20-A MRSA §401, sub-§1, as amended by PL 2007, c. 200, §1 and repealed and replaced by c. 466, Pt. B, §14 and affected by §15, is repealed and the following enacted in its place:

1. Appointment. The state board consists of 9 members and, beginning in the 2007-2008 school year, 2 nonvoting student members, one junior and one senior in high school. All members are appointed by the Governor. Four members must reside in the State's First Congressional District at the time of appointment, 4 members must reside in the State's Second Congressional District at the time of appointment and one member may reside in either the First Congressional District or the Second Congressional District at the time of appointment. One of the student members must reside in the State's First Congressional District at the time of appointment and the other student member must reside in the State's Second Congressional District at the time of appointment. Each appointment is subject to review by the joint standing committee of the Legislature having jurisdiction over education matters and to confirmation by the Senate.

Sec. A-22. 20-A MRSA §1506, sub-§4, as enacted by PL 2007, c. 240, Pt. XXXX, §13, is amended to read:

4. Debt of original education units. After July 1, 2008, for each original education unit with existing debt that has reorganized into a new unit, if the new unit has not agreed to assume liability to pay that existing debt, the regional school unit board shall serve as agent for purposes of that existing debt and has full authority to:

A. Sue and be sued in the name of the original education unit with respect to the existing debt;

B. Determine the debt service due each fiscal year on any existing debt;

C. As applicable, allocate to each member of the original education unit the member's share of the annual debt service for the existing debt of the original education unit in addition to each member's share of costs of the new unit;

D. Collect the allocation for debt service on the existing debt from the original education unit or, as applicable, from each member of the original education unit in addition to each member's share of costs of the new unit;

E. Pay the debt service on the existing debt of the original education unit when due; and

F. Take all other actions necessary and proper with respect to the existing debt.

Allocations between members of the original education unit to pay the debt service for the existing debt must be made on the basis of the cost-sharing formula of the original education unit in effect on July 1, 2007, as applied to the year of allocation. In the case of state-subsidized debt service, the provisions of

subsection 3 apply. Amounts to pay the debt service on the existing debt of the original education units must be included in the budget that the regional school unit board of a new unit submits for approval. If the original education unit is divided between different new units that have not agreed to assume liability to pay the existing debt, the commissioner shall require that the reorganization plan of one of those new units provide for that new unit to serve as agent for purposes of the existing debt of the original education unit. That new unit, as agent, has the authority provided by this subsection, except that the new unit shall notify the other new units containing members of the original education unit of the amounts they must assess and collect from their members who were members of the original education unit, and those other new units shall perform the functions in ~~subsection 4,~~ paragraphs C and D with respect to their members, and shall pay the appropriate amounts over to the new unit serving as agent.

Sec. A-23. 20-A MRSA §15696, sub-§1, ¶A, as enacted by PL 2007, c. 240, Pt. XXXX, §33, is amended to read:

A. The school administrative unit is eligible for only 50% of the minimum state allocation under ~~Title 20-A,~~ section 15689, subsection 1;

Sec. A-24. 21-A MRSA §1018, as amended by PL 2007, c. 443, Pt. A, §19, is repealed.

Sec. A-25. 22 MRSA §2685, sub-§2, ¶B, as enacted by PL 2007, c. 327, §1, is amended to read:

B. "Carrier" has the same meaning as in Title 24-A, section 4301-A, ~~section~~subsection 3.

Sec. A-26. 22 MRSA §8702, sub-§8-B, as enacted by PL 2007, c. 136, §1, is amended to read:

8-B. Pharmacy benefits manager. "Pharmacy benefits manager" means an entity that performs pharmacy benefits management as defined in section 2699, subsection 1, paragraph E.

Sec. A-27. 22 MRSA §8702, sub-§11, as amended by PL 2007, c. 136, §1 and c. 240, Pt. VV, §2, is repealed and the following enacted in its place:

11. Third-party payor. "Third-party payor" means a health insurer, carrier, including a carrier that provides only administrative services for plan sponsors, nonprofit hospital, medical services organization or managed care organization licensed in the State. "Third-party payor" does not include carriers licensed to issue limited benefit health policies or accident, specified disease, vision, disability, long-term care or nursing home care policies.

Sec. A-28. 22 MRSA §8824, sub-§1-A, as enacted by PL 2007, c. 450, Pt. A, §8, is amended to read:

1-A. Referral to Child Development Services System. The department shall adopt rules according to which it shall in a timely fashion refer children identified in subsection 1 as having a high likelihood of having a hearing impairment to the Child Development Services System. The rules must also describe the timetables under which the department shall refer to the Child Development Services System children identified by the department in accordance with subsection 1 as having possible hearing impairment but for whom hearing impairment has been neither confirmed nor disconfirmed by 6 months of age. The Department of Education and the Department of Health and Human Services shall execute

an interagency agreement ~~under section 7213~~ to facilitate the referrals in this subsection. In accordance with the interagency agreement, the Department of Education shall offer a single point of contact for the Department of Health and Human Services to use in making referrals. Also in accordance with the interagency agreement, the Child Development Services System may make direct contact with the families who are referred. The referrals may take place electronically. For purposes of quality assurance and improvement, the Child Development Services System shall supply to the Department of Health and Human Services aggregate data at least annually on the number of children referred under this subsection who are found eligible for early intervention services and on the number of children found not eligible for early intervention services.

Sec. A-29. 24-A MRSA §2847-M, as enacted by PL 2007, c. 452, §3, is reallocated to 24-A MRSA §2847-O.

Sec. A-30. 24-A MRSA §4253, as enacted by PL 2007, c. 452, §4, is reallocated to 24-A MRSA §4255.

§ 4255.Coverage for hearing aids

1. Hearing aid; definition. For purposes of this section, "hearing aid" means a nonexperimental, wearable instrument or device designed for the ear and offered for the purpose of aiding or compensating for impaired human hearing, excluding batteries and cords and other assistive listening devices, including, but not limited to, frequency modulation systems.

2. Required coverage. In accordance with the application of coverage set forth in subsection 3, all health maintenance organization individual and group health insurance contracts must provide coverage for the purchase of a hearing aid for each hearing-impaired ear for an individual covered under the policy, contract or certificate who is 18 years of age or under in accordance with the following requirements.

A. The hearing loss must be documented by a physician or audiologist licensed pursuant to Title 32, chapter 77.

B. The hearing aid must be purchased from an audiologist licensed pursuant to Title 32, chapter 77 or a hearing aid dealer licensed pursuant to Title 32, chapter 23-A.

C. The policy, contract or certificate may limit coverage to $1,400 per hearing aid for each hearing-impaired ear every 36 months.

3. Application of coverage. The requirements of subsection 2 apply to an individual:

A. From birth to 5 years of age, who is covered under a contract that is issued or renewed on or after January 1, 2008;

B. From 6 to 13 years of age, who is covered under a contract that is issued or renewed on or after January 1, 2009; and

C. From 14 to 18 years of age, who is covered under a contract that is issued or renewed on or after January 1, 2010.

4. Limits; coinsurance; deductibles. Except as otherwise provided in this section, any contract that provides coverage for services under this section may contain provisions for maximum benefits and coinsurance and reasonable limitations, deductibles and exclusions to the extent that these provisions are not inconsistent with the requirements of this section.

Sec. A-31. 25 MRSA §2001, as amended by PL 2003, c. 414, Pt. B, §§36 and 37 and affected by c. 614, §9 and repealed by c. 452, Pt. N, §1 and affected by Pt. X, §2, is repealed.

Sec. A-32. 26 MRSA §2171-A, sub-§2, as enacted by PL 2003, c. 114, §19, is amended to read:

2. Maine Conservation Corps. The Maine Conservation Corps under Title 12, chapter ~~34~~220, subchapter 6-A.

Sec. A-33. 29-A MRSA §468, sub-§6, as amended by PL 2007, c. 240, Pt. LLLL, §3, is further amended to read:

6. Numbering, lettering and duplicate plates. Except as provided in section ~~465-C~~456-C, the Secretary of State shall issue a specialty license plate in a 3-number and 3-letter combination sequence. Vanity plates may not duplicate vanity plates issued in another class of plate.

Sec. A-34. 29-A MRSA §1972, sub-§1, as enacted by PL 2005, c. 544, §1, is amended to read:

1. Ownership; access. Data described in section ~~2561~~1971, subsection 1 that are recorded on an event data recorder may not be downloaded or otherwise retrieved by a person other than the owner of the motor vehicle at the time the data are accessed, except under the following circumstances:

A. The owner of the motor vehicle or the owner's agent or legal representative consents to the retrieval of the information;

B. A court of competent jurisdiction in this State orders the production of the data;

C. For purposes of improving motor vehicle safety, security or traffic management, including medical research on the human body's reaction to motor vehicle crashes, as long as the identity of the owner or driver is not disclosed in connection with that retrieved data. For the purposes of this paragraph, the disclosure of the vehicle identification number with the last 4 digits deleted does not constitute the disclosure of the identity of the owner or driver;

D. The data are retrieved by a licensed motor vehicle dealer or by an automotive technician for the purpose of diagnosing, servicing or repairing the motor vehicle;

E. The data are retrieved for the purpose of determining the need for or facilitating emergency medical response in the event of a motor vehicle crash;

F. The data are retrieved by a law enforcement officer acting pursuant to authority recognized under applicable statutory or constitutional law; or

G. The data are requested as part of routine civil or criminal discovery.

Sec. A-35. 30-A MRSA §4211, sub-§4, as enacted by PL 1987, c. 737, Pt. A, §2 and Pt. C, §106 and amended by PL 1989, c. 6; c. 9, §2; and c. 104, Pt. C, §§8 and 10, is further amended to read:

4. Enforcement and penalty. Any person who violates this section ~~shall~~must be penalized in accordance with section ~~4506~~4452. The municipality or the department may seek to enjoin violations of this section.

Sec. A-36. 32 MRSA §1202, sub-§1, ¶A, as amended by PL 2007, c. 398, §1 and c. 402, Pt. I, §12, is repealed and the following enacted in its place:

A. For a journeyman electrician's license, a person must:

(1) Complete at least 8,000 hours of service as an apprentice or helper electrician or at least 8,000 hours of experience in electrical installations, as defined in section 1101, and satisfactorily complete a program of study comprising 576 hours as approved by the Electricians' Examining Board or from an accredited institution. The 576 hours shall consist of 225 hours of required study, including an approved course of not less than 45 hours in the current National Electrical Code; and 351 hours of elective study, comprised of all trade-related electives or 225 hours of trade-related courses and 135 hours of degree-related courses;

(2) Be a graduate of an accredited regional applied technology high school 2-year electrical program, have worked for 8,000 hours in the field of electrical installations under the supervision of a master electrician or the equivalent and have completed a course of not less than 45 hours in the current National Electrical Code, the course to be approved by the board;

(3) Be a graduate of an accredited community college electrical program or a vocational-electrical program of the Department of Corrections, have worked for 4,000 hours in the field of electrical installations under the supervision of a master electrician or the equivalent and have completed a course of not less than 45 hours in the current National Electrical Code, the course to be approved by the board. Persons qualifying under this paragraph may sit for the journeyman's examination upon graduation if application is made within one year of graduation; or

(4) Be an electrical apprentice registered with the State Apprenticeship and Training Council and have completed 576 hours of related instruction, as defined in this paragraph, prescribed in their apprenticeship program, the 8,000-hour approved program and a course of not less than 45 hours in the current National Electrical Code, the course to be approved by the board. Persons

qualifying under this paragraph may sit for the journeyman's examination after completion of the 576 hours of instruction if application is made within one year of the completion of the instruction.

Sec. A-37. 32 MRSA §12228, as amended by PL 2007, c. 384, §§3 to 8 and c. 402, Pt. Z, §11, is repealed and the following enacted in its place:

§ 12228. Certified public accountants; qualifications

1. Certificate grant. The board shall grant the certificate of "certified public accountant" to any person who makes application to the board and who meets the good character, education, examination and experience requirements of this section, and who pays the fees as set under section 12203, except that no certificate may be granted to a person holding a valid certificate issued by another state.

2. Good character. "Good character" for the purposes of this section means lack of a history of dishonest or felonious acts. The board may refuse to grant a certificate on the ground of failure to satisfy this requirement only if there is a substantial connection between the lack of good character of the applicant and the professional responsibilities of a licensee and if the finding by the board of lack of good character is supported by clear and convincing evidence. When an applicant is found to be unqualified for a certificate because of a lack of good character, the board shall furnish the applicant a statement containing the findings of the board, a complete record of the evidence upon which the determination was based and a notice of the applicant's right of appeal under the Maine Administrative Procedure Act, Title 5, chapter 375.

3. Education requirement. The education requirement for a certificate is as follows:

B. At least 150 semester hours of education, including a minimum 4-year baccalaureate or higher degree conferred by a college or university acceptable to the board, the total educational program to include basic courses in accounting and auditing determined to be appropriate under board rules. Rules adopted by the board pursuant to this paragraph are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A; and

C. An examination applicant who expects to complete a minimum 4-year baccalaureate or higher degree required in paragraph B within 120 days following the examination is eligible to take the examination. Grades may not be released, nor may credit for the examination or any part of the examination be given to the applicant unless the degree required in paragraph B is completed within 120 days following the examination or within such time as the board in its sole discretion may determine.

4. Examination. An applicant is required to pass an examination approved by the board to test the applicant's knowledge of the subjects of accounting and auditing and such other related subjects as the board may specify by rule in order to qualify for a certificate. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A. The board may make the use of all or any part of the Uniform Certified Public Accountant Examination and the Advisory Grading

Service of the American Institute of Certified Public Accountants or any other examination approved by the board and may contract with 3rd parties to perform such administrative services with respect to the examination as it considers appropriate to assist it in performing its duties under this section.

6. Examination; credits. An applicant must be given credit for any and all parts of an examination passed in another state if that credit would have been given, under then applicable requirements, if the applicant had taken the examination in this State.

7. Waiver. The board may, in particular cases, waive or defer any of the requirements of subsection 6 regarding the circumstances in which the various sections of the examination must be passed upon a showing that, by reason of circumstances beyond the applicant's control, the applicant was unable to meet that requirement.

9. Out-of-state examination. An applicant who has been given credit for any or all parts of an examination passed in another state as provided in subsection 6 must pay the fee as set under section 12203.

10. Experience. For initial issuance of a certificate under this subsection, an applicant shall demonstrate 2 years of experience under the direction of a certified public accountant licensed by any state or territory of the United States or equivalent direction, as determined by the board, by a licensed professional in another country and must meet the other requirements prescribed by the board by rule. The applicant's experience must include the use of accounting or auditing skills, including the issuance of reports on financial statements, and at least one of the following: the provision of management advisory, financial advisory or consulting services; the preparation of tax returns; the furnishing of advice on tax matters; or equivalent activities defined by the board by rule. Board rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A. To the extent the applicant's experience is as a revenue agent or in a similar position engaged in the examination of personal and corporate income tax returns for the Bureau of Revenue Services, the applicant receives credit at the rate of 50% toward the experience required by this subsection. To the extent the applicant's experience is as an examiner engaged in financial examinations for the Bureau of Insurance, the applicant receives credit under this subsection if that experience meets the following standards:

A. Examinations are performed in conformity with the Examiners' Handbook published by the National Association of Insurance Commissioners or its successor or other organization approved by the board;

B. Working papers prepared by the examiners are in conformity with generally accepted auditing standards and are subject to a review by a supervisor who must be a certified public accountant;

C. Written reports of examination are prepared in conformity with the Examiners' Handbook published by the National Association of Insurance Commissioners or its successor or other organization approved by the board. All examiners working on the examinations must participate in the preparation of the report;

D. Reports of examination are prepared in accordance with statutory accounting principles. All examiners working on the examinations must participate in the preparation of the financial statements and corresponding note disclosures; and

E. All examiners assigned to an examination must participate in the planning of the examination and the planning phase conforms to the Examiners' Handbook published by the National Association of Insurance Commissioners or its successor or other organization approved by the board and generally accepted auditing standards.

11. Board discretion. The members of the board have the full and sole responsibility for the determination of the qualifications of applicants for the certificate of "certified public accountant." Only persons recommended by the board may be granted the certificate of "certified public accountant."

Sec. A-38. 32 MRSA §12252, as amended by PL 2007, c. 384, §§11 to 13 and c. 402, Pt. Z, §17, is repealed and the following enacted in its place:

§ 12252. Licenses; firms

1. Permits granted. The board shall grant or renew a license to firms that make application, pay the fee as set under section 12203 and demonstrate their qualifications in accordance with this section.

A. A firm must hold a license issued under this section if it:

(1) Has an office in this State performing any of the services described in section 12201, subsection 3-A, paragraphs A to D;

(2) Has an office in this State that uses the title "CPA" or "CPA firm"; or

(3) Does not have an office in this State but performs any of the services described in section 12201, subsection 3-A, paragraphs A, C or D for a client having its home office in this State.

B. A firm that does not have an office in this State may perform services described in section 12201, subsection 3-A, paragraph B for a client having its home office in this State and may use the title "CPA" or "CPA firm" without a license issued under this section only if:

(1) It qualifies for a firm license pursuant to subsections 3 and 8; and

(2) It performs such services through an individual with practice privileges under section 12251, subsection 4-B.

C. A firm that is not subject to the requirements of paragraphs A and B may perform professional services other than those described in section 12201, subsection 3-A while using the title "CPA" or "CPA firm" in this State without a license issued under this section only if the firm:

(1) Performs such services through an individual with practice privileges under section 12251, subsection 4-B; and

(2) Has legal authority to perform such services in the state of that individual's principal place of business.

2. Duration. Licenses are initially issued and renewed for a period of one year, but in any event expire on June 30th following issuance or renewal or on such other date as the commissioner may designate. The board shall grant or deny a license application no later than 60 days after a complete application is filed. In any case when the applicant seeks the opportunity to show that issuance or renewal of a license was mistakenly denied or when the board is not able to determine whether it should be granted or denied, the board may issue to the applicant a provisional license, which expires 90 days after its issuance or when the board determines whether or not to issue or renew the license for which application was made, whichever first occurs.

3. Firm licenses. The following provisions apply to the issuance of firm licenses.

A. An applicant for initial issuance or renewal of a license under this section shall show that a simple majority of the ownership of the firm, in terms of financial interests and voting rights of all partners, officers, shareholders, members or managers, belongs to holders of certificates who are licensed in a state and that all partners, officers, shareholders, members or managers whose principal place of business is in this State and who perform professional services in this State hold valid individual licenses issued by the board. Firms may include nonlicensee owners in accordance with paragraph B.

B. A certified public accountancy firm or public accountancy firm may include nonlicensee owners as long as:

(1) All nonlicensee owners are individuals who actively participate in the certified public accountancy firm or public accountancy firm;

(2) The firm complies with such other requirements as the board may impose by rule; and

(3) The firm designates an individual who is a licensee of this State or, in the case of a firm that must have a license pursuant to subsection 1, paragraph A, subparagraph (3), designates an individual who is a licensee of another state who meets the requirements set out in section 12251, subsection 4-B, paragraph A who is responsible for the proper registration of the firm and identifies that individual who is a licensee to the board.

4. Office registered. An applicant for initial issuance or renewal of a license under this section shall register each office of the firm within this State with the board, pay the fee as set under section 12203 and show that each such office is under the charge of a person holding a valid license issued under section 12251 or the corresponding provision of prior law or the laws of another state.

6. Out-of-state licenses. Applicants for initial issuance or renewal of licenses under this section shall in their application list all states in which they have applied for, or hold licenses to, practice public accountancy and each holder of, or applicant for, a license under this section shall notify the board in writing, within 30 days after its occurrence, of any change in the identities of partners, officers or shareholders who work regularly within this State, any change in the number or location of offices within this State, any change in the identity of the persons in charge of those offices and any issuance, denial, revocation or suspension of a license by any other state.

8. Peer review for certified public accountancy firms. As a condition to the granting or renewal of licenses to certified public accountancy firms, each applicant that provides a defined service other than compilations must successfully participate in an approved peer review program. Participation in such a program is governed by the following.

A. A peer review must be completed within 18 months after the initial granting of the license. The firm must undergo a peer review every 3 years for as long as it provides a defined service other than compilations.

B. A certified public accountancy firm that does not provide a defined service other than compilations is not required to undergo a peer review if the firm annually confirms in writing to the board that it does not provide a defined service other than compilations. A certified public accountancy firm that subsequently provides a defined service other than compilations must undergo a peer review within 18 months after the fiscal year end of the first defined services engagement other than compilations that it accepts.

The board is authorized to adopt rules to carry out the intent of this subsection. Rules adopted pursuant to this subsection are routine technical rules pursuant to Title 5, chapter 375, subchapter 2-A.

Sec. A-39. 32 MRSA §17104, as enacted by PL 2007, c. 369, Pt. C, §3 and affected by §5, is amended by adding at the end a new paragraph to read:

An individual who is enrolled in a course of study leading to a degree in speech-language pathology or audiology at an accredited college or accredited university is exempt as long as such activities and services constitute a part of the course of study.

Sec. A-40. 32 MRSA §17104, sub-§4, as enacted by PL 2007, c. 369, Pt. C, §3 and affected by §5, is repealed.

Sec. A-41. 34-B MRSA §5438, as enacted by PL 2007, c. 240, Pt. OO, §2, is reallocated to 34-B MRSA §5439.

§ 5439.Program of state-funded consumer-directed personal care assistance services

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

A. "Applicant" means a person who has applied or is applying for services through the program.

B. "Consumer" means a person who has been determined to be eligible under subsection 3.

C. "Office" means the Office of Adults with Cognitive and Physical Disability Services within the department, which is the lead agency for administering the program.

D. "Program" means the program of state-funded consumer-directed personal care assistance services.

2. Program administration. The office shall administer the program under this section. Within available funds, the office shall ensure that services are delivered in the most comprehensive manner possible and shall strive to maximize the participation of adults with disabilities.

3. Eligibility. An applicant is eligible for personal care assistance services under the program if the office or its designee determines that the person is an adult who:

A. Has a severe disability;

B. Needs personal care assistance services or an attendant at night or both to prevent or remove the adult from inappropriate placement in an institutional setting; and

C. Has no or insufficient personal income or other support from public services, family members or neighbors.

4. Consumer cost sharing. The office shall establish a sliding scale for consumer cost sharing for services provided under the program. The sliding scale must be based on the net income of the consumer, factoring in the expenses associated with the consumer's disability, and may take assets into consideration.

5. Evaluation teams. The commissioner shall designate evaluation teams to assist the department with evaluations of applicants and consumers.

A. Each evaluation team must include the applicant or consumer and at least one registered nurse or registered occupational therapist.

B. For each applicant or consumer evaluated by an evaluation team, the team shall assist the office to:

(1) Determine the eligibility of the applicant or consumer for services under the program;

(2) Determine the capability of the applicant or consumer, at the time of evaluation or after skills training provided pursuant to subsection 6, to hire and direct a personal care assistant; and

(3) Reevaluate the applicant or consumer periodically to determine continuing need for the services.

6. Skills training. When sufficient funds are available, the commissioner shall arrange for skills training for consumers in the following areas by the following individuals:

A. Personal health management skills to maximize personal well-being in relation to the consumer's disability, including all aspects of prevention, maintenance and treatment techniques, provided by a registered nurse or other qualified person experienced in the rehabilitation of the severely disabled;

B. Personal care assistant management skills, including training in recruiting, hiring and managing a personal care assistant, scheduling and potential problems, provided by a registered nurse or other qualified person experienced in the rehabilitation of the severely disabled; and

C. Functional skills required to maximize the consumer's abilities in activities of daily living, provided by a registered occupational therapist or other qualified person experienced in the rehabilitation of the severely disabled.

7. Relatives as providers. The department may not refuse to pay a relative of a consumer for the provision of services under the program if the relative is qualified to provide the services and payment is not prohibited by law or rule or federal regulation.

8. Review of reimbursement rates. By January 1, 2008 and every 2 years thereafter, the commissioner shall review the rates of reimbursement under the program. As part of the review, the following provisions apply.

A. The commissioner shall:

(1) Ensure the input of consumers, personal assistants and any organization that represents personal assistants regarding providing a livable wage for personal care assistance services. The commissioner may seek input through one or more public hearings or by other means determined reasonable by the commissioner; and

(2) Seek advice and input from the Long-term Care Oversight Committee established in Title 22, section 5107-J to determine whether the rates of reimbursement are sufficient for consumers to recruit, hire and retain personal care assistants.

B. If the commissioner determines that an increase in one or more of the reimbursement rates is necessary after the review required in this subsection, the commissioner shall adopt rules to accomplish the required rate increase. In making a determination under this subsection, the commissioner shall consider using any savings realized from an expansion of consumer-directed services to increase wages and benefits for personal care assistants.

C. The commissioner shall determine rates of reimbursement that include allowable administrative costs and that use available resources to maximize wages and benefits for personal care assistants and hours of services for consumers.

9. Rulemaking. The commissioner shall adopt rules to implement this section. Rules adopted pursuant to this section are routine technical rules as defined by Title 5, chapter 375, subchapter 2-A, except that rules regarding consumer cost sharing under subsection 4 are major substantive rules as defined by that subchapter.

Sec. A-42. 35-A MRSA §10008, sub-§5, as enacted by PL 2007, c. 317, §15, is amended to read:

5. Ceiling on energy efficiency spending. There is established a ceiling on energy efficiency spending from the trust equal to $5 per carbon dioxide allowance. Until that price ceiling is adjusted or removed, only the first $5 of each carbon dioxide allowance sold and deposited in the trust fund may be awarded to or directed to qualified projects for purposes of energy efficiency improvements. While the ceiling is in place, revenue received by the trust from an allowance value above $5 must be transferred to the commission for use ~~used~~ by the commission pursuant to sections 301 and 1322 for rebates to electric ratepayers calculated on a per-kilowatt-hour basis.

Sec. A-43. 36 MRSA §693, sub-§1, as amended by PL 2007, c. 435, §1 and c. 437, §9, is repealed and the following enacted in its place:

1. Reporting. On or before May 1st of each year, a taxpayer claiming an exemption under this section shall file a report with the assessor of the taxing jurisdiction in which the property would otherwise be subject to taxation on April 1st of that year. The report must identify the property for which exemption is claimed that would otherwise be subject to taxation on April 1st of that year and must be made on a form prescribed by the State Tax Assessor or substitute form approved by the State Tax Assessor. The State Tax Assessor shall furnish copies of the form to each municipality in the State and the form must be made available to taxpayers prior to April 1st annually. The assessor of the taxing jurisdiction may require the taxpayer to sign the form and make oath to its truth. If the report is not filed by April 1st, the filing deadline is automatically extended to May 1st without the need for the taxpayer to request or the assessor to grant that extension. Upon written request, the assessor may at any time grant further extensions of time to file the report. If a taxpayer fails to file the report in a timely manner, including any extensions of time, the taxpayer may not obtain an exemption for that property under this subchapter for that tax year. The assessor of the taxing jurisdiction may require in writing that a taxpayer answer in writing all reasonable inquiries as to the property for which exemption is requested. A taxpayer has 30 days from receipt of such an inquiry to respond. Upon written request, a taxpayer is entitled to a 30-day extension to respond to the inquiry and the assessor may at any time grant additional extensions upon written request. The answer to any such inquiry is not binding on the assessor.

All notices and requests provided pursuant to this subsection must be made by personal delivery or certified mail and must conspicuously state the consequences of the taxpayer's failure to respond to the notice or request in a timely manner.

If an exemption has already been accepted and the State Tax Assessor subsequently determines that the property is not entitled to exemption, a supplemental assessment must be made within 3 years of the original assessment date with respect to the property in compliance with section 713, without regard to the limitations contained in that section regarding the justification necessary for a supplemental assessment.

Sec. A-44. 36 MRSA §1760, sub-§90, as enacted by PL 2007, c. 438, §47, is reallocated to 36 MRSA §1760, sub-§91.

91. Certain sales of electrical energy. Sale or use of electrical energy, or water stored for the purpose of generating electricity, when the sale is to or by a wholly owned subsidiary by or to its parent corporation, except for electrical energy or water purchased for resale to or by the wholly owned subsidiary.

Sec. A-45. 36 MRSA §6254, sub-§1, as enacted by PL 1989, c. 534, Pt. C, §1 and repealed and replaced by c. 713, §4, is amended to read:

1. Lien. The lien provided in section 552 must continue for purposes of protecting the State's deferred tax interest in tax deferred property. When it is determined that one of the events set out in section 6259 has occurred and that a property is no longer eligible for property tax deferral under this chapter, the State Tax Assessor shall send notice by certified mail to the owner, or the owner's heirs or devisees, listing the total amount of deferred property taxes, including accrued interest and costs of all the years and demanding payment on or before April 30th of the year following the tax year in which the circumstances causing withdrawal from the provisions of this chapter occur.

When the circumstances listed in section 6259, subsection 4 occur, the amount of deferred taxes is due and payable 5 days before the date of removal of the property from the State.

If the deferred tax liability of a property has not been satisfied by the April 30th demand date, the State Tax Assessor shall, within 30 days, record in the registry of deeds in the county where the real estate is located a tax lien certificate signed by the State Tax Assessor or bearing the assessor's facsimile signature, setting forth the total amount of deferred tax liability, a description of the real estate on which the tax was deferred and an allegation that a tax lien is claimed on the real estate to secure payment of the tax, that a demand for payment of the tax has been made in accordance with this section and that the tax remains unpaid.

At the time of the recording of the tax lien certificate in the registry of deeds, the State Tax Assessor shall send by certified mail, return receipt requested, to each record holder of a mortgage on the real estate, to the holder's last known address, a true copy of the tax lien certificate. The cost to be paid by the property owner, or the owner's heirs or devisees, is the sum of the fees for recording and discharging of the lien as established by Title 33, section 751, ~~subsection 10,~~ plus $13. Upon redemption, the State Tax Assessor shall prepare and record a discharge of the tax lien mortgage. The lien described in section 552 is the basis of this tax lien mortgage procedure.

The filing of the tax lien certificate, provided for in this section, in the registry of deeds creates a mortgage on the real estate to the State and has priority over all other mortgages, liens, attachments and encumbrances of any nature and gives to the State all rights usually instant to a mortgage, except that the mortgagee does not have any right of possession of the real estate until the right of redemption expires.

Payments accepted during the redemption period may not interrupt or extend the redemption period or in any way affect the foreclosure procedures.

Sec. A-46. PL 2007, c. 146, §7 is amended to read:

Sec. 7. Staggered terms. Notwithstanding the Maine Revised Statutes, Title 12, section ~~1891~~1890-A, subsection 4 and in order to ensure a certain level of continuity of service on the Allagash Wilderness Waterway Advisory Council, the ~~Commissioner of Conservation~~Governor shall, in making the initial appointments for the advisory council, appoint 2 members to 3-year terms, 2 members to 4-year terms and 2 members to 5-year terms. ~~The legislative committee approval requirements of Title 12, section 1891, subsection 3 apply to initial and subsequent appointments.~~ An initial term of 3 or 4 years is considered a full term for purposes of calculating the term limitation in Title 12, section ~~1891~~1890-A, subsection 4.

Sec. A-47. PL 2007, c. 273, Pt. B, §7 is repealed.

Sec. B-7. Effective date. This Part takes effect when approved.

Sec. A-48. PL 2007, c. 377, §17 is amended to read:

Sec. 17. Effective date. That section of this Act that enacts the Maine Revised Statutes, Title 34-A, section 1210-B takes effect July 1, 2008. Those sections of this Act that amend Title 4, section 116; Title 4, section 163, subsection 1; Title 30-A, section 1658; and Title ~~34~~34-A, section 1214, subsection 1 and subsection 3, paragraph B take effect July 1, 2008.

Sec. A-49. PL 2007, c. 440, §7, amending clause is amended to read:

Sec. 7. 22 MRSA §332, as amended by PL 2001, c. 710, §9 and affected by §10, is repealed and the following enacted in its place:

PART B

Sec. B-1. 7 MRSA §508, sub-§7, as amended by PL 2005, c. 512, §26, is further amended to read:

7. Reused food or drugs. To introduce or deliver for introduction into commerce, or the receipt in commerce and subsequent delivery or proffered delivery for pay or otherwise, of a hazardous substance in a reused food, drug or cosmetic container or in a container that, though not a reused container, is identifiable as a food, drug or cosmetic container by its labeling or other identification. The reuse of a food, drug or cosmetic container as a container for a hazardous substance is an act that results in the hazardous substance being a misbranded package. For the purposes of this subsection and section 509, "drug" has the same meaning as defined in Title 32, section ~~1370~~13702-A, subsection ~~9~~11.

Sec. B-2. 10 MRSA §1141, sub-§1, as enacted by PL 1991, c. 261, is amended to read:

1. Credit card. "Credit card" has the same meaning as "accepted credit card," as defined in Title 9-A, section 8-103, subsection ~~1~~1-A, paragraph A.

Sec. B-3. 10 MRSA §9041, first ¶, as amended by PL 1991, c. 714, §4, is further amended to read:

The board shall adopt rules and establish standards as provided by section ~~9005~~9005-A to administer and enforce this subchapter.

Sec. B-4. 22 MRSA §2383-B, sub-§3, ¶C, as enacted by PL 1995, c. 499, §3 and affected by §5, is amended to read:

C. "Prescription drugs" has the same meaning as defined in Title 32, section ~~1370~~13702-A, subsection ~~2~~430 and includes so-called legend drugs.

Sec. B-5. 26 MRSA §682, sub-§8, ¶B, as enacted by PL 1989, c. 536, §§1 and 2 and affected by c. 604, §§2 and 3, is amended to read:

B. "Drug" has the same meaning as found in Title 32, section ~~1370~~13702-A, subsection 9~~1~~1.

Sec. B-6. 32 MRSA §552, last ¶, as enacted by PL 2005, c. 262, Pt. A, §4, is amended to read:

The board may waive the examination requirements and grant a license to any applicant who presents proof of being licensed to practice in another jurisdiction of the United States or another country whose licensing requirements are considered by the board to be substantially equivalent to or higher than those set forth in this chapter, if no cause exists for denial of a license under section ~~503-A~~503-B or Title 10, section 8003, subsection 5-A, paragraph A. The applicant shall pay the required license fee as set under section 558.

Sec. B-7. 32 MRSA §1071, sub-§1, as amended by PL 1993, c. 600, Pt. A, §56, is further amended to read:

1. Membership. A person is not eligible for appointment to the board who has been convicted of a violation of the provisions of this or any other prior dental practice act, or who has been convicted of a crime punishable by more than one year's imprisonment. A person is not eligible for appointment to the board who has served 10 years or more on a dental examining board in this State. Appointment of members must comply with Title 10, section ~~60~~8009. The Governor may remove a member of the board on proven charges of inefficiency, incompetence, immorality or unprofessional conduct.

Sec. B-8. 32 MRSA §1301, 2nd ¶, as amended by PL 1993, c. 600, Pt. A, §103, is further amended to read:

Appointments are for 5-year terms. Appointments of members must comply with Title 10, section ~~60~~8009.

Sec. B-9. 32 MRSA §2151, as amended by PL 1993, c. 600, Pt. A, §120, is further amended to read:

§ 2151.Appointment; term; removal

The State Board of Nursing, as established by Title 5, section 12004-A, subsection 25, consists of 9 members who are appointed by the Governor. A full-term appointment is for 4 years. Appointment of members must comply with Title 10, section ~~60~~8009. Members of the board may be removed from office for cause by the Governor.

Sec. B-10. 32 MRSA §2415, as amended by PL 1995, c. 606, §2, is further amended to read:

§ 2415.Appointment; tenure; vacancies; removal

The State Board of Optometry, as established by Title 5, section 12004-A, subsection 28 and in this chapter called the "board," consists of 6 persons appointed by the Governor. Five of the appointees must have been resident optometrists engaged in the actual practice of optometry in this State for a period of at least 5 years prior to their appointment and after the 1999 renewal they must hold advanced therapeutic licenses. One of the appointees must be a consumer member who is a resident of this State and has no pecuniary interest in optometry or in the merchandising of optical products. Appointment is for a term of 5 years. Appointments of members must comply with Title 10, section ~~60~~8009. A member of the board may be removed from office for cause by the Governor. The board has a common seal.

Sec. B-11. 32 MRSA §3263, first ¶, as amended by PL 1997, c. 680, Pt. C, §1, is further amended to read:

The Board of Licensure in Medicine, as established by Title 5, section 12004-A, subsection 24, and in this chapter called the "board," consists of 9 individuals who are residents of this State, appointed by the Governor. Three individuals must be representatives of the public. Six individuals must be graduates of a legally chartered medical college or university having authority to confer degrees in medicine and must have been actively engaged in the practice of their profession in this State for a continuous period of 5 years preceding their appointments to the board. A full-term appointment is for 6 years. Appointment of members must comply with Title 10, section ~~60~~8009. A member of the board may be removed from office for cause by the Governor.

Sec. B-12. 32 MRSA §3651-A, sub-§1, as amended by PL 2007, c. 402, Pt. P, §7, is further amended to read:

1. Residency requirement. An applicant who has graduated after January 1, 1991 from podiatric medical school as set forth in section ~~3651-B~~3651-C seeking licensure to practice podiatry shall provide the board with evidence of satisfactory completion of at least one year of postgraduate clinical training in a podiatric residency training program approved by the accrediting body of the American Podiatric Medical Association, or its successor or other organization approved by the board.

Sec. B-13. 32 MRSA §3651-A, sub-§2, as amended by PL 2007, c. 402, Pt. P, §8, is further amended to read:

2. Residency licensure. A doctor of podiatric medicine who has graduated after January 1, 1991 from podiatric medical school as set forth in section ~~3651-B~~3651-C may not practice podiatric medicine in a podiatric residency program without first having applied for and obtained a residency license from the board.

A. An applicant for a residency license must be a doctor of podiatric medicine who is a graduate of a school of podiatry, as set forth in this chapter. An examination is not required for applicants for residency licensure. The fee for residency licensure is the same as the fee for licensure for that year. A residency license may be denied for a reason for which a podiatric medical license may be disciplined under section ~~3655-A~~3656 or Title 10, section 8003, subsection 5-A, paragraph A.

B. A residency license is valid only for the practice of podiatric medicine as part of the postgraduate residency program. A residency license is subject to discipline for a reason for which a podiatric medical license may be disciplined under section ~~3655-A~~3656 or Title 10, section 8003, subsection 5-A, paragraph A. If the holder of a residency license is terminated from or otherwise ceases to be a resident in the postgraduate residency program, the residency license becomes void as of the date the resident is terminated or ceases to be a resident.

C. A residency license is valid for up to one year, and may be renewed annually before the first day of July of every year, not to exceed an aggregate of 4 years. Renewal of a residency license is subject to the same requirements and conditions as the initial residency license.

Sec. B-14. 32 MRSA §6220, as repealed and replaced by PL 2003, c. 347, §23 and affected by §25, is amended to read:

§ 6220.Endorsement

The board may waive the requirements of this chapter and grant a registration, certificate or license to any applicant who presents proof of authorization to practice by another jurisdiction of the United States or another country that maintains professional standards considered by the board to be substantially equivalent to or higher than those set forth in this chapter, as long as there is no cause for denial of a registration, certificate or license under section ~~6217-A~~6217-B or Title 10, section 8003, subsection 5-A, paragraph A. The applicant must pay the application and license fee as set under section 6215.

Sec. B-15. 32 MRSA §12274, sub-§3, as amended by PL 2007, c. 402, Pt. Z, §22, is further amended to read:

3. Discipline. In any case when the board renders a decision imposing discipline against a licensee under this section and section ~~12273~~12273-A, the board shall examine its records to determine whether the licensee holds a certificate or a license in any other state; and, if so, the board shall notify the board of accountancy of that other state of its decision by mail within 45 days of rendering the decision. The board may also furnish information relating to proceedings resulting in disciplinary action to other public authorities and to private professional organizations having a disciplinary interest in the licensee.

Sec. B-16. 32 MRSA §12278, as enacted by PL 1987, c. 489, §2, is amended to read:

§ 12278.Single act evidence of practice

In any action brought under section ~~12273~~12273-A or 12277 or Title 10, section 8003, subsection 5-A, evidence from the commission of a single act prohibited by this chapter ~~shall be~~is sufficient to justify a penalty, injunction, restraining order or conviction, respectively, without evidence of a general course of conduct.

Sec. B-17. 32 MRSA §12279, as enacted by PL 1987, c. 489, §2, is amended to read:

§ 12279.Confidential communications

Except by permission of the client engaging a licensee under this chapter, or the heirs, successors or personal representatives of that client, a licensee or any partner, officer, shareholder or employee of a licensee ~~shall~~may not voluntarily disclose information communicated to ~~him~~the licensee, or any partner, officer, shareholder or employee of the licensee, by the client relating to, and in connection with, services rendered to the client by the licensee in the practice of public accountancy. That information ~~shall~~must be considered confidential~~, provided that~~as long as nothing may be construed as prohibiting the disclosure of information required to be disclosed by the standards of the public accounting profession in reporting on the examination of financial statements or as prohibiting disclosures in court proceedings, investigations or proceedings under section ~~12273~~12273-A or Title 10, section 8003, subsection 5-A, in ethical investigations conducted by private professional organizations or in the course of quality reviews.

Sec. B-18. 32 MRSA §13795, sub-§5, ¶A, as enacted by PL 2005, c. 430, §7 and affected by §10, is amended to read:

A. If the Director of the Maine Drug Enforcement Agency within the Department of Public Safety finds that the ease of availability of liquid, liquid-filled capsule or glycerin matrix forms of products containing ephedrine, pseudoephedrine or phenylpropanolamine or their salts, isomers or salts of isomers, either alone or in combination with other ingredients, referred to in this paragraph as "products," is a threat to the public health, safety and welfare, then the Director of the Maine Drug Enforcement Agency shall notify the Director of the Office of Substance Abuse. The Director of the Office of Substance Abuse shall consult with the joint standing committee of the Legislature having jurisdiction over health and human services matters, providing the reasons for undertaking rulemaking, and may, after consultation, adopt rules designating the products as targeted methamphetamine precursors pursuant to section ~~13702~~13702-A, subsection ~~25-B~~33, paragraph B.

Sec. B-19. 32 MRSA §13863, sub-§6, as repealed and replaced by PL 1991, c. 548, Pt. A, §25, is amended to read:

6. Disciplinary action. Any individual who is registered under this section is subject to section ~~13861~~13861-A.

Sec. B-20. 32 MRSA §15104-B, last ¶, as enacted by PL 2001, c. 573, Pt. A, §2, is amended to read:

A person who is or will be aggrieved by the application of any law, code or rule relating to the installation or alteration of boilers and pressure vessels may file a petition for a variance, whether compliance with that provision is required at the time of filing or at the time that provision becomes effective. The filing fee for a petition for a variance must be set by the Director of the Office of Licensing and Registration under section ~~15109, subsection 9~~15104-C. The chief inspector may grant a variance if, owing to conditions especially affecting the particular boiler or pressure vessel involved, the enforcement of any law, code or rule relating to boilers or pressure vessels would do manifest injustice or cause substantial hardship, financial or otherwise, to the petitioner or would be unreasonable under the circumstances~~, provided that~~as long as desirable relief may be granted without substantial detriment to

the public good and without nullifying or substantially derogating from the intent or purpose of that law, code or rule. In granting a variance under this section, the chief inspector may impose limitations both of time and of use, and a continuation of the use permitted may be conditioned upon compliance with rules made and amended from time to time. A copy of the decision must be sent to all interested parties.

Sec. B-21. 32 MRSA §15108-A, as amended by PL 2001, c. 323, §35, is further amended to read:

§ 15108-A.Boiler and pressure vessel inspectors

The board shall issue a license as a boiler inspector upon payment of an application fee and license fee under section ~~15109, subsection 9~~15104-C set by the director to any person who files an application and meets the qualifications as specified by rule. The board shall issue a license as a boiler inspector upon payment of an application fee and license fee to any person who files an application and holds a certificate as an inspector of steam boilers from a state that has a standard of licensing equal to that of this State or a certification from the National Board of Boiler and Pressure Vessel Inspectors, or its successor organization.

Sec. B-22. 32 MRSA §15117, first ¶, as amended by PL 2001, c. 573, Pt. A, §5, is further amended to read:

Each boiler or pressure vessel used or proposed for use within this State, except boilers or pressure vessels exempt under section 15102, must be thoroughly inspected by the chief inspector, a deputy inspector or an authorized inspector, as to its design, construction, installation, condition and operation. The board shall adopt rules pursuant to the Maine Administrative Procedure Act specifying the method and frequency of inspection. When any boiler or pressure vessel inspected as specified by the board is found to be suitable and to conform to the rules of the board, the chief inspector shall issue to the owner or user of that boiler or pressure vessel, upon payment of a fee to the board, an inspection certificate for each boiler or pressure vessel. The fee under section ~~15109, subsection 9~~15104-C must be set by the director. Inspection certificates must specify the maximum pressure that the boiler or pressure vessel inspected is allowed to carry. The inspection certificate may be valid for not more than 14 months from the date of inspection in the case of boilers and 38 months from the date of inspection in the case of pressure vessels and must be posted under glass in the engine or boiler room containing the boiler or pressure vessel or an engine operated by it or, in the case of a portable boiler, in the office of the plant where it is temporarily located. The board may adopt rules setting forth criteria by which a temporary extension of an inspection certificate beyond 14 months in the case of boilers and beyond 38 months in the case of pressure vessels may be authorized. Rules adopted pursuant to this section are routine technical rules pursuant to Title 5, chapter 375, subchapter ~~H-A~~2-A.

Sec. B-23. 38 MRSA §89, as amended by PL 1999, c. 355, §9, is further amended to read:

§ 89.Maine Pilotage Commission members

The Maine Pilotage Commission, as established by Title 5, section 12004-A, subsection 40, consists of 7 members who are citizens of the United States and the State of Maine appointed by the Governor as follows: Three licensed pilots who are actively piloting, one member from each of the coastal zones; 2 members who are not licensed pilots but are from a maritime industry that utilizes the services of pilots;

and 2 members representing the public who are not licensed pilots but have a maritime background. Appointments are for 3-year terms. Appointments of members must comply with Title ~~32~~10, section ~~60~~8009. The members of the commission are entitled to compensation according to Title 5, chapter 379.

Sec. B-24. 39-A MRSA §206, sub-§11, as amended by PL 2001, c. 60, §1, is further amended to read:

11. Generic drugs. Providers shall prescribe generic drugs whenever medically acceptable for the treatment of an injury or disease for which compensation is claimed. An employee shall purchase generic drugs for the treatment of an injury or disease for which compensation is claimed if the prescribing provider indicates that generic drugs may be used and if generic drugs are available at the time and place of purchase. If an employee purchases a nongeneric drug when the prescribing provider has indicated that a generic drug may be used and a generic drug is available at the time and place of purchase, the insurer or self-insurer is required to reimburse the employee for the cost of the generic drug only. For purposes of this section, "generic drug" has the same meaning found in Title 32, section ~~13702~~13702-A, subsection ~~11~~14.

PART C

Sec. C-1. 1 MRSA §409, sub-§2, as enacted by PL 1975, c. 758, is amended to read:

2. Actions. If any body or agency approves any ordinances, orders, rules, resolutions, regulations, contracts, appointments or other official action in an executive session, this action ~~shall be~~is illegal and the officials ~~responsibile shall be~~responsible are subject to the penalties hereinafter provided. Upon learning of any such action, any person may appeal to any Superior Court in the State. If a court, after a trial de novo, determines this action was taken illegally in an executive session, it shall enter an order providing for the action to be null and void. Appeals ~~shall be~~are privileged in respect to their assignment for trial over all other actions except writs of habeas corpus or actions brought by the State against individuals.

Sec. C-2. 12 MRSA §6071, sub-§1, as amended by PL 1999, c. 401, Pt. BB, §3, is further amended to read:

1. Live importing for introduction into coastal waters. Except for Atlantic salmon imported by the Atlantic Salmon Commission under Part ~~12~~9, it is unlawful to import for introduction, possess for purposes of introduction or introduce into coastal waters a live marine organism without a permit issued by the commissioner pursuant to subsection 2.

Sec. C-3. 12 MRSA §12456, sub-§1, as enacted by PL 2003, c. 414, Pt. A, §2 and affected by c. 614, §9, is amended to read:

1. Open seasons. Except as provided in subsection 2 and ~~Part 12~~section 6140-A, subsection 4 and except as the commissioner may by rule provide, the following are the open seasons for fishing in the State. All opening and closing dates are inclusive.

A. The open season for all fish in waters or portions of waters naturally free of ice in lakes and ponds is from April 1st to September 30th.

B. The open season for all fish in the rivers above tidewater in waters free of ice is from April 1st to September 15th.

C. The open season for all fish in brooks and streams in waters free of ice is from April 1st to August 15th.

D. The open-water fishing season on boundary waters between Maine and New Brunswick is from April 15th to September 30th.

Sec. C-4. 19-A MRSA §701, sub-§4, as enacted by PL 1995, c. 694, Pt. B, §2 and affected by Pt. E, §2, is repealed and the following enacted in its place:

4. Polygamy. A marriage contracted while either party has a living wife or husband from whom the party is not divorced is void.

Sec. C-5. 21-A MRSA §196, sub-§2, as amended by PL 2007, c. 397, §2 and c. 455, §11, is repealed and the following enacted in its place:

2. Voter lists or reports identifying voters. A person may purchase a list or report of voter information containing some or all of the information from the central voter registration system by making a request to the Secretary of State or to a municipal registrar if the information requested concerns voters in that municipality. The Secretary of State or the municipal registrar shall make available the following information, subject to the fees set forth in subsection 4 and the restrictions on use and redistribution of data set forth in subsection 7: the voter's name, residence address, mailing address, date of birth, enrollment status, electoral district, voter status, the date of registration or the date of change of the voter record if applicable, voter participation in previous elections including whether the voter cast a challenged or absentee ballot, voter record number and any special designations indicating uniformed service voters, overseas voters or township voters. In addition, municipal clerks or registrars shall make available upon request the list of persons who requested or were furnished absentee ballots created and maintained pursuant to section 753-B subject to the fees set forth in subsection 4 for printed lists and free of charge for electronic lists.

Sec. C-6. 22 MRSA §1711-E, sub-§1, ¶F-2, as enacted by PL 2007, c. 460, §1, is amended to read:

F-2. "Pharmacy" means a mail order prescription pharmacy as defined in Title 32, section ~~1370~~13702-A, subsection ~~1~~317 or a ~~drug outlet~~pharmacy as defined in Title 32, section ~~1370~~13702-A, subsection ~~10~~24.

Sec. C-7. 22 MRSA §1711-E, sub-§1, ¶H, as enacted by PL 2005, c. 589, §1, is amended to read:

H. "Prescription drug information" means information concerning prescription drugs as defined in Title 32, section ~~1370~~13702-A, subsection ~~24~~30 and includes prescription drug orders as defined in Title 32, section ~~1370~~13702-A, subsection ~~25~~31.

Sec. C-8. 22 MRSA §2685, sub-§2, ¶D, as enacted by PL 2007, c. 327, §1, is amended to read:

D. "Dispenser" means a licensed mail order prescription pharmacy as defined in Title 32, section ~~1370~~13702-A, subsection ~~1~~317; a licensed ~~drug outlet~~pharmacy as defined in Title 32, section ~~1370~~13702-A, subsection ~~10~~24; and any other person or entity licensed to dispense prescription drugs under Title 32, chapter 117.

Sec. C-9. 22 MRSA §3174-G, sub-§1, ¶B, as amended by PL 2003, c. 469, Pt. A, §5 and c. 673, Pt. Y, §1 and affected by §3, is repealed and the following enacted in its place:

B. An infant under one year of age when the infant's family income is equal to or below 200% of the nonfarm income official poverty line, except that the department may adopt a rule that provides that infants in families with income over 185% and equal to or below 200% of the nonfarm income official poverty line who meet the eligibility requirements of the Cub Care program established under section 3174-T are eligible to participate in the Cub Care program instead of Medicaid. Rules adopted pursuant to this paragraph are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A;

Sec. C-10. 22 MRSA §3174-G, sub-§1, ¶D, as amended by PL 2003, c. 469, Pt. A, §5 and c. 673, Pt. Y, §2 and affected by §3, is repealed and the following enacted in its place:

D. A child one year of age or older and under 19 years of age when the child's family income is equal to or below 200% of the nonfarm income official poverty line, except that the department may adopt a rule that provides that children described in this paragraph in families with income over 150% and equal to or below 200% of the nonfarm income official poverty line who meet the eligibility requirements of the Cub Care program established under section 3174-T are eligible to participate in the Cub Care program instead of Medicaid. Rules adopted pursuant to this paragraph are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A;

Sec. C-11. 24 MRSA §2317-B, sub-§12-B, as enacted by PL 2007, c. 452, §1, is amended to read:

12-B. Title 24-A, sections 2762, 2847-O and 4255. Coverage for hearing aids, Title 24-A, sections 2762, ~~2847-M~~2847-O and ~~4253~~4255;

Sec. C-12. 24 MRSA §2317-B, sub-§12-C, as enacted by PL 2007, c. 595, §1 and affected by §5, is repealed.

Sec. C-13. 24 MRSA §2317-B, sub-§12-D is enacted to read:

12-D. Title 24-A, sections 2763, 2847-P and 4256. Coverage for medically necessary infant formula, Title 24-A, sections 2763, 2847-P and 4256;

Sec. C-14. 24-A MRSA §10, sub-§6, as amended by PL 2007, c. 539, Pt. N, §55, is further amended to read:

6. The government contracting activities of a health care servicing entity, as defined in Title 22-A, section 207, subsection ~~1~~7, contracting, whether directly or as a subcontractor, with the Department of Health and Human Services, unless otherwise expressly provided by this Title. This Title may apply to any other insurance or managed care activities of a health care servicing entity.

Sec. C-15. 24-A MRSA §2847-N, as enacted by PL 2007, c. 595, §3 and affected by §5, is reallocated to 24-A MRSA §2847-P.

§ 2847-P.Coverage for medically necessary infant formula

All group health insurance policies, contracts and certificates must provide coverage for amino acid-based elemental infant formula for children 2 years of age and under in accordance with this section.

1. Determination of medical necessity. Coverage for amino acid-based elemental infant formula must be provided when a licensed physician has submitted documentation that the amino acid-based elemental infant formula is medically necessary health care as defined in section 4301-A, subsection 10-A, that the amino acid-based elemental infant formula is the predominant source of nutritional intake at a rate of 50% or greater and that other commercial infant formulas, including cow milk-based and soy milk-based formulas have been tried and have failed or are contraindicated. A licensed physician may be required to confirm and document ongoing medical necessity at least annually.

2. Method of delivery. Coverage for amino acid-based elemental infant formula must be provided without regard to the method of delivery of the formula.

3. Required diagnosis. Coverage for amino acid-based elemental infant formula must be provided when a licensed physician has diagnosed and through medical evaluation has documented one of the following conditions:

A. Symptomatic allergic colitis or proctitis;

B. Laboratory- or biopsy-proven allergic or eosinophilic gastroenteritis;

C. A history of anaphylaxis;

D. Gastroesophageal reflux disease that is nonresponsive to standard medical therapies;

E. Severe vomiting or diarrhea resulting in clinically significant dehydration requiring treatment by a medical provider;

F. Cystic fibrosis; or

G. Malabsorption of cow milk-based or soy milk-based infant formula.

4. Health savings accounts. Coverage for amino acid-based elemental infant formula under a health insurance policy, contract or certificate issued in connection with a health savings account as authorized under Title XII of the federal Medicare Prescription Drug, Improvement, and Modernization Act of 2003 may be subject to the same deductible and out-of-pocket limits that apply to overall benefits under the policy, contract or certificate.

Sec. C-16. 24-A MRSA §4254, as enacted by PL 2007, c. 595, §4 and affected by §5, is reallocated to 24-A MRSA §4256.

§ 4256.Coverage for medically necessary infant formula

All individual and group health maintenance organization policies, contracts and certificates must provide coverage for amino acid-based elemental infant formula for children 2 years of age and under in accordance with this section.

1. Determination of medical necessity. Coverage for amino acid-based elemental infant formula must be provided when a licensed physician has submitted documentation that the amino acid-based elemental infant formula is medically necessary health care as defined in section 4301-A, subsection 10-A, that the amino acid-based elemental infant formula is the predominant source of nutritional intake at a rate of 50% or greater and that other commercial infant formulas, including cow milk-based and soy milk-based formulas have been tried and have failed or are contraindicated. A licensed physician may be required to confirm and document ongoing medical necessity at least annually.

2. Method of delivery. Coverage for amino acid-based elemental infant formula must be provided without regard to the method of delivery of the formula.

3. Required diagnosis. Coverage for amino acid-based elemental infant formula must be provided when a licensed physician has diagnosed and through medical evaluation has documented one of the following conditions:

A. Symptomatic allergic colitis or proctitis;

B. Laboratory- or biopsy-proven allergic or eosinophilic gastroenteritis;

C. A history of anaphylaxis;

D. Gastroesophageal reflux disease that is nonresponsive to standard medical therapies;

E. Severe vomiting or diarrhea resulting in clinically significant dehydration requiring treatment by a medical provider;

F. Cystic fibrosis; or

G. Malabsorption of cow milk-based or soy milk-based infant formula.

4. Health savings accounts. Coverage for amino acid-based elemental infant formula under a health insurance policy, contract or certificate issued in connection with a health savings account as authorized under Title XII of the federal Medicare Prescription Drug, Improvement, and Modernization Act of 2003 may be subject to the same deductible and out-of-pocket limits that apply to overall benefits under the policy, contract or certificate.

Sec. C-17. 26 MRSA §1028, sub-§2, as amended by PL 1993, c. 90, §6, is further amended to read:

2. Review of representation proceedings. Any person aggrieved by any ruling or determination of the executive director under sections ~~1024~~1024-A and 1025 may appeal, within 15 days of the announcement of the ruling or determination, except that in the instance of objections to the conduct of an election or challenged ballots the time period is 5 working days, to the Maine Labor Relations Board. Upon receipt of such an appeal, the board shall within a reasonable time~~,~~ hold a hearing, having first caused 7 days' notice, in writing, of the time and place of the hearings to be given to the aggrieved party, the labor organizations or bargaining agent and the public employer. The hearings and the procedures established in furtherance thereof must be in accordance with section 968. Decisions of the board made pursuant to this subsection are subject to review by the Superior Court under the Maine Rules of Civil Procedure, Rule 80C, in accordance with the standards specified in section 972, if the complaint is filed within 15 days of the date of issuance of the decision. The complaint must be served upon the board and all parties to the board proceeding by certified mail, return receipt requested.

Sec. C-18. 32 MRSA §12274, sub-§2, as enacted by PL 1987, c. 489, §2, is amended to read:

2. Review. The board may review the publicly available professional work of licensees on a general and random basis, without any requirement of a formal complaint or suspicion of impropriety on the part of any particular licensee. If, as a result of such review, the board discovers reasonable grounds for a more specific investigation, the board may proceed under ~~subsection 1~~Title 10, section 8003-A, subsection 2.

PART D

Sec. D-1. 34-B MRSA §1216, sub-§4, as repealed and replaced by PL 2007, c. 356, §6 and affected by §31, is amended to read:

4. Repeal. This section is repealed ~~on the later of:~~120 days after the establishment of the Maine Developmental Services Oversight and Advisory Board.

A. ~~Forty-five days after the United States District Court releases the State from all obligations under the community consent decree, Consumer Advisory Board et al. v. Glover, No. 91-321-P-C (D. Me., September 28, 1994); and~~

B. ~~January 1, 2009.~~

Sec. D-2. PL 2007, c. 356, §30, sub-§1 is amended to read:

1. Correspondent program. The Maine Developmental Services Oversight and Advisory Board, established in the Maine Revised Statutes, Title 5, section 12004-I, subsection 61-A and referred to in this section as "the board," shall work with the Department of Health and Human Services to improve and promote the correspondent program operated by the Consumer Advisory Board established pursuant to Title 34-B, section 1216. ~~No later than January 1, 2009~~One hundred and twenty days after the establishment, the board shall present a report to the joint standing committee of the Legislature having jurisdiction over health and human services matters, together with a proposed plan that provides for the independent operation of the correspondent program with oversight by the board. After receipt and review of the report, the joint standing committee may submit a bill to the 124th Legislature.

Sec. D-3. PL 2007, c. 356, §31 is amended to read:

Sec. 31. Effective dates. This Act takes effect November 1, 2007, except that the following sections take effect ~~upon elimination of the Consumer Advisory Board pursuant to the Maine Revised Statutes, Title 34-B, section 1216, subsection 4~~on the later of January 1, 2009 and 45 days after the United States District Court releases the State from all obligations under the community consent decree, Consumer Advisory Board et al. v. Glover, No. 91-321-P-C (D. Me., September 28, 1994):

1. ~~Those sections~~That section of this Act that ~~repeal Title 3, section 959, subsection 1, paragraph F, and~~repeals Title 5, section 12004-I, subsection 61;

2. ~~That section~~Those sections of this Act that ~~amends~~amend Title 3, section 959, subsection 1, paragraph F and Title 34-B, section 5605, subsection 13, paragraph B; and

3. Those sections of this Act that enact Title 5, section 12004-J, subsection 15 and Title 34-B, section 1223.

PART E

Sec. E-1. 28-A MRSA §1504, sub-§3-A is enacted to read:

3-A. Partial-bottle distilled spirits samples. Samples must be decanted from the distilled spirits product bottle and provided to licensees licensed for on-premises consumption. The agent providing the sample shall maintain a log stating the names of the licensees who sampled the product and the amount sampled. Partial-bottle samples must be properly sealed between tastings.

PART F

Sec. F-1. PL 2007, c. 539, Pt. A, §43 is amended to read:

Sec. A-43. Appropriations and allocations. The following appropriations and allocations are made.

PROFESSIONAL AND FINANCIAL REGULATION, DEPARTMENT OF

Administrative Services - Professional and Financial Regulation 0094

Initiative: Eliminates the headcount, salary and related costs associated with the Commissioner Department of Professional and Financial Regulation position in the Administrative Services Division ~~and eliminates one Administrator Office of Securities position in the Office of Securities~~.

OTHER SPECIAL REVENUE FUNDS	**2007-08**	**2008-09**
POSITIONS - LEGISLATIVE COUNT	0.000	(1.000)
Personal Services	$0	($109,168)
All Other	$0	($892)
OTHER SPECIAL REVENUE FUNDS TOTAL	$0	($110,060)

Office of Securities 0943

Initiative: Eliminates the headcount, salary and related costs associated with an Assistant Securities Administrator, Public Services Manager II position within the Office of Securities.

OTHER SPECIAL REVENUE FUNDS	**2007-08**	**2008-09**
POSITIONS - LEGISLATIVE COUNT	0.000	(1.000)
Personal Services	$0	($100,815)
All Other	$0	($1,992)
OTHER SPECIAL REVENUE FUNDS TOTAL	$0	($102,807)

PROFESSIONAL AND FINANCIAL REGULATION, DEPARTMENT OF		
DEPARTMENT TOTALS	**2007-08**	**2008-09**
OTHER SPECIAL REVENUE FUNDS	**$0**	**($212,867)**
DEPARTMENT TOTAL - ALL FUNDS	**$0**	**($212,867)**

PART G

Sec. G-1. 20-A MRSA §1486, sub-§3, ¶F, as enacted by PL 2007, c. 240, Pt. XXXX, §13, is amended to read:

F. If the school budget does not exceed the maximum state and local spending target pursuant to section 15671-A, subsection 5, the article to be voted on must be in the following form:

(1) "Do you favor approving the (name of ~~regional~~ school unit) budget for the upcoming school year that was adopted at the latest ~~regional~~(name of school unit) budget meeting?

Yes No"

Sec. G-2. 20-A MRSA §1486, sub-§3, ¶G, as enacted by PL 2007, c. 240, Pt. XXXX, §13, is amended to read:

G. If the school budget exceeds the maximum state and local spending target pursuant to section 15671-A, subsection 5, the article to be voted on for a budget that includes locally raised funds over and above the regional school unit's local contribution to the total cost of funding public education from kindergarten to grade 12 as described in the Essential Programs and Services Funding Act must be in the following form:

(1) "Do you favor approving the (name of ~~regional~~ school unit) budget for the upcoming school year that was adopted at the latest ~~regional~~(name of school unit) budget meeting and that includes locally raised funds that exceed the required local contribution as described in the Essential Programs and Services Funding Act?

Yes No

A YES vote allows additional funds to be raised for K-12 public education.

A NO vote means additional funds cannot be raised for K-12 public education."

PART H

Sec. H-1. PL 2007, c. 539, Pt. F, §2 is repealed and the following enacted in its place:

Sec. F-2. Commissioner of Health and Human Services; fees. The Commissioner of Health and Human Services shall adopt rules to increase the fees assessed under the Maine Revised Statutes, Title 22, section 2494 effective July 1, 2008. The fees must be calculated to produce revenue for the special revenue account established under that section in an amount sufficient to meet the expenditures from the account for the licensure and inspection responsibilities under that section of the Department of Health and Human Services, Maine Center for Disease Control and Prevention. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

Sec. H-2. PL 2007, c. 539, Pt. F, §5 is amended to read:

Sec. F-5. Resolving overlapping jurisdiction. If an establishment has operations that may fall under the jurisdiction of both the Department of Health and Human Services, Maine Center for Disease Control and Prevention and the Department of Agriculture, Food and Rural Resources, Division of Quality Assurance and Regulation, the Department of Agriculture, Food and Rural Resources has jurisdiction over all operations of the establishment unless sales of food for consumption on the premises or ready-to-eat for off-premises consumption, measured by annual dollar receipts, exceeds 50% of total annual food-related dollar receipts, in which case the Maine Center for Disease Control and Prevention has jurisdiction over the establishment. The field staff of the respective departments shall meet on a regular basis to resolve jurisdictional questions and issues.

PART I

Sec. I-1. 12 MRSA §6701, sub-§7, as enacted by PL 2007, c. 557, §1, is repealed.

Sec. I-2. 12 MRSA §6702, sub-§7, as enacted by PL 2007, c. 557, §2, is repealed.

Sec. I-3. 12 MRSA §6703, sub-§6, as enacted by PL 2007, c. 557, §3, is repealed.

Sec. I-4. 12 MRSA §6721-A, sub-§5, as amended by PL 2007, c. 607, Pt. A, §6 and Pt. B, §4, is repealed and the following enacted in its place:

5. Violation. Notwithstanding section 6174, subsection 3, a person who violates this section commits a civil violation for which the following penalties apply:

A. For the first offense, a mandatory fine of $500 is imposed and all scallops on board may be seized;

B. For the 2nd offense, a mandatory fine of $750 is imposed and all scallops on board may be seized; and

C. For the 3rd and subsequent offenses, a mandatory fine of $750 is imposed and all scallops on board may be seized. This penalty is imposed in addition to the penalty imposed under section 6728-B.

Sec. I-5. 12 MRSA §6721-A, sub-§6, as amended by PL 2007, c. 557, §4, is repealed.

Sec. I-6. 12 MRSA §6722, as repealed and replaced by PL 2007, c. 557, §5 and c. 607, Pt. B, §5, is repealed and the following enacted in its place:

§ 6722. Scallop season

1. Scallop fishing season. Unless modified by rules adopted under section 6171-A, a person may not fish for or take scallops in the territorial waters from April 16th to November 30th, both days inclusive.

2. Violations. Notwithstanding section 6174, subsection 3, a person who violates this section commits a civil violation for which the following penalties apply:

A. For the first offense, a mandatory fine of $500 is imposed and all scallops on board may be seized;

B. For the 2nd offense, a mandatory fine of $750 is imposed and all scallops on board may be seized; and

C. For the 3rd and subsequent offenses, a mandatory fine of $750 is imposed and all scallops on board may be seized. The penalty imposed pursuant to this paragraph is in addition to the penalty imposed under section 6728-B.

Sec. I-7. 12 MRSA §6725, as repealed and replaced by PL 2007, c. 557, §6 and c. 607, Pt. B, §7, is repealed and the following enacted in its place:

§ 6725. Possession of illegal scallops

1. Prohibition. A person may not possess, ship, transport, buy or sell scallops taken in violation of this subchapter.

2. Violations. Notwithstanding section 6174, subsection 3, a person who violates this section commits a civil violation for which the following penalties apply:

A. For the first offense, a mandatory fine of $500 is imposed and all scallops on board may be seized;

B. For the 2nd offense, a mandatory fine of $750 is imposed and all scallops on board may be seized; and

C. For the 3rd and subsequent offenses, a mandatory fine of $750 is imposed and all scallops on board may be seized. The penalty imposed pursuant to this paragraph is in addition to the penalty imposed under section 6728-B.

Sec. I-8. 12 MRSA §6726, sub-§4, as enacted by PL 2007, c. 557, §7, is amended to read:

4. Violations. Notwithstanding section 6174, subsection 3, a person who violates this section ~~in Cobscook Bay~~ commits a civil violation for which the following penalties apply:

A. For the first offense, a mandatory fine of $500 is imposed and all scallops on board may be seized;

B. For the 2nd offense, a mandatory fine of $750 is imposed and all scallops on board may be seized; and

C. For the 3rd and subsequent offenses, a mandatory fine of $750 is imposed and all scallops on board may be seized. The penalty imposed pursuant to this paragraph is in addition to the penalty imposed under section 6728-B.

Sec. I-9. 12 MRSA §6728-B, as enacted by PL 2007, c. 557, §10 and c. 607, Pt. B, §8, is repealed and the following enacted in its place:

§ 6728-B. Habitual violations

The commissioner shall suspend the handfishing scallop license or other license issued under this Part authorizing the taking of scallops of any license holder adjudicated or convicted in court of a 3rd or subsequent violation of this subchapter. The suspension must be for at least one year from the date of conviction and may be for up to 3 years.

PART J

Sec. J-1. Appropriations and allocations. The following appropriations and allocations are made.

JUDICIAL DEPARTMENT

Courts - Supreme, Superior, District and Administrative 0063

Initiative: Deappropriates funds appropriated in Public Law 2007, chapter 539, Part OOOO that do not take effect until June 30, 2008.

GENERAL FUND	**2007-08**	**2008-09**
All Other	($450,000)	$0
GENERAL FUND TOTAL	($450,000)	$0

Courts - Supreme, Superior, District and Administrative 0063

Initiative: Provides funds for indigent defense costs in fiscal year 2007-08.

GENERAL FUND	**2007-08**	**2008-09**
All Other	$450,000	$0
GENERAL FUND TOTAL	$450,000	($0)

JUDICIAL DEPARTMENT		
DEPARTMENT TOTALS	**2007-08**	**2008-09**
GENERAL FUND	**$0**	**$0**
DEPARTMENT TOTAL - ALL FUNDS	**$0**	**$0**

PART K

Sec. K-1. 12 MRSA §6024, sub-§1-A, as repealed and replaced by PL 2007, c. 615, §3, is further amended to read:

1-A. Appointment; composition; term; compensation. The Marine Resources Advisory Council, established by Title 5, section 12004-G, subsection 27, consists of 16 members. The chair of the Lobster Advisory Council, the chair of the Marine Recreational Fishing Advisory Council, the chair of the Sea Run Fisheries and Habitat Advisory Council ~~and~~, the chair of the Sea Urchin Zone Council and the chair of the Shellfish Advisory Council are ex officio members of the council. Each other member is appointed by the Governor and is subject to review by the joint standing committee of the Legislature having jurisdiction over marine resources matters and to confirmation by the Legislature. ~~Six~~Five members must be persons who are licensed under this Part to engage in commercial harvesting activities. Those 6~~5~~ members are selected by the Governor from names recommended to the Governor by groups representing commercial harvesting interests. Each member must represent a different commercial harvesting activity, except that none of those 6~~5~~ members may represent lobster harvesters. The remaining 6 members must include one public member, 4 persons who hold a nonharvesting-related license under this Part and one person representing the aquaculture industry. The Governor shall select the person to represent the aquaculture industry from among the names recommended by the aquaculture industry. The composition of the council must reflect a geographical distribution along the coast. All appointed members are appointed for a term of 3 years, except a vacancy must be filled in the same manner as an original member for the unexpired portion of the term. An appointed member may not serve for more than 2 consecutive terms. Appointed members serve until their successors are appointed. The chair of the Lobster Advisory Council, the chair of the Marine Recreational Fishing Advisory Council, the chair of the Sea Run Fisheries and Habitat Advisory Council ~~and~~, the chair of the Sea Urchin Zone Council and the

chair of the Shellfish Advisory Council shall serve until a new chair of the Lobster Advisory Council, a new chair of the Marine Recreational Fishing Advisory Council, a new chair of the Sea Run Fisheries and Habitat Advisory Council ~~or,~~ a new chair of the Sea Urchin Zone Council or a new chair of the Shellfish Advisory Council, respectively, is chosen. Members are compensated as provided in Title 5, chapter 379.

PART L

Sec. L-1. 24-A MRSA §6915, as amended by PL 2007, c. 629, Pt. D, §3, is further amended to read:

§ 6915.Dirigo Health Enterprise Fund

The Dirigo Health Enterprise Fund is created as an enterprise fund for the deposit of any funds advanced for initial operating expenses, payments made by employers and individuals, revenues transferred pursuant to Title 28-A, section 1652, subsection 5 and Title 36, section 4853, any payments made pursuant to former section 6913 and section 6913-A and any funds received from any public or private source for the Dirigo Health Program and the Maine Individual Reinsurance Association established by chapter 54. An amount equal to 18.8% of the deposits received by the Dirigo Health Enterprise Fund from revenues transferred pursuant to Title 28-A, section 1652, subsection 5 and Title 36, section 4853, and revenues deposited pursuant to section 6913-A must be transferred to the Maine Individual Reinsurance Association by the first of each month beginning July 1, ~~2010~~2009. The fund may not lapse, but must be carried forward to carry out the purposes of this chapter.

Sec. L-2. PL 2007, c. 629, Pt. K is repealed.

PART M

Sec. M-1. 34-B MRSA §3861, sub-§3, as enacted by PL 2007, c. 580, §2, is amended to read:

3. Involuntary treatment. Except for involuntary treatment ordered pursuant to the provisions of section 3864, subsection 7-A, involuntary treatment of a patient at a designated nonstate mental health institution or a state mental health institute who is an involuntarily committed patient under the provisions of this subchapter may be ordered and administered only in conformance with the provisions of this subsection. For the purposes of this subsection, involuntary treatment is limited to medication for the treatment of mental illness and laboratory testing and medication for the monitoring and management of side effects.

A. If the patient's primary treating physician proposes a treatment that the physician, in the exercise of professional judgment, believes is in the best interest of the patient and if the patient lacks clinical capacity to give informed consent to the proposed treatment and the patient is unwilling or unable to comply with the proposed treatment, the patient’s primary treating physician shall request in writing a clinical review of the proposed treatment by a clinical review panel. For a patient at a state mental health institute, the request must be made to the superintendent of the institute or the designee of

the superintendent. For a patient at a designated nonstate mental health institution, the request must be made to the chief administrative officer or the designee of the chief administrative officer. The request must include the following information:

(1) The name of the patient, the patient's diagnosis and the unit on which the patient is hospitalized;

(2) The date that the patient was committed to the institution or institute and the period of the court-ordered commitment;

(3) A statement by the primary treating physician that the patient lacks capacity to give informed consent to the proposed treatment. The statement must include documentation of a 2nd opinion that the patient lacks that capacity, given by a professional qualified to issue such an opinion who does not provide direct care to the patient but who may work for the institute or institution;

(4) A description of the proposed course of treatment, including specific medications, routes of administration and dose ranges, proposed alternative medications or routes of administration, if any, and the circumstances under which any proposed alternative would be used;

(5) A description of how the proposed treatment will benefit the patient and ameliorate identified signs and symptoms of the patient's psychiatric illness;

(6) A listing of the known or anticipated risks and side effects of the proposed treatment and how the prescribing physician will monitor, manage and minimize the risks and side effects;

(7) Documentation of consideration of any underlying medical condition of the patient that contraindicates the proposed treatment; and

(8) Documentation of consideration of any advance health-care directive given in accordance with Title 18-A, section 5-802 and any declaration regarding medical treatment of psychotic disorders executed in accordance with section 11001.

B. The provisions of this paragraph apply to the appointment, duties and procedures of the clinical review panel under paragraph A.

(1) Within one business day of receiving a request under paragraph A, the superintendent of a state mental health institute or chief administrative officer of a designated nonstate mental health institution or that person's designee shall appoint a clinical review panel of 2 or more licensed professional staff who do not provide direct care to the patient. At least one person must

be a professional licensed to prescribe medication relevant to the patient's care and treatment. At the time of appointment of the clinical review panel, the superintendent of a state mental health institute or chief administrative officer of a designated nonstate mental health institution or that person's designee shall notify the following persons in writing that the clinical review panel will be convened:

(a) The primary treating physician;

(b) The director of the Office of Adult Mental Health Services within the department or that person's designee;

(c) The patient's designated representative or attorney, if any;

(d) The State's designated federal protection and advocacy agency; and

(e) The patient. Notice to the patient must inform the patient that the clinical review panel will be convened and of the right to assistance from a lay advisor, at no expense to the patient, and the right to obtain an attorney at the patient's expense. The notice must include contact information for requesting assistance from a lay advisor, who may be employed by the institute or institution, and access to a telephone to contact a lay advisor must be provided to the patient.

(2) Within 4 days of receiving a request under paragraph A and no less than 24 hours before the meeting of the clinical review panel, the superintendent of a state mental health institute or chief administrative officer of a designated nonstate mental health institution or that person's designee shall provide notice of the date, time and location of the meeting to the patient's primary treating physician, the patient and any lay advisor or attorney.

(3) The clinical review panel shall hold the meeting and any additional meetings as necessary, reach a final determination and render a written decision ordering or denying involuntary treatment.

(a) At the meeting, the clinical review panel shall receive information relevant to the determination of the patient's capacity to give informed consent to treatment and the need for treatment, review relevant portions of the patient's medical records, consult with the physician requesting the treatment, review with the patient that patient's reasons for refusing treatment, provide the patient and any lay advisor or attorney an opportunity to ask questions of anyone presenting information to the clinical review panel at the meeting and determine whether the requirements for ordering involuntary treatment have been met.

(b) All meetings of the clinical review panel must be open to the patient and any lay advisor or attorney, except that any meetings held for the purposes of deliberating, making findings and reaching final conclusions are confidential and not open to the patient and any lay advisor or attorney.

(c) The clinical review panel shall conduct its review in a manner that is consistent with the patient's rights.

(d) Involuntary treatment may not be approved and ordered if the patient affirmatively demonstrates to the clinical review panel that if that patient possessed capacity, the patient would have refused the treatment on religious grounds or on the basis of other previously expressed convictions or beliefs.

(4) The clinical review panel may approve a request for involuntary treatment and order the treatment if the clinical review panel finds, at a minimum:

(a) That the patient lacks the capacity to make an informed decision regarding treatment;

(b) That the patient is unable or unwilling to comply with the proposed treatment;

(c) That the need for the treatment outweighs the risks and side effects; and

(d) That the proposed treatment is the least intrusive appropriate treatment option.

(5) The clinical review panel may make additional findings, including but not limited to findings that:

(a) Failure to treat the illness is likely to produce lasting or irreparable harm to the patient; or

(b) Without the proposed treatment the patient's illness or involuntary commitment may be significantly extended without addressing the symptoms that cause the patient to pose a likelihood of serious harm.

(6) The clinical review panel shall document its findings and conclusions, including whether the potential benefits of the proposed treatment outweigh the potential risks.

C. The provisions of this paragraph govern the rights of a patient who is the subject of a clinical review panel under paragraph A.

(1) The patient is entitled to the assistance of a lay advisor without expense to the patient. The patient is entitled to representation by an attorney at the patient’s expense.

(2) The patient may review any records or documents considered by the clinical review panel.

(3) The patient may provide information orally and in writing to the clinical review panel and may present witnesses.

(4) The patient may ask questions of any person who provides information to the clinical review panel.

(5) The patient and any lay advisor or attorney may attend all meetings of the clinical review panel except for any private meetings authorized under paragraph B, subparagraph 3, division (b).

D. If the clinical review panel under paragraph A approves the request for involuntary treatment, the clinical review panel shall enter an order for the treatment in the patient's medical records and immediately notify the superintendent of a state mental health institute or chief administrative officer of a designated nonstate mental health institution. The order takes effect:

(1) For a patient at a state mental health institute, one business day from the date of entry of the order; or

(2) For a patient at a designated nonstate mental health institution, one business day from the date of entry of the order, except that if the patient has requested review of the order by the director of the Office of Adult Mental Health Services within the department under paragraph F, subparagraph (2), the order takes effect one business day from the day on which the director issues a written decision.

E. The order for treatment under this subsection remains in effect for 120 days or until the end of the period of commitment, whichever is sooner, unless altered by:

(1) An agreement to a different course of treatment by the primary treating physician and patient;

(2) For a patient at a designated nonstate mental health institution, modification or vacation of the order by the director of the Office of Adult Mental Health Services within the department; or

(3) An alteration or stay of the order entered by the Superior Court after reviewing the entry of the order by the clinical review panel on appeal under paragraph F.

F. The provisions of this paragraph apply to the review and appeal of an order of the clinical review panel entered under paragraph B.

(1) The order of the clinical review panel at a state mental health institute is final agency action that may be appealed to the Superior Court in accordance with Rule 80C of the Maine Rules of Civil Procedure.

(2) The order of the clinical review panel at a designated nonstate mental health institution may be reviewed by the director of the Office of Adult Mental Health Services within the department or the designee of the director upon receipt of a written request from the patient submitted no later than one day after the patient receives the order of the clinical review panel. Within 3 business days of receipt of the request for review, the director or designee shall review the full clinical review panel record and issue a written decision. The decision of the director or designee may affirm the order, modify the order or vacate the order. The decision of the director or designee takes effect one business day after the director or designee issues a written decision. The decision of the director or designee is final agency action that may be appealed to the Superior Court in accordance with Rule 80C of the Maine Rules of Civil Procedure.

Emergency clause. In view of the emergency cited in the preamble, this legislation takes effect when approved, except as otherwise indicated.

Effective April 24, 2008.