

**STATE OF MAINE**

**BOARD OF ELEVATOR & TRAMWAY SAFETY**

**LAWS AND RULES**



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

**BOARD OF ELEVATOR & TRAMWAY SAFETY**

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## TABLE OF CONTENTS

		<u>Page</u>
<b>LAWS</b>	<b>Title 32 M.R.S.A. Chapter 133</b>	
§15201	Declaration of policy .....	7
§15202	Definitions .....	7
§15203	Retroactive effect; exception .....	12
§15204	Appeals; variances .....	12
§15205	Board of Elevator and Tramway Safety .....	13
§15206	Powers and duties of board .....	13
§15206-A	Denial or refusal to renew license; disciplinary action .....	14
§15208	Examination of private elevator and lift inspectors; licenses and renewals .....	14
§15208-A	Registration of elevator contractors .....	15
§15209	Examination of private tramway inspectors; licenses .....	15
§15209-A	Private wire rope inspectors; licenses .....	16
§15210	Revocation of private tramway or elevator inspector's license .....	17
§15211	Notice of accidents .....	17
§15212	Examination of accidents .....	18
§15213	Elevator or lift mechanics; license; definition .....	18
§15214	Issuance; qualifications .....	18
§15216	Examination of elevator or lift mechanics; applications; licenses; renewals .....	19
§15216-C	License renewal .....	19
§15217	Skiers' and tramway passengers' responsibilities .....	20
§15218	Duties of skiers and tramway passengers; acts prohibited .....	22
§15219	Hang gliding .....	23
§15220	Penalties .....	24
§15221	Inspection of elevators and tramways .....	24
§15222	Condemned elevator and tramways not to be operated .....	25
§15223	Criminal operation of elevator or tramway .....	26
§15224	Installation of new elevators and tramways; fees .....	27
§15225-A	Fees .....	27
§15226	Reports by inspectors .....	27
§15227	Powers of chief inspector .....	28
§15228	Elevator size .....	29
§15229	Duties of owners of elevators or tramways .....	29
	<b>Title 10 M.R.S.A. Chapter 901</b>	
§8001	Department; organization .....	32
§8001-A	Department; affiliation .....	37
§8002	Duties and authority of commissioner .....	38
§8003	Departmental organization; duties .....	40

§8003-A	Complaint investigation .....	51
§8003-B	Confidentiality of investigative records .....	51
§8003-C	Unlicensed practice .....	54
§8003-D	Investigations; enforcement duties; assessments .....	55
§8003-E	Citations and fines .....	56
§8003-F	Disposition of fees .....	56
§8003-G	Duty to require certain information from applicants and licensees .....	57
§8004	Annual report.....	57
§8004-A	Legislative reports .....	57
§8005	Compliance with support orders; license qualifications and conditions .....	58
§8005-A	Licensees not in compliance with court-ordered fine, fee or restitution; License qualifications and conditions .....	58
§8006	Licensees not in compliance with court order of support and other court orders; Enforcement of parental support obligations and suspensions .....	58
§8007	Board member candidate information .....	59
§8008	Purpose of occupational and professional regulatory boards .....	60
§8009	Standardized terms .....	60

## **RULES**

Chapter 1	Definitions .....	65
Chapter 3	Variances .....	68
Chapter 7	Advisory Rulings.....	69
Chapter 11	National Codes Applicable to Elevators and Tramways .....	70
Chapter 13	Elevators .....	75
Chapter 15	Tramways.....	78
Chapter 21	Elevator Owners' Duties and Responsibilities .....	80
Chapter 23	Tramway Owners' Duties and Responsibilities.....	85
Chapter 31	Licensed Private Elevator Inspectors .....	92
Chapter 33	Licensed Private Tramway Inspectors.....	33
Chapter 35	Licensed Wire Rope Inspectors .....	98
Chapter 37	Licensed Elevator Mechanics.....	100
Chapter 39	Licensed Lift Mechanics .....	102
Chapter 41	Elevator Contractors.....	104
Chapter 10	Establishment of License Fee .....	106
Chapter 11	Late Renewals .....	110

**BOARD OF  
ELEVATOR &  
TRAMWAY SAFETY  
  
LAWS**



**Maine Revised Statute Title 32, Chapter 133:  
BOARD OF ELEVATOR AND TRAMWAY SAFETY**

**32 §15201. DECLARATION OF POLICY**

It is the policy of the State to protect its citizens and visitors from unnecessary mechanical hazards in the operation of elevators and tramways and to ensure that reasonable design and construction are used, that accepted safety devices and sufficient personnel are provided and that periodic maintenance, inspections and adjustments considered essential for the safe operation of elevators and tramways are made. The responsibility for design, construction, maintenance and inspection rests with the firm, person, partnership, association, corporation or company that owns elevators or tramways. [2001, c. 573, Pt. B, §1 (AMD); 2001, c. 573, Pt. B, §36 (AFF).]

**SECTION HISTORY**

1995, c. 560, §H14 (NEW). 1995, c. 560, §H17 (AFF). 2001, c. 573, §B1 (AMD). 2001, c. 573, §B36 (AFF).

**32 §15202. DEFINITIONS**

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings. [1995, c. 560, Pt. H, §14 (NEW); 1995, c. 560, Pt. H, §17 (AFF).]

**1. Approved.** "Approved" means as approved by the Board of Elevator and Tramway Safety.

[ 1995, c. 560, Pt. H, §14 (NEW); 1995, c. 560, Pt. H, §17 (AFF) .]

**2. Board.** "Board" means the Board of Elevator and Tramway Safety.

[ 1995, c. 560, Pt. H, §14 (NEW); 1995, c. 560, Pt. H, §17 (AFF) .]

**2-A. Chief inspector.** "Chief inspector" means an individual in the employ of the State whose duties include the examination and inspection of elevators and tramways and who has been designated as chief inspector by the Commissioner of Professional and Financial Regulation.

[ 2001, c. 573, Pt. B, §2 (NEW); 2001, c. 573, Pt. B, §36 (AFF) .]

**3. Commissioner.** "Commissioner" means the Commissioner of Professional and Financial Regulation.

[ 1995, c. 560, Pt. H, §14 (NEW); 1995, c. 560, Pt. H, §17 (AFF) .]

**4. Department.** "Department" means the Department of Professional and Financial Regulation.

[ 1995, c. 560, Pt. H, §14 (NEW); 1995, c. 560, Pt. H, §17 (AFF) .]

**4-A. Deputy inspector.** "Deputy inspector" means an individual in the employ of the State whose duties include the examination and inspection of elevators and tramways under the direction of the chief inspector.

[ 2001, c. 573, Pt. B, §2 (NEW); 2001, c. 573, Pt. B, §36 (AFF) .]

**4-B. Direct supervision.** "Direct supervision" means that a helper is working in the presence of a licensed elevator or lift mechanic at all times.

[ 2001, c. 573, Pt. B, §2 (NEW); 2001, c. 573, Pt. B, §36 (AFF) .]

**4-C. Director.** "Director" means the Director of the Office of Licensing and Registration.

[ 2001, c. 573, Pt. B, §2 (NEW); 2001, c. 573, Pt. B, §36 (AFF) .]

**5. Elevator.** "Elevator" includes an escalator or a manlift and means a guided hoisting and lowering mechanism equipped with a car, platform or load-carrying unit, including doors, well, enclosures, means and appurtenances. "Elevator" does not include an inclined stairway chairlift, a conveyor, chain or bucket hoist or a tiering, piling or feeding device. For the purposes of this subsection, "inclined stairway chairlift" means a mechanized chair apparatus running on a track or rail along the side of a staircase.

[ 2003, c. 292, §1 (AMD) .]

**5-A. Elevator contractor.** "Elevator contractor" means any person, firm, partnership, association, corporation or company engaged in the installation, sale, service, maintenance or inspection of elevators in this State.

[ 2001, c. 573, Pt. B, §2 (NEW); 2001, c. 573, Pt. B, §36 (AFF) .]

**6. Escalator.** "Escalator" means a power-driven, inclined and continuous stairway used for raising or lowering passengers.

[ 1995, c. 560, Pt. H, §14 (NEW); 1995, c. 560, Pt. H, §17 (AFF) .]

**7. Freight elevator.**

[ 2001, c. 573, Pt. B, §3 (RP); 2001, c. 573, Pt. B, §36 (AFF) .]

**7-A. Helper.** "Helper" means a person who is not licensed under this chapter as an elevator mechanic or lift mechanic and who assists in the installation, service or maintenance of elevators located in this State while working under the direct supervision of a licensed elevator mechanic or licensed lift mechanic.

[ 2001, c. 573, Pt. B, §36 (AFF); 2001, c. 573, Pt. B, §4 (NEW) .]

**7-B. Licensed private elevator inspector.** "Licensed private elevator inspector" or "licensed private elevator and lift inspector" means an individual who has been licensed by the board to inspect elevators pursuant to this chapter and who is not a state employee whose duty is to inspect elevators.

[ 2001, c. 573, Pt. B, §36 (AFF); 2001, c. 573, Pt. B, §4 (NEW) .]

**8. Licensed private tramway inspector.** "Licensed private tramway inspector" means an individual who has been licensed by the Board of Elevator and Tramway Safety to inspect tramways pursuant to this chapter and who is not a state employee whose duty is to inspect tramways.

[ 2001, c. 573, Pt. B, §36 (AFF); 2001, c. 573, Pt. B, §5 (AMD) .]

**9. Manlift.** "Manlift" means a device, consisting of a power-driven, endless belt or chains, provided with steps or platforms and handholds attached to it for the transportation of personnel from floor to floor.

[ 1995, c. 560, Pt. H, §14 (NEW); 1995, c. 560, Pt. H, §17 (AFF) .]

**10. Operator.** "Operator" means the person or persons who physically operate an elevator or tramway.

[ 1995, c. 560, Pt. H, §14 (NEW); 1995, c. 560, Pt. H, §17 (AFF) .]

**11. Owner.** "Owner" means a firm, person, partnership, association, corporation or state or political subdivision that owns an elevator or tramway.

[ 1995, c. 560, Pt. H, §14 (NEW); 1995, c. 560, Pt. H, §17 (AFF) .]

**12. Passenger elevator.**

[ 2001, c. 573, Pt. B, §6 (RP) .]

**13. Physically handicapped person.** "Physically handicapped person" means a person who has a physiological disability, infirmity, malformation, disfigurement or condition that eliminates or severely limits the person's ability to have access to the person's environment by normal ambulatory function, necessitating the use of crutches, a wheelchair or other similar device for locomotion.

[ 1995, c. 560, Pt. H, §14 (NEW); 1995, c. 560, Pt. H, §17 (AFF) .]

**14. Skier.** "Skier" means any person who engages in any of the activities described in section 15217, subsection 1, paragraph B.

[ 2007, c. 287, §1 (AMD) .]

**15. Ski area.** "Ski area" means the ski slopes and trails, adjoining skiable terrain, areas designated by the ski area operator to be used for skiing as defined by section 15217, subsection 1, paragraph B and passenger tramways administered or operated as a single enterprise within this State.

[ 2007, c. 287, §2 (AMD) .]

**16. Ski industry.** "Ski industry" means the activities of all ski area operators.

[ 1995, c. 560, Pt. H, §14 (NEW); 1995, c. 560, Pt. H, §17 (AFF) .]

**17. Ski area operator.** "Ski area operator" means a person or organization having operational responsibility for a ski area, including an agency or a political subdivision of this State.

[ 1995, c. 560, Pt. H, §14 (NEW); 1995, c. 560, Pt. H, §17 (AFF) .]

**18. State inspector.**

[ 2001, c. 573, Pt. B, §36 (AFF); 2001, c. 573, Pt. B, §8 (RP) .]

**19. Tramway.** "Tramway" means a device used to transport passengers uphill on skis or in cars on tracks or suspended in the air by the use of steel cables, chains or belts or by ropes usually supported by trestles or towers with one or more spans. "Tramway" includes the following:

A. Reversible aerial tramways, which are that class of aerial passenger tramways and lifts by which passengers are transported in carriers and are not in contact with the ground or snow surface, and in which the carriers reciprocate between terminals. This class includes:

- (1) Single-reversible tramways, which are a type of reversible lift or aerial tramway having a single carrier, or single group of carriers, that moves back and forth between terminals on a single path of travel, sometimes called "to-and-fro" aerial tramways; and
- (2) Double-reversible tramways, which are a type of reversible lift or aerial tramway having 2 carriers, or 2 groups of carriers, that oscillate back and forth between terminals on 2 separate paths of travel, sometimes called "jig-back" aerial tramways; [1995, c. 560, Pt. H, §14 (NEW); 1995, c. 560, Pt. H, §17 (AFF).]

B. Aerial lifts and skimobiles, which are that class of aerial passenger tramways and lifts by which passengers are transported in carriers and are not in contact with the ground or snow surface, and in which the carriers circulate around a closed system and are activated by a wire rope or chain. The carriers usually make U-turns in the terminals and move along parallel and opposing paths of travel. The carriers may be open or enclosed cabins, chairs, cars or platforms. The carriers may be fixed or detachable. This class includes:

- (1) Gondola lifts, which are a type of lift or aerial tramway by which passengers are transported in open or enclosed cabins. The passengers embark and disembark while the carriers are stationary or moving slowly under a controlled arrangement;

(2) Chair lifts, which are a type of lift or aerial tramway by which passengers are transported in chairs, either open or partially enclosed; and

(3) Skimobiles, which are a type of lift or aerial tramway by which passengers are transported in open or enclosed cars that ride on a rigid structural system and are propelled by a wire rope or chain; [1995, c. 560, Pt. H, §14 (NEW); 1995, c. 560, Pt. H, §17 (AFF).]

C. Surface lifts, which are that class of conveyance by which passengers are propelled by means of a circulating overhead wire rope while remaining in contact with the ground or snow surface. Transportation is limited to one direction. Connection between the passengers and the wire rope is by means of a device attached to and circulating with the haul rope known as a "towing outfit." This class includes:

(1) T-bar lifts, which are a type of lift in which the device between the haul rope and passengers forms the shape of an inverted "T," propelling passengers located on both sides of the stem of the "T";

(2) J-bar lifts, which are a type of lift in which the device between the haul rope and passenger is in the general form of a "J," propelling a single passenger located on the one side of the stem of the "J"; and

(3) Platter lifts, which are a type of lift in which the device between the haul rope and passenger is a single stem with a platter or disk, attached to the lower end of the stem, propelling the passenger astride the stem of the platter or disk; [1995, c. 560, Pt. H, §14 (NEW); 1995, c. 560, Pt. H, §17 (AFF).]

D. Tows, which are that class of conveyance in which passengers grasp a circulating haul rope, which may be natural or synthetic fiber or metallic, or a handle or gripping device attached to the circulating haul rope, and are propelled by the circulating haul rope. The passengers remain in contact with the ground or snow surface. The upward-traveling haul rope remains adjacent to the uphill track at an elevation that permits the passengers to maintain their grasp on the haul rope, handle or gripping device throughout the portion of the tow length that is designed to be traveled; and [1995, c. 560, Pt. H, §14 (NEW); 1995, c. 560, Pt. H, §17 (AFF).]

E. Similar equipment not specified in this subsection, but conforming to at least one of the general descriptions in this subsection. [1995, c. 560, Pt. H, §14 (NEW); 1995, c. 560, Pt. H, §17 (AFF).]

[ 1995, c. 560, Pt. H, §14 (NEW); 1995, c. 560, Pt. H, §17 (AFF) .]

**20. Tramway passenger.** "Tramway passenger" means a person being transported or conveyed by a tramway, waiting in the immediate vicinity for transportation or conveyance by a tramway, moving away from the disembarkation or unloading point of a tramway to clear the way for the following passengers or boarding, embarking upon or disembarking from a tramway.

[ 1995, c. 560, Pt. H, §14 (NEW); 1995, c. 560, Pt. H, §17 (AFF) .]

## SECTION HISTORY

1995, c. 560, §H14 (NEW). 1995, c. 560, §H17 (AFF). 1999, c. 386, §X2 (AMD). 2001, c. 573, §§B2-8 (AMD). 2001, c. 573, §B36 (AFF). 2003, c. 292, §1 (AMD). 2007, c. 287, §§1, 2 (AMD).

### **32 §15203. RETROACTIVE EFFECT; EXCEPTION**

This chapter may not be construed to prevent the use or sale of elevators in this State that were being used or installed prior to January 1, 1950 and that have been made to conform to the rules of the board covering existing installations and must be inspected as provided for in this chapter. [2001, c. 573, Pt. B, §36 (AFF); 2001, c. 573, Pt. B, §9 (AMD).]

This chapter does not apply to elevators or tramways on reservations of the Federal Government, to elevators used for agricultural purposes on farms or to elevators located or maintained in private residences, as long as they are exclusively for private use. [1995, c. 560, Pt. H, §14 (NEW); 1995, c. 560, Pt. H, §17 (AFF).]

#### **SECTION HISTORY**

1995, c. 560, §H14 (NEW). 1995, c. 560, §H17 (AFF). 2001, c. 573, §B36 (AFF). 2001, c. 573, §B9 (AMD).

### **32 §15204. APPEALS; VARIANCES**

A person aggrieved by an order or act of the chief inspector or a deputy inspector under this chapter may, within 15 days after notice of the order or act, appeal from the order or act to the board, which shall hold a hearing pursuant to Title 5, chapter 375, subchapter IV. After the hearing, the board shall issue an appropriate order either approving or disapproving the order or act. [2001, c. 573, Pt. B, §10 (AMD); 2001, c. 573, Pt. B, §36 (AFF).]

Any person who is or will be aggrieved by the application of any law, code or rule relating to the installation or alteration of elevators or tramways 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 under section 15225-A. The chief inspector may grant a variance if, owing to conditions especially affecting the particular building or installation involved, the enforcement of any law, code or rule relating to elevators or tramways would do manifest injustice or cause substantial hardship, financial or otherwise, to the petitioner or any occupant of the petitioner's building or would be unreasonable under the circumstances or condition of the property, provided that 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. [2001, c. 573, Pt. B, §10 (AMD); 2001, c. 573, Pt. B, §36 (AFF).]

#### **SECTION HISTORY**

1995, c. 560, §H14 (NEW). 1995, c. 560, §H17 (AFF). 1999, c. 386, §X3 (AMD). 2001, c. 573, §B10 (AMD). 2001, c. 573, §B36 (AFF).

### **32 §15205. BOARD OF ELEVATOR AND TRAMWAY SAFETY**

The Board of Elevator and Tramway Safety, as established by Title 5, section 12004-A, subsection 14, consists of 9 members, of whom 7 are appointed by the Governor. Of the 7 members of the board appointed by the Governor, one must be an owner or lessee of an elevator in the State; one must be a manufacturer of elevators; one must be a manufacturer or installer of accessibility lifts; one must be a licensed elevator mechanic; one must be a ski area operator presently operating tramways in the State; one must be a qualified licensed professional engineer who is familiar with tramway design, inspection and operation; and one must be a public member as defined in Title 5, section 12004-A. The 8th member of the board must be a physically handicapped person appointed by the Director of the Bureau of Rehabilitation Services, subject to the approval of the Governor. The 9th member of the board must be a member of the Division of Fire Prevention appointed by the Commissioner of Public Safety. Appointments are for 3-year terms. Appointments of members must comply with Title 10, section 8009. A member may be removed by the Governor for cause. [2007, c. 402, Pt. NN, §1 (AMD).]

#### **1. Compensation.**

[ 2007, c. 402, Pt. NN, §1 (RP) .]

**2. Meetings; chair; quorum.** The board shall meet at least once a year to conduct its business and to elect a chair. Additional meetings must be held as necessary to conduct the business of the board and may be convened at the call of the chair or a majority of the board members. Five members of the board constitute a quorum .

[ 2007, c. 402, Pt. NN, §1 (AMD) .]

#### **3. Records.**

[ 2007, c. 402, Pt. NN, §1 (RP) .]

#### **SECTION HISTORY**

1995, c. 560, §H14 (NEW). 1995, c. 560, §H17 (AFF). 1999, c. 386, §§X4,5 (AMD). 2007, c. 402, Pt. NN, §1 (AMD).

### **32 §15206. POWERS AND DUTIES OF BOARD**

The board shall administer, coordinate and enforce this chapter and has the following powers and duties in addition to those otherwise set forth in this chapter. [1999, c. 386, Pt. X, §6 (RPR).]

**1. Rules.** The board shall, in accordance with Title 5, chapter 375, adopt rules to implement the purposes of this chapter, including rules for the safe and proper construction, installation, alteration, repair, use, operation and inspection of elevators and tramways in the State. The rules must include standards for the review and audit of inspections performed by licensed private elevator inspectors not employed by the State. The rules must conform as nearly as

practicable to the established standards as approved by the American National Standards Institute or its successor or other organization approved by the board. Rules adopted by the board under this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

Board rules that are standards of the American National Standards Institute or its successor or other organization approved by the board must be obtained from the publisher.

[ 2007, c. 402, Pt. NN, §2 (AMD) .]

## **2. Hearings.**

[ 2007, c. 402, Pt. NN, §2 (RP) .]

## **3. Contracts.**

[ 2007, c. 402, Pt. NN, §2 (RP) .]

### **SECTION HISTORY**

1995, c. 560, §H14 (NEW). 1995, c. 560, §H17 (AFF). 1999, c. 386, §X6 (RPR). 2001, c. 573, §B11 (AMD). 2001, c. 573, §B36 (AFF). 2007, c. 402, Pt. NN, §2 (AMD).

### **32 §15206-A. DENIAL OR REFUSAL TO RENEW LICENSE; DISCIPLINARY ACTION**

The board may deny a license, refuse to renew a license or impose the disciplinary sanctions authorized by Title 10, section 8003, subsection 5-A for any of the reasons enumerated in Title 10, section 8003, subsection 5-A, paragraph A. [2007, c. 402, Pt. NN, §3 (NEW).]

### **SECTION HISTORY**

1999, c. 386, §X7 (NEW). 1999, c. 547, §B78 (AMD). 1999, c. 547, §B80 (AFF). 2001, c. 573, §B12 (AMD). 2001, c. 573, §B36 (AFF). 2007, c. 402, Pt. NN, §3 (RPR).

### **32 §15207. APPOINTMENT OF STATE INSPECTORS (REPEALED)**

### **SECTION HISTORY**

1995, c. 560, §H14 (NEW). 1995, c. 560, §H17 (AFF). 1999, c. 687, §F11 (RP).

### **32 §15208. EXAMINATION OF PRIVATE ELEVATOR AND LIFT INSPECTORS; LICENSES AND RENEWALS**

The board shall set standards necessary for the licensure and renewal of private elevator and lift inspectors. The board may adopt rules relating to the qualifications for licensure and renewal of private elevator and lift inspectors, including requirements for examination and continuing education. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter II-A. The fee for applications, examinations, licenses and renewals must be established by the director pursuant to section 15225-A and Title 10,

section 8003, subsection 2-A, paragraph D. Licenses are issued for a period of one year. [2001, c. 573, Pt. B, §13 (RPR); 2001, c. 573, Pt. B, §36 (AFF).]

An elevator contractor or a person who is licensed as a private elevator and lift inspector who services an elevator or lift equipment may not inspect that elevator or lift equipment within 12 months from the date of servicing that elevator or lift equipment. [2001, c. 573, Pt. B, §13 (RPR); 2001, c. 573, Pt. B, §36 (AFF).]

#### SECTION HISTORY

1995, c. 560, §H14 (NEW). 1995, c. 560, §H17 (AFF). 1999, c. 386, §X8 (AMD). 1999, c. 627, §1 (AMD). 2001, c. 573, §B13 (RPR). 2001, c. 573, §B36 (AFF).

### **32 §15208-A. REGISTRATION OF ELEVATOR CONTRACTORS**

Any person, firm, partnership, association, corporation or company engaged in the installation, sale, service, maintenance or inspection of elevators in this State shall register with the board annually. The registration must be submitted on a form provided by the board and must include the names and addresses of all licensed private inspectors, licensed mechanics and all helpers employed by the elevator contractor. An elevator contractor shall notify the board of any change in the information required under this section within 30 days of the change. The required fee for registration must be set by the director under section 15225-A. [2001, c. 573, Pt. B, §14 (NEW); 2001, c. 573, Pt. B, §36 (AFF).]

#### SECTION HISTORY

2001, c. 573, §B14 (NEW). 2001, c. 573, §B36 (AFF).

### **32 §15209. EXAMINATION OF PRIVATE TRAMWAY INSPECTORS; LICENSES**

The board shall license an applicant as a private tramway inspector, who may perform the inspections required on tramways, if that applicant: [2001, c. 573, Pt. B, §15 (AMD); 2001, c. 573, Pt. B, §36 (AFF).]

**1. Registration.** Is a professional engineer with a current valid registration in some state. If an applicant for a private tramway inspector's license demonstrates to the board that the applicant possesses more than 6 years' experience in the construction, design, inspection and operation of tramways, this registration requirement may be waived by the board;

[ 2001, c. 573, Pt. B, §15 (AMD); 2001, c. 573, Pt. B, §36 (AFF) .]

**2. Experience.** Has considerable experience in the construction, design or maintenance of tramways;

[ 1995, c. 560, Pt. H, §14 (NEW); 1995, c. 560, Pt. H, §17 (AFF) .]

**3. Experience in inspecting.** Has 4 years' experience inspecting tramways while working for an insurance company, a government agency or a company performing tramway or similar equipment inspections;

[ 1995, c. 560, Pt. H, §14 (NEW); 1995, c. 560, Pt. H, §17 (AFF) .]

**4. Capability and aptitude.** Has the physical capability and aptitude to perform the duties of a private tramway inspector in a safe and thorough manner; and

[ 2001, c. 573, Pt. B, §15 (AMD); 2001, c. 573, Pt. B, §36 (AFF) .]

**5. Examination.** Has sufficient experience and knowledge to achieve a satisfactory rating in an examination designed to test the applicant's knowledge of orders and principles of tramway safety. When an applicant for a private tramway inspector's license demonstrates more than 6 years' experience in the construction, design, inspection and operation of tramways, the provisions for examination must be waived.

A. The examination for a licensed private tramway inspector must be given by the chief inspector or by 2 or more examiners appointed by the chief inspector. The examination must be written, in whole or in part, and must be confined to questions the answers to which will aid in determining the fitness and competency of the applicant for the intended service and must be of uniform standard throughout the State. [2001, c. 573, Pt. B, §15 (AMD); 2001, c. 573, Pt. B, §36 (AFF).]

B. [2001, c. 573, Pt. B, §15 (RP); 2001, c. 573, Pt. B, §36 (AFF).]

C. A private tramway inspector's license is issued for a period of one year. The license fee must be set by the director under section 15225-A. [2001, c. 573, Pt. B, §15 (AMD); 2001, c. 573, Pt. B, §36 (AFF).]

D. Applications for examination and license must be on forms furnished by the board. The examination fee for a private tramway inspector's license must be set by the director under section 15225-A. [2001, c. 573, Pt. B, §15 (AMD); 2001, c. 573, Pt. B, §36 (AFF).]

[ 2001, c. 573, Pt. B, §15 (AMD); 2001, c. 573, Pt. B, §36 (AFF) .]

#### SECTION HISTORY

1995, c. 560, §H14 (NEW). 1995, c. 560, §H17 (AFF). 1999, c. 386, §X9 (AMD). 2001, c. 573, §B15 (AMD). 2001, c. 573, §B36 (AFF).

#### **32 §15209-A. PRIVATE WIRE ROPE INSPECTORS; LICENSES**

The board shall license an applicant as a private wire rope inspector, who may perform the inspections required for each tramway equipped with wire rope, if that applicant has a total of 5 years' experience in wire rope manufacture, installation, maintenance or inspection. A private wire rope inspector's license is issued for a period of one year. The license fee must be set by the director under section 15225-A. [2001, c. 573, Pt. B, §16 (AMD); 2001, c. 573, Pt. B, §36 (AFF).]

#### SECTION HISTORY

1999, c. 386, §X10 (NEW). 2001, c. 573, §B16 (AMD). 2001, c. 573, §B36 (AFF).

### **32 §15210. REVOCATION OF PRIVATE TRAMWAY OR ELEVATOR INSPECTOR'S LICENSE**

The board may revoke a private tramway, elevator or lift inspection license or remove inspection endorsements from an elevator or lift mechanic's license for the following causes: [2001, c. 573, Pt. B, §17 (AMD); 2001, c. 573, Pt. B, §36 (AFF).]

**1. Failure to submit true reports.** For failure to submit true reports concerning the conditions of a tramway or elevator or for conduct determined by the board to be contrary to the best interests of tramway or elevator safety or the board;

[ 2001, c. 573, Pt. B, §17 (AMD); 2001, c. 573, Pt. B, §36 (AFF) .]

**2. Physical infirmities.** For physical infirmities that develop to a point at which it appears that an inspector or mechanic is no longer able to perform the required duties in a thorough and safe manner; or

[ 2001, c. 573, Pt. B, §17 (AMD); 2001, c. 573, Pt. B, §36 (AFF) .]

**3. Failure to comply with chapter or rules.**

[ 2007, c. 402, Pt. NN, §4 (RP) .]

#### SECTION HISTORY

1995, c. 560, §H14 (NEW). 1995, c. 560, §H17 (AFF). 1999, c. 386, §X11 (AMD). 2001, c. 573, §B17 (AMD). 2001, c. 573, §B36 (AFF). 2007, c. 402, Pt. NN, §4 (AMD).

### **32 §15211. NOTICE OF ACCIDENTS**

**1. Reporting accidents.** Each elevator or tramway accident that is caused by equipment failure or results in significant injury to a person or results in substantial damage to equipment must be reported by the owner or lessee to the chief inspector in accordance with the board's rules.

[ 2001, c. 573, Pt. B, §18 (NEW); 2001, c. 573, Pt. B, §36 (AFF) .]

**2. Revocation of certificate.** When an elevator or tramway accident as described in subsection 1 occurs, the inspection certificate for the involved elevator or tramway may be summarily revoked in accordance with and subject to the standards and limitations of Title 5, section 10004, pending decision on any application with the District Court for a further suspension.

[ 2001, c. 573, Pt. B, §18 (NEW); 2001, c. 573, Pt. B, §36 (AFF) .]

#### SECTION HISTORY

1995, c. 560, §H14 (NEW). 1995, c. 560, §H17 (AFF). 1999, c. 386, §X12 (AMD). 1999, c. 547, §B78 (AMD). 1999, c. 547, §B80 (AFF). 2001, c. 573, §B18 (RPR). 2001, c. 573, §B36

(AFF).

### **32 §15212. EXAMINATION OF ACCIDENTS**

The chief inspector may examine or cause to be examined the cause, circumstances and origin of all elevator or tramway accidents within the State. Upon request, the chief inspector shall furnish to the proper district attorney the names of witnesses and all information obtained. [2001, c. 573, Pt. B, §19 (AMD); 2001, c. 573, Pt. B, §36 (AFF).]

#### **SECTION HISTORY**

1995, c. 560, §H14 (NEW). 1995, c. 560, §H17 (AFF). 2001, c. 573, §B19 (AMD). 2001, c. 573, §B36 (AFF).

### **32 §15213. ELEVATOR OR LIFT MECHANICS; LICENSE; DEFINITION**

A person may not service, repair, alter or install any elevator unless that person is licensed as an elevator or lift mechanic under this chapter. Elevator work in industrial plants and manufacturing plants may be performed by plant personnel who are not licensed under this chapter if the work is supervised by the plant engineer and performed in compliance with rules adopted by the board. [2001, c. 573, Pt. B, §20 (AMD); 2001, c. 573, Pt. B, §36 (AFF).]

The word "elevator," as used in this chapter, includes all electrical equipment, wiring, steelwork and piping in the elevator machine room, hoistway and pit pertaining to the operation and control of an elevator, except power feeders and required power equipment up to the control panel, heating, lighting, ventilation and drainage equipment. [2001, c. 573, Pt. B, §20 (AMD); 2001, c. 573, Pt. B, §36 (AFF).]

#### **SECTION HISTORY**

1995, c. 560, §H14 (NEW). 1995, c. 560, §H17 (AFF). 1999, c. 386, §X13 (AMD). 2001, c. 573, §B20 (AMD). 2001, c. 573, §B36 (AFF).

### **32 §15214. ISSUANCE; QUALIFICATIONS**

The board shall issue an elevator or lift mechanic's license to any applicant who has at least 2 years' experience in the service, repair, alteration or installation of elevators and lifts while employed by an elevator company, or has equivalent experience as defined by rules of the board, and meets the requirements established pursuant to section 15216. [2001, c. 573, Pt. B, §21 (AMD); 2001, c. 573, Pt. B, §36 (AFF).]

A licensed elevator or lift mechanic may not have more than 2 helpers under direct supervision. These helpers need not be licensed. [1999, c. 386, Pt. X, §14 (AMD).]

A licensed elevator or lift mechanic shall comply with the provisions of this chapter and the rules adopted by the board. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter II-A. [2001, c. 573, Pt. B, §21 (AMD); 2001, c. 573, Pt. B, §36 (AFF).]

#### **SECTION HISTORY**

1995, c. 560, §H14 (NEW). 1995, c. 560, §H17 (AFF). 1999, c. 386, §X14 (AMD). 2001, c.

573, §B21 (AMD). 2001, c. 573, §B36 (AFF).

### **32 §15215. INSPECTOR ENDORSEMENT TO ELEVATOR OR LIFT MECHANIC'S LICENSE (REPEALED)**

#### SECTION HISTORY

1995, c. 560, §H14 (NEW). 1995, c. 560, §H17 (AFF). 1999, c. 386, §X15 (AMD). 2001, c. 573, §B22 (RP). 2001, c. 573, §B36 (AFF).

### **32 §15216. EXAMINATION OF ELEVATOR OR LIFT MECHANICS; APPLICATIONS; LICENSES; RENEWALS**

The board shall set standards necessary for the licensure and renewal of elevator or lift mechanics. The board may adopt rules relating to the qualifications for licensure and renewal of elevator or lift mechanics, including requirements for examination and continuing education. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter II-A. The fee for applications, examinations, licenses and renewals must be established by the director pursuant to section 15225-A and Title 10, section 8003, subsection 2-A, paragraph D. Licenses are issued for a period of one year. [2001, c. 573, Pt. B, §23 (RPR); 2001, c. 573, Pt. B, §36 (AFF).]

#### SECTION HISTORY

1995, c. 560, §H14 (NEW). 1995, c. 560, §H17 (AFF). 1999, c. 386, §X16 (AMD). 2001, c. 573, §B23 (RPR). 2001, c. 573, §B36 (AFF).

### **32 §15216-A. APPLICATION FEE (REPEALED)**

#### SECTION HISTORY

1999, c. 386, §X17 (NEW). 2001, c. 573, §B24 (RP). 2001, c. 573, §B36 (AFF).

### **32 §15216-B. WIRE ROPE INSPECTORS; LICENSES (REPEALED)**

#### SECTION HISTORY

1999, c. 386, §X17 (NEW). 2001, c. 573, §B24 (RP). 2001, c. 573, §B36 (AFF).

### **32 §15216-C. LICENSE RENEWAL**

Any license issued under this chapter is renewable upon satisfaction of the applicable requirements for renewal and payment of the renewal fee as set by the director under section 15225-A. The expiration dates for licenses issued under this chapter may be established at such other times as the commissioner may designate. [2007, c. 402, Pt. NN, §5 (AMD).]

A license may be renewed up to 90 days after the date of its expiration upon payment of a late fee in addition to the renewal fee as set under section 15225-A. Any person who submits an application for renewal more than 90 days after the license expiration date must pay an

additional late fee as set under section 15225-A and is subject to all requirements governing new applicants under this chapter, except that the board may in its discretion waive the examination and other requirements. Notwithstanding any other provision of this chapter, the board shall waive the examination if a renewal application is made within 90 days after separation from the United States Armed Forces, under conditions other than dishonorable, by a person who failed to renew that person's license because that person was on active duty in the Armed Forces; except that the waiver of examination may not be granted if the person served a period of more than 4 years in the Armed Forces, unless that person is required by some mandatory provision to serve a longer period and that person submits satisfactory evidence of this mandatory provision to the board. [2007, c. 402, Pt. NN, §5 (AMD).]

#### SECTION HISTORY

1999, c. 386, §X17 (NEW). 2001, c. 573, §B25 (AMD). 2001, c. 573, §B36 (AFF). 2007, c. 402, Pt. NN, §5 (AMD).

### **32 §15217. SKIERS' AND TRAMWAY PASSENGERS' RESPONSIBILITIES**

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

A. "Inherent risks of skiing" means those dangers or conditions that are an integral part of the sport of skiing, including, but not limited to: existing and changing weather conditions; existing and changing snow conditions, such as ice, hardpack, powder, packed powder, slush and granular, corn, crust, cut-up and machine-made snow; surface or subsurface conditions, such as dirt, grass, bare spots, forest growth, rocks, stumps, trees and other natural objects and collisions with or falls resulting from such natural objects; lift towers, lights, signs, posts, fences, mazes or enclosures, hydrants, water or air pipes, snowmaking and snow-grooming equipment, marked or lit trail maintenance vehicles and snowmobiles, and other man-made structures or objects and their components, and collisions with or falls resulting from such man-made objects; variations in steepness or terrain, whether natural or as a result of slope design; snowmaking or snow-grooming operations, including, but not limited to, freestyle terrain, jumps, roads and catwalks or other terrain modifications; the presence of and collisions with other skiers; and the failure of skiers to ski safely, in control or within their own abilities. [2007, c. 287, §3 (AMD).]

B. "Skiing" means the use of a ski area for snowboarding or downhill, telemark or cross-country skiing; for sliding downhill or jumping on snow or ice on skis, a toboggan, sled, tube, snowboard, snowbike or any other device; or for similar uses of any of the facilities of the ski area, including, but not limited to, ski slopes, trails and adjoining terrain. [2007, c. 287, §3 (AMD).]

C. "Skier" means any person at a ski area who participates in any of the activities described in paragraph B. [1995, c. 560, Pt. H, §14 (NEW); 1995, c. 560, Pt. H, §17 (AFF).]

D. "Competitor" means a skier actually engaged in competition or a special event or training or practicing for competition or a special event on any portion of the ski area made available by the ski area operator. [2007, c. 287, §3 (NEW).]

E. "Freestyle terrain" includes, but is not limited to, terrain parks and terrain park features such as jumps, rails, fun boxes and all other constructed or natural features, halfpipes, quarterpipes and freestyle-bump terrain. [2007, c. 287, §3 (NEW).]

[ 2007, c. 287, §3 (AMD) .]

**2. Acceptance of inherent risks.** Because skiing as a recreational sport and the use of passenger tramways associated with skiing may be hazardous to skiers or passengers, regardless of all feasible safety measures that may be taken, each person who participates in the sport of skiing accepts, as a matter of law, the risks inherent in the sport and, to that extent, may not maintain an action against or recover from the ski area operator, or its agents, representatives or employees, for any losses, injuries, damages or death that result from the inherent risks of skiing.

[ 2007, c. 287, §3 (AMD) .]

**3. Warning notice.** A ski area operator shall post and maintain at the ski area where the lift tickets and ski school lessons are sold and at the loading point of each passenger tramway signs that contain the following warning notice:

**WARNING:**

Under Maine law, a skier assumes the risk of any injury to person or property resulting from any of the inherent dangers and risks of skiing and may not recover from any ski area operator for any injury resulting from any of the inherent dangers and risks of skiing, including, but not limited to: existing and changing weather conditions; existing and changing snow conditions, such as ice, hardpack, powder, packed powder, corn, crust and slush and cut-up, granular and machine-made snow; surface or subsurface conditions, such as dirt, grass, bare spots, rocks, stumps, trees, forest growth or other natural objects and collisions with such natural objects; lift towers, lights, signs, posts, fences, mazes or enclosures, hydrants, water or air pipes, snowmaking and snow-grooming equipment, marked or lit trail maintenance vehicles and snowmobiles, and other man-made structures or objects; variations in steepness or terrain, whether natural or as a result of slope design, snowmaking or grooming operations, including, but not limited to, freestyle terrain, jumps, roads and catwalks or other terrain modifications; the presence of and collisions with other skiers; and the failure of skiers to ski safely, in control or within their own abilities.

[ 2007, c. 287, §3 (AMD) .]

**4. Duty to ski within limits of ability.** A skier has the sole responsibility for knowing the range of the skier's own ability to negotiate any slope or ski trail, and it is the duty of the skier to ski within the limits of the skier's own ability, to maintain control of the rate of speed and the course at all times while skiing, to heed all posted and oral warnings and instructions by the ski area operator and to refrain from acting in a manner that may cause or contribute to the injury of the skier or others.

[ 1995, c. 560, Pt. H, §14 (NEW); 1995, c. 560, Pt. H, §17 (AFF) .]

**4-A. Competition and freestyle terrain.** A competitor accepts all inherent risks of skiing and all risks of course, venue and area conditions, including, but not limited to: weather and snow conditions; obstacles; course or feature location, construction and layout; freestyle terrain configuration and condition; collision with other competitors; and other courses, layouts and configurations of the area to be used.

[ 2007, c. 287, §3 (NEW) .]

**5. Responsibility for collisions.** The responsibility for a collision between any skier while skiing and any person or object is solely that of the skier or skiers involved in the collision and not the responsibility of the ski area operator or its agents, representatives or employees.

[ 1995, c. 560, Pt. H, §14 (NEW); 1995, c. 560, Pt. H, §17 (AFF) .]

**6. Liability.** A ski area operator or its agents, representatives or employees are not liable for any loss, injury, damage or death resulting from the design of the ski area.

[ 1995, c. 560, Pt. H, §14 (NEW); 1995, c. 560, Pt. H, §17 (AFF) .]

**7. Provision of name and current address required.** A skier involved in, causing or contributing to a collision or other accident at a ski area that results in a fall or injury may not leave the vicinity of the collision or accident before giving that skier's name and current address to an employee or representative of the ski area operator or a member of the ski patrol, except for the purpose of securing aid for a person injured in the collision, in which case the person leaving the scene of the collision shall give that skier's name and current address after securing such aid. A ski area operator, or its agents, representatives or employees, is not liable for a skier's failure to provide that skier's name and address or for leaving the vicinity of an accident or collision.

[ 1995, c. 560, Pt. H, §14 (NEW); 1995, c. 560, Pt. H, §17 (AFF) .]

**8. Actions not prohibited.** This section does not prevent the maintenance of an action against a ski area operator for:

A. The negligent operation or maintenance of the ski area; or [1995, c. 560, Pt. H, §14 (NEW); 1995, c. 560, Pt. H, §17 (AFF).]

B. The negligent design, construction, operation or maintenance of a passenger tramway. [1995, c. 560, Pt. H, §14 (NEW); 1995, c. 560, Pt. H, §17 (AFF).]

[ 1995, c. 560, Pt. H, §14 (NEW); 1995, c. 560, Pt. H, §17 (AFF) .]

#### SECTION HISTORY

1995, c. 560, §H14 (NEW). 1995, c. 560, §H17 (AFF). 2007, c. 287, §3 (AMD).

### **32 §15218. DUTIES OF SKIERS AND TRAMWAY PASSENGERS; ACTS PROHIBITED**

A person engaged in skiing or riding on a tramway may not: [1995, c. 560, Pt. H, §14 (NEW); 1995, c. 560, Pt. H, §17 (AFF).]

**1. Embark or disembark from tramway except as designated.** Embark or disembark from any tramway, except at a designated area;

[ 1995, c. 560, Pt. H, §14 (NEW); 1995, c. 560, Pt. H, §17 (AFF) .]

**2. Throw or expel objects from tramway.** While riding on any tramway or similar device, throw or expel any object or do any act or thing that interferes with the running of that tramway;

[ 1995, c. 560, Pt. H, §14 (NEW); 1995, c. 560, Pt. H, §17 (AFF) .]

**3. Engage in harmful conduct.** While riding on any tramway, willfully engage in any type of conduct that will contribute to or cause injury to any person, or to the tramway, or willfully place any object in the uphill ski track that will cause injury to any person or cause damage to or derailment of the tramway;

[ 1995, c. 560, Pt. H, §14 (NEW); 1995, c. 560, Pt. H, §17 (AFF) .]

**4. Closed trails.** Ski or otherwise use a slope or trail that has been designated "closed" by the operator without written permission of the operator or the operator's designee;

[ 1995, c. 560, Pt. H, §14 (NEW); 1995, c. 560, Pt. H, §17 (AFF) .]

**5. Removal or destruction of signs.** Remove, alter, deface or destroy any sign or notice placed in the ski area or on the trail by the operator; or

[ 1995, c. 560, Pt. H, §14 (NEW); 1995, c. 560, Pt. H, §17 (AFF) .]

**6. Out-of-bounds areas.** Ski or otherwise use any portion of the ski area that is not a part of a regular network of trails or areas open to the public, including wooded areas between trails, undeveloped areas and all other portions not open to the public, if the operator has properly posted these areas as being closed to public access.

[ 1995, c. 560, Pt. H, §14 (NEW); 1995, c. 560, Pt. H, §17 (AFF) .]

#### SECTION HISTORY

1995, c. 560, §H14 (NEW). 1995, c. 560, §H17 (AFF).

### **32 §15219. HANG GLIDING**

Hang gliding is also recognized as a hazardous sport. Therefore, a person who is hang gliding is deemed to have assumed the risk and legal responsibility for any injury to the hang glider's person or property in the same manner and to the same extent as skiers under this chapter. [1995, c. 560, Pt. H, §14 (NEW); 1995, c. 560, Pt. H, §17 (AFF).]

## SECTION HISTORY

1995, c. 560, §H14 (NEW). 1995, c. 560, §H17 (AFF).

### **32 §15220. PENALTIES**

**1. Verbal warning; forfeiture of lift ticket.** Any owner, manager or employee of any ski area, who finds a person in violation of section 15218, may first issue a verbal warning to that individual or suspend the individual's lift use privileges. Any person who fails to heed the warning issued by the ski area owner, manager or employee shall forfeit the ski lift ticket and ski lift use privileges and must be refused issuance of another lift ticket and is liable for any damages to the tramway and its incidental equipment that have been caused by the individual's misconduct.

[ 1995, c. 560, Pt. H, §14 (NEW); 1995, c. 560, Pt. H, §17 (AFF) .]

**2. Cost of rescue operation.** When it is necessary to commence a rescue operation as a result of a violation of section 15218, subsection 6, any person who has committed the violation is liable for the cost of that rescue operation.

[ 1995, c. 560, Pt. H, §14 (NEW); 1995, c. 560, Pt. H, §17 (AMD) .]

## SECTION HISTORY

1995, c. 560, §H14 (NEW). 1995, c. 560, §H17 (AFF).

### **32 §15221. INSPECTION OF ELEVATORS AND TRAMWAYS**

**1. Fees; inspection certificate.** Each elevator or tramway proposed to be used within this State must be thoroughly inspected by either the chief inspector, a deputy inspector or a licensed private elevator or tramway inspector and, if found to conform to the rules of the board, the board shall issue to the owner an inspection certificate. Fees for inspection and certification of elevators and tramways must be set by the director under section 15225-A and must be paid by the owner of the elevator or tramway. The certificate must specify the maximum load to which the elevator or tramway may be subjected, the date of its issuance and the date of its expiration. The elevator certificate must be posted in the elevator and the tramway certificate at a conspicuous place in the machine area.

[ 2001, c. 573, Pt. B, §26 (AMD); 2001, c. 573, Pt. B, §36 (AFF) .]

**2. Scheduled inspections.** The owner of an elevator shall have the elevator inspected annually by a licensed private elevator inspector, the chief inspector or a deputy inspector. The owner of a tramway shall have the tramway inspected by a licensed private tramway inspector, the chief inspector or a deputy inspector twice each year. One tramway inspection must be made when weather conditions permit a complete inspection of all stationary and moving parts. The 2nd tramway inspection must be made while the tramway is in operation.

[ 2001, c. 573, Pt. B, §26 (AMD); 2001, c. 573, Pt. B, §36 (AFF) .]

**3. Temporary suspension of inspection certificate; condemnation card.** When, in the inspector's opinion, the elevator or tramway can not continue to be operated without menace to the public safety, the chief inspector or deputy inspector may temporarily suspend an inspection certificate in accordance with Title 5, section 10004 and post or direct the posting of a red card of condemnation at every entrance to the elevator or tramway. The condemnation card is a warning to the public and must be of such type and dimensions as the board determines. The suspension continues, pending decision on any application with the District Court for a further suspension. The condemnation card may be removed only by the inspector posting it or by the chief inspector.

[ 2001, c. 573, Pt. B, §26 (AMD); 2001, c. 573, Pt. B, §36 (AFF) .]

**4. Special certificate; special conditions.** When, upon inspection, an elevator or tramway is found by the inspector to be in reasonably safe condition but not in full compliance with the rules of the board, the inspector shall certify to the chief inspector the inspector's findings and the chief inspector may issue a special certificate, to be posted as required in this section. This certificate must set forth any special conditions under which the elevator or tramway may be operated.

[ 1999, c. 386, Pt. X, §18 (AMD) .]

**5. Inspection reports.** Licensed private tramway and elevator inspectors shall submit inspection reports to the owner on a form provided by the board within 15 working days from the date of the inspection.

[ 2001, c. 573, Pt. B, §26 (AMD); 2001, c. 573, Pt. B, §36 (AFF) .]

**6. Follow-up inspections.** All follow-up inspections necessary to enforce compliance must be performed by either the chief inspector or a deputy inspector. A fee set by the director under section 15225-A must be charged for those follow-up inspections.

[ 2001, c. 573, Pt. B, §26 (AMD); 2001, c. 573, Pt. B, §36 (AFF) .]

**7. Certificate not transferable.** An inspection certificate may not be transferred to any other person, firm, corporation or association. If ownership of an elevator or tramway is transferred, the new owner must apply for a new inspection certificate as required by section 15229, subsection 7.

[ 2001, c. 573, Pt. B, §26 (NEW); 2001, c. 573, Pt. B, §36 (AFF) .]

#### SECTION HISTORY

1995, c. 560, §H14 (NEW). 1995, c. 560, §H17 (AFF). 1999, c. 386, §X18 (AMD). 1999, c. 547, §B78 (AMD). 1999, c. 547, §B80 (AFF). 2001, c. 573, §B26 (AMD). 2001, c. 573, §B36 (AFF).

## **32 §15222. CONDEMNED ELEVATORS AND TRAMWAYS NOT TO BE OPERATED**

An elevator or tramway that has been condemned under section 15221 may not be operated in this State. Any person who owns or operates or causes to be operated for other than repair or corrective purposes an elevator or tramway in violation of this section commits a Class E crime and must be punished by a fine of not more than \$500 or by imprisonment for not more than 6 months, or by both. [1995, c. 560, Pt. H, §14 (NEW); 1995, c. 560, Pt. H, §17 (AFF).]

### **SECTION HISTORY**

1995, c. 560, §H14 (NEW). 1995, c. 560, §H17 (AFF).

## **32 §15223. CRIMINAL OPERATION OF ELEVATOR OR TRAMWAY**

**1. Prohibition.** An owner of an elevator or tramway is guilty of criminal operation of an elevator or tramway if that owner operates that elevator or tramway without a current and valid inspection certificate.

[ 2001, c. 573, Pt. B, §27 (NEW); 2001, c. 573, Pt. B, §36 (AFF) .]

**2. Strict liability.** Criminal operation of an elevator or tramway is a strict liability crime as defined in Title 17-A, section 34, subsection 4-A.

[ 2001, c. 573, Pt. B, §27 (NEW); 2001, c. 573, Pt. B, §36 (AFF) .]

**3. Specific number of days of criminal operation.** Each day of criminal operation does not constitute a separate crime.

[ 2001, c. 573, Pt. B, §27 (NEW); 2001, c. 573, Pt. B, §36 (AFF) .]

**4. Class of crime; enhanced fine.** Criminal operation of an elevator or tramway is a Class E crime. However, notwithstanding Title 17-A, section 1301, subsection 1-A, paragraph E or Title 17-A, section 1301, subsection 3, paragraph E, the court may impose an enhanced fine. The fine amount above that authorized under Title 17-A, section 1301 is based solely on the number of days of criminal operation pleaded and proved by the State. For each day of criminal operation pleaded and proved, the court may increase the fine amount by up to \$100 for each of those days.

[ 2001, c. 573, Pt. B, §27 (NEW); 2001, c. 573, Pt. B, §36 (AFF) .]

**5. Imposition of sentence without enhanced fine.** Nothing in subsection 3 or 4 may be construed to restrict a court, in imposing any authorized sentencing alternative, including a fine in an amount authorized under Title 17-A, section 1301, subsection 1-A, paragraph E or Title 17-A, section 1301, subsection 3, paragraph E, from considering the number of days of illegal operation, along with any other relevant sentencing factor, which need not be pleaded or proved by the State.

[ 2001, c. 573, Pt. B, §27 (NEW); 2001, c. 573, Pt. B, §36 (AFF) .]

#### SECTION HISTORY

1995, c. 560, §H14 (NEW). 1995, c. 560, §H17 (AFF). 2001, c. 573, §B27 (RPR). 2001, c. 573, §B36 (AFF).

### **32 §15224. INSTALLATION OF NEW ELEVATORS AND TRAMWAYS; FEES**

Detailed plans or specifications of each new or altered elevator or tramway must be submitted to and approved by the chief inspector before the construction may be started. Fees for examination of the plans or specifications must be set by the director under section 15225-A. [2001, c. 573, Pt. B, §28 (AMD); 2001, c. 573, Pt. B, §36 (AFF).]

#### SECTION HISTORY

1995, c. 560, §H14 (NEW). 1995, c. 560, §H17 (AFF). 1999, c. 386, §X19 (AMD). 2001, c. 573, §B28 (AMD). 2001, c. 573, §B36 (AFF).

### **32 §15225. INSPECTION FEES (REPEALED)**

#### SECTION HISTORY

1995, c. 560, §H14 (NEW). 1995, c. 560, §H17 (AFF). 1999, c. 386, §X20 (AMD). 2001, c. 573, §B29 (RP). 2001, c. 573, §B36 (AFF).

### **32 §15225-A. FEES**

The Director of the Office of Licensing and Registration within the Department of Professional and Financial Regulation may establish by rule fees for purposes authorized under this chapter in amounts that are reasonable and necessary for their respective purposes, except that the fee for any one purpose other than permit and inspection fees may not exceed \$500. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A. [2007, c. 402, Pt. NN, §6 (RPR).]

#### SECTION HISTORY

2001, c. 573, §B30 (NEW). 2001, c. 573, §B36 (AFF). 2007, c. 402, Pt. NN, §6 (RPR).

### **32 §15226. REPORTS BY INSPECTORS**

A deputy inspector or licensed private inspector shall make a full report to the chief inspector, giving all data required by the rules adopted by the board and shall report to the chief inspector and to the owner all defects found and all noncompliances with the rules. When any serious infraction of the rules is found by a deputy inspector or licensed private inspector and that infraction is, in the opinion of the inspector, dangerous to life, limb or property, the inspector shall report that infraction immediately to the chief inspector. [2001, c. 573, Pt. B, §31 (AMD); 2001, c. 573, Pt. B, §36 (AFF).]

#### SECTION HISTORY

1995, c. 560, §H14 (NEW). 1995, c. 560, §H17 (AFF). 1999, c. 386, §X21 (AMD). 2001, c. 573, §B31 (AMD). 2001, c. 573, §B36 (AFF).

## **32 §15227. POWERS OF CHIEF INSPECTOR**

The board is authorized to investigate all elevator and tramway accidents that result in injury to a person or in damage to the installation. [1995, c. 560, Pt. H, §14 (NEW); 1995, c. 560, Pt. H, §17 (AFF).]

The chief inspector is authorized: [1999, c. 386, Pt. X, §22 (AMD).]

**1. Enforce laws and rules.** To enforce the laws of the State governing the use of elevators and tramways and to enforce adopted rules of the board;

[ 1995, c. 560, Pt. H, §14 (NEW); 1995, c. 560, Pt. H, §17 (AFF) .]

**2. Free access to premises or location.** To provide free access for deputy inspectors, including the chief inspector, at all reasonable times to any premises in the State where an elevator or tramway is installed or is under construction for the purpose of ascertaining whether that elevator or tramway is installed, operated, repaired or constructed in accordance with this chapter;

[ 2001, c. 573, Pt. B, §32 (AMD); 2001, c. 573, Pt. B, §36 (AFF) .]

**3. Supervise inspectors.** To allocate and supervise the work of deputy inspectors;

[ 2001, c. 573, Pt. B, §33 (AMD); 2001, c. 573, Pt. B, §36 (AFF) .]

**4. Certificates.** To issue and temporarily suspend certificates allowing elevators and tramways to be operated pursuant to Title 5, chapter 375;

[ 2001, c. 573, Pt. B, §33 (AMD); 2001, c. 573, Pt. B, §36 (AFF) .]

**5. Examinations.** To hold examinations and establish the fitness of applicants to become licensed private elevator or tramway inspectors or elevator mechanics, and to issue certificates or licenses to those persons who have successfully passed required examinations and been approved by the board as licensed private elevator or tramway inspectors or elevator mechanics; and

[ 2001, c. 573, Pt. B, §33 (AMD); 2001, c. 573, Pt. B, §36 (AFF) .]

**6. Take uninspected or unrepaired elevators and tramways out of service.** To take an elevator or tramway out of service in accordance with Title 5, section 10004 if an inspection report has not been submitted to the board within 60 days of the expiration of the most recent certificate or if the owner has failed to make repairs as required by the board. This power is in addition to the chief inspector's powers under section 15221, subsection 3.

[ 2001, c. 573, Pt. B, §34 (NEW); 2001, c. 573, Pt. B, §36 (AFF) .]

### **SECTION HISTORY**

1995, c. 560, §H14 (NEW). 1995, c. 560, §H17 (AFF). 1999, c. 386, §X22 (AMD). 2001, c.

573, §§B32-34 (AMD). 2001, c. 573, §B36 (AFF).

### **32 §15228. ELEVATOR SIZE**

**1. Requirements.** Notwithstanding section 15206, whenever a passenger elevator is installed in a building being newly constructed or in a new addition that extends beyond the exterior walls of an existing building, the passenger elevator must reach all levels within the building and be of sufficient size to allow the transport of a person on an ambulance stretcher in the fully supine position, without having to raise, lower or bend the stretcher in any way. This requirement applies to all plans approved by the board after January 1, 2002. The board shall adopt rules necessary to carry out the provisions of this section. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter II-A.

[ 2001, c. 178, §1 (NEW) .]

**2. Applicability.** This section applies only to multi-story buildings that house private entities or nonprofit organizations that serve the public or are places of public accommodation. Notwithstanding Title 5, section 4553, subsection 8, places of public accommodation include restaurants, cafes, hotels, inns, banks, theaters, motion picture houses, bars, taverns, night clubs, country clubs, convention centers, retail stores, shopping centers, hospitals, private schools, day care centers, senior citizen centers, doctor offices, professional offices, manufacturing facilities, apartment buildings, condominiums, state facilities or any private establishment that in fact caters to, or offers its goods, facilities or services to, or solicits or accepts patronage from, the general public. This section does not apply to any building owned by a local unit of government.

[ 2001, c. 178, §1 (NEW) .]

#### SECTION HISTORY

2001, c. 178, §1 (NEW).

### **32 §15229. DUTIES OF OWNERS OF ELEVATORS OR TRAMWAYS**

**1. Owner responsibility.** The responsibility for design, construction, maintenance and inspection of an elevator or tramway rests with the person, firm, partnership, association, corporation or company that owns the elevator or tramway.

[ 2001, c. 573, Pt. B, §35 (NEW); 2001, c. 573, Pt. B, §36 (AFF) .]

**2. Obtain inspection certificate.** The owner of an elevator or tramway shall submit an annual application for an annual inspection certificate together with the inspection report within 30 business days of the inspection and prior to the expiration of the current certificate. The application must be on a form provided by the board and must be accompanied by the required fee set by the director under section 15225-A. A late fee set by the director under section 15225-A may be assessed for failure to submit the application and inspection report in a timely manner.

[ 2001, c. 573, Pt. B, §35 (NEW); 2001, c. 573, Pt. B, §36 (AFF) .]

**3. Failure to qualify for inspection certificate.** The owner of an elevator or tramway that does not qualify for an inspection certificate shall take the elevator or tramway out of operation until the required repairs have been made and a new inspection certificate has been issued.

[ 2001, c. 573, Pt. B, §35 (NEW); 2001, c. 573, Pt. B, §36 (AFF) .]

**4. Notify board when required repairs made.** The owner of an elevator or tramway shall notify the board when required repairs have been made and provide the board with satisfactory evidence of completion.

[ 2001, c. 573, Pt. B, §35 (NEW); 2001, c. 573, Pt. B, §36 (AFF) .]

**5. Elevator or tramway declared idle or placed out of service.** The owner of an elevator or tramway that has been declared idle or placed out of service in accordance with rules adopted by the board shall notify the board within 30 days of declaring the elevator or tramway idle.

[ 2001, c. 573, Pt. B, §35 (NEW); 2001, c. 573, Pt. B, §36 (AFF) .]

**6. Removal.** The owner of an elevator or tramway shall notify the board within 30 days of the removal of the elevator or tramway.

[ 2001, c. 573, Pt. B, §35 (NEW); 2001, c. 573, Pt. B, §36 (AFF) .]

**7. Change of ownership.** The owner of record of an elevator or tramway shall notify the board of a transfer of ownership of an elevator within 30 days of such transfer. The new owner shall apply, on a form provided by the board, for a new inspection certificate that will be issued without the need for an additional inspection for the remainder of the term of the current certificate. A fee for issuance of a new inspection certificate may be set by the director under section 15225-A.

[ 2001, c. 573, Pt. B, §35 (NEW); 2001, c. 573, Pt. B, §36 (AFF) .]

**8. Failure to comply.** In addition to the remedies available under this chapter, an owner who fails to comply with the provisions of this chapter or rules adopted by the board is subject to the provisions of Title 10, section 8003, subsection 5 whether or not the elevator or tramway has a current inspection certificate, except that, notwithstanding Title 10, section 8003, subsection 5, paragraph A-1, subparagraph 3, a civil penalty of up to \$3,000 may be imposed for each violation.

[ 2001, c. 573, Pt. B, §35 (NEW); 2001, c. 573, Pt. B, §36 (AFF) .]

#### SECTION HISTORY

2001, c. 573, §B35 (NEW). 2001, c. 573, §B36 (AFF).

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## **Maine Revised Statute Title 10, Chapter 901: DEPARTMENT OF BUSINESS REGULATION**

### **10 §8001. DEPARTMENT; ORGANIZATION**

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

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

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

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

[ 1995, c. 309, §26 (AMD); 1995, c. 309, §29 (AFF); 1995, c. 397, §4 (AMD); 2007, c. 273, Pt. B, §5 (REV); 2007, c. 695, Pt. A, §47 (AFF) .]

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

[ 1995, c. 397, §4 (AMD) .]

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

[ 2001, c. 182, §5 (NEW) .]

**4. Maine Athletic Commission.**

[ 1995, c. 397, §5 (RP) .]

**5. Maine State Pilotage Commission.**

[ 1995, c. 397, §5 (RP) .]

**6. Real Estate Commission.**

[ 1995, c. 397, §5 (RP) .]

**7. Arborist Examining Board.**

[ 1995, c. 397, §5 (RP) .]

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

[ 1995, c. 397, §5 (RP) .]

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

[ 1995, c. 397, §5 (RP) .]

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

[ 1995, c. 397, §5 (RP) .]

**10. Board of Driver Education.**

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

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

[ 1995, c. 397, §5 (RP) .]

**12. Electricians' Examining Board.**

[ 1995, c. 397, §5 (RP) .]

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

[ 1995, c. 397, §5 (RP) .]

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

[ 1995, c. 397, §5 (RP) .]

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

[ 1995, c. 397, §5 (RP) .]

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

[ 1995, c. 397, §5 (RP) .]

**17. Manufactured Housing Board.**

[ 1995, c. 397, §5 (RP) .]

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

[ 1995, c. 397, §5 (RP) .]

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

[ 1995, c. 397, §5 (RP) .]

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

[ 1995, c. 397, §5 (RP) .]

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

[ 1995, c. 397, §5 (RP) .]

**22. Plumbers' Examining Board.**

[ 1995, c. 397, §5 (RP) .]

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

[ 1995, c. 397, §6 (RP) .]

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

[ 1995, c. 397, §7 (RP) .]

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

[ 1995, c. 397, §7 (RP) .]

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

[ 1995, c. 397, §7 (RP) .]

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

[ 1995, c. 397, §7 (RP) .]

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

[ 1995, c. 397, §7 (RP) .]

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

[ 1995, c. 397, §7 (RP) .]

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

[ 1995, c. 397, §7 (RP) .]

**30. Acupuncture Licensing Board.**

[ 1995, c. 397, §7 (RP) .]

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

[ 1995, c. 397, §7 (RP) .]

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

[ 1995, c. 397, §7 (RP) .]

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

[ 1995, c. 397, §8 (RP) .]

**33. Board of Chiropractic Licensure.**

[ 1995, c. 397, §9 (RP) .]

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

[ 1993, c. 428, §2 (RP) .]

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

[ 1995, c. 625, Pt. A, §17 (RP) .]

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

[ 1995, c. 625, Pt. A, §17 (RP) .]

**37. Real Estate Commission.**

[ 1995, c. 502, Pt. H, §7 (RP) .]

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

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

A. Board of Accountancy; [1995, c. 397, §11 (NEW).]

D. Maine State Board for Licensure of Architects, Landscape Architects and Interior Designers; [1995, c. 397, §11 (NEW).]

E. Maine Athletic Commission; [1995, c. 397, §11 (NEW).]

F. Board of Licensing of Auctioneers; [1995, c. 397, §11 (NEW).]

G. [2009, c. 369, Pt. A, §22 (RP).]

H. Board of Chiropractic Licensure; [1995, c. 397, §11 (NEW).]

H-1. Board of Complementary Health Care Providers; [1995, c. 671, §7 (NEW).]

I. Board of Driver Education; [1995, c. 397, §11 (NEW); 1995, c. 402, Pt. A, §47 (AMD).]

J. Board of Counseling Professionals Licensure; [1995, c. 397, §11 (NEW).]

K. Board of Licensing of Dietetic Practice; [1995, c. 397, §11 (NEW).]

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

M. Board of Licensure of Foresters; [1995, c. 397, §11 (NEW); 2001, c. 261, §5 (AMD).]

N. State Board of Funeral Service; [1995, c. 397, §11 (NEW).]

O. State Board of Certification for Geologists and Soil Scientists; [1995, c. 397, §11 (NEW).]

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

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

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

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

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

U. [2009, c. 344, Pt. B, §1 (RP); 2009, c. 344, Pt. E, §2 (AFF).]

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

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

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

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

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

BB. Radiologic Technology Board of Examiners; [1995, c. 397, §11 (NEW).]

CC. Board of Real Estate Appraisers; [1995, c. 397, §11 (NEW).]

DD. Board of Respiratory Care Practitioners; [1995, c. 397, §11 (NEW).]

EE. State Board of Social Worker Licensure; [1995, c. 397, §11 (NEW).]

FF. [2007, c. 369, Pt. B, §3 (RP); 2007, c. 369, Pt. C, §5 (AFF).]

GG. State Board of Alcohol and Drug Counselors; [1995, c. 502, Pt. H, §8 (AMD).]

HH. State Board of Veterinary Medicine; [1995, c. 502, Pt. H, §8 (AMD).]

II. [2009, c. 344, Pt. B, §2 (RP); 2009, c. 344, Pt. E, §2 (AFF).]

JJ. Real Estate Commission; [1995, c. 560, Pt. H, §17 (AFF); 1995, c. 560, Pt. H, §3 (AMD).]

KK. Board of Boiler Rules; [2007, c. 369, Pt. B, §4 (AMD); 2007, c. 369, Pt. C, §5 (AFF).]

LL. Board of Elevator and Tramway Safety; [2009, c. 344, Pt. B, §3 (AMD); 2009, c. 344, Pt. E, §2 (AFF).]

MM. Board of Speech-language Pathology, Audiology and Hearing Aid Dealing and Fitting;

and [2009, c. 344, Pt. B, §4 (AMD); 2009, c. 344, Pt. E, §2 (AFF).]

NN. Maine Fuel Board. [2009, c. 344, Pt. B, §5 (NEW); 2009, c. 344, Pt. E, §2 (AFF).]

[ 2009, c. 344, Pt. B, §§1-5 (AMD); 2009, c. 344, Pt. E, §2 (AFF); 2009, c. 369, Pt. A, §22 (AMD) .]

## SECTION HISTORY

1971, c. 488, §§1,3 (NEW). 1973, c. 537, §15 (RP). 1973, c. 585, §4 (RPR). 1973, c. 788, §43 (RPR). 1975, c. 134, §4 (AMD). 1975, c. 547, §4 (AMD). 1975, c. 579, §1 (AMD). 1975, c. 767, §9 (RPR). 1975, c. 770, §58 (AMD). 1975, c. 771, §122 (AMD). 1977, c. 78, §36 (RPR). 1977, c. 160, §2 (AMD). 1977, c. 466, §1 (AMD). 1977, c. 673, §1 (AMD). 1979, c. 606, §2 (AMD). 1981, c. 501, §37 (AMD). 1981, c. 703, §A2 (AMD). 1983, c. 553, §11 (AMD). 1983, c. 746, §1 (AMD). 1983, c. 758, §1 (AMD). 1985, c. 233, §2 (RPR). 1985, c. 288, §2 (RPR). 1985, c. 389, §6 (RPR). 1985, c. 737, §A21 (RPR). 1985, c. 748, §15 (RPR). 1985, c. 819, §§A15,16 (AMD). 1987, c. 395, §A34 (RPR). 1987, c. 488, §2 (RPR). 1989, c. 450, §4 (RPR). 1989, c. 465, §2 (RPR). 1989, c. 502, §A31 (RPR). 1989, c. 806, §2 (RPR). 1989, c. 878, §D6 (RPR). 1991, c. 396, §1 (AMD). 1991, c. 397, §3 (AMD). 1991, c. 548, §B1 (RPR). 1993, c. 389, §3 (AMD). 1993, c. 428, §2 (AMD). 1993, c. 600, §§A6,7 (AMD). 1995, c. 309, §26 (AMD). 1995, c. 309, §29 (AFF). 1995, c. 389, §§2,3 (AMD). 1995, c. 397, §§3-11 (AMD). 1995, c. 402, §§A3,47 (AMD). 1995, c. 502, §§H6-8 (AMD). 1995, c. 505, §22 (AFF). 1995, c. 505, §4 (AMD). 1995, c. 560, §§H3,4 (AMD). 1995, c. 560, §H17 (AFF). 1995, c. 625, §A17 (AMD). 1995, c. 671, §§6,7 (AMD). 1997, c. 727, §C1 (AMD). 1997, c. 749, §2 (AMD). 1999, c. 386, §B1 (AMD). 1999, c. 399, §2 (AMD). 1999, c. 399, §20 (AFF). 1999, c. 687, §C1 (AMD). 2001, c. 44, §14 (AFF). 2001, c. 44, §9 (AMD). 2001, c. 182, §5 (AMD). 2001, c. 261, §5 (AMD). 2007, c. 273, Pt. B, §5 (REV). 2007, c. 273, Pt. B, §7 (AFF). 2007, c. 369, Pt. B, §§2-6 (AMD). 2007, c. 369, Pt. C, §5 (AFF). 2007, c. 402, Pt. C, §1 (AMD). 2007, c. 695, Pt. A, §47 (AFF). 2009, c. 344, Pt. B, §§1-5 (AMD). 2009, c. 344, Pt. E, §2 (AFF). 2009, c. 369, Pt. A, §22 (AMD).

## 10 §8001-A. DEPARTMENT; AFFILIATION

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

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

[ 1991, c. 396, §2 (RP) .]

### 2. State Board of Cosmetology.

[ 1991, c. 397, §4 (RP) .]

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

[ 1989, c. 450, §5 (NEW) .]

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

[ 1993, c. 600, Pt. A, §8 (AMD) .]

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

[ 1989, c. 450, §5 (NEW) .]

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

[ 1989, c. 450, §5 (NEW) .]

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

[ 1993, c. 600, Pt. A, §9 (AMD) .]

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

[ 1993, c. 600, Pt. A, §10 (RP) .]

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

[ 1989, c. 450, §5 (NEW) .]

#### SECTION HISTORY

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

#### **10 §8002. DUTIES AND AUTHORITY OF COMMISSIONER**

The Commissioner of Professional and Financial Regulation, referred to in this chapter as the "commissioner," is the chief administrative officer of the department and is responsible for supervising the administration of the department. The commissioner is appointed by the Governor, subject to review by the joint standing committee of the Legislature having jurisdiction over banking and insurance matters, and to confirmation by the Legislature. In making the appointment under this paragraph, the Governor shall appoint one of the following officials as commissioner, who shall also continue to act as a superintendent or director, as the case may be: the Superintendent of Financial Institutions, the Superintendent of Consumer Credit Protection, the Superintendent of Insurance or the Director of the Office of Licensing and Registration. The commissioner serves at the pleasure of the Governor. Unless otherwise provided in law, the commissioner may not exercise or interfere with the exercise of discretionary regulatory authority granted by statute to the bureaus, offices, boards or commissions within and affiliated with the department. As chief administrative officer of the department, the commissioner has the following duties and authority to: [2007, c. 539, Pt. T, §1 (AMD).]

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

[ 1975, c. 767, §9 (RPR) .]

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

[ 1995, c. 502, Pt. H, §9 (AMD) .]

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

[ 1995, c. 502, Pt. H, §9 (AMD) .]

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

[ 1995, c. 502, Pt. H, §9 (AMD) .]

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

[ 1995, c. 502, Pt. H, §9 (AMD) .]

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

[ 1995, c. 502, Pt. H, §9 (NEW) .]

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

[ 1997, c. 727, Pt. A, §4 (AMD) .]

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

[ 1999, c. 184, §12 (AMD) .]

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

[ 2007, c. 466, Pt. C, §3 (AMD) .]

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

[ 2007, c. 466, Pt. C, §4 (AMD) .]

**11. Report on fees.** By December 1st of each even-numbered year, conduct a review of the fees assessed by the department and provide a written report to the State Budget Officer and the joint standing committees of the Legislature having jurisdiction over appropriations and financial affairs, insurance and financial services matters and business, research and economic development matters identifying any fee changes the commissioner recommends for the next biennium.

[ 2007, c. 466, Pt. C, §5 (NEW) .]

#### SECTION HISTORY

1973, c. 585, §4 (RPR). 1975, c. 134, §5 (AMD). 1975, c. 579, §2 (AMD). 1975, c. 767, §9 (RPR). 1975, c. 770, §59 (AMD). 1977, c. 78, §37 (AMD). 1977, c. 564, §49 (AMD). 1983, c. 489, §7 (AMD). 1983, c. 553, §12 (AMD). 1985, c. 748, §§16,17 (AMD). 1993, c. 659, §B1 (AMD). 1995, c. 502, §H9 (AMD). 1997, c. 727, §§A3-5 (AMD). 1999, c. 184, §§12-14 (AMD). 1999, c. 687, §§C2-4 (AMD). 2007, c. 466, Pt. C, §§3-5 (AMD). 2007, c. 539, Pt. T, §1 (AMD).

### **10 §8003. DEPARTMENTAL ORGANIZATION; DUTIES**

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

A. Within the Division of Administrative Services, there is a computer services section. It is the responsibility of the computer services section to provide technical assistance to the Office of Licensing and Registration to process and issue original and renewal licenses for the department and for bureaus, offices, boards and commissions within the department as the commissioner directs. The licenses may be processed and issued only upon authorization of the appropriate bureau, office, board or commission or upon the authorization of the commissioner in the case of licenses granted directly by the department.

The computer services section shall maintain a central register containing the name and address of each person or firm licensed by profession, occupation or industry and such other information as the commissioner may direct for administration, information or planning purposes. The commissioner, with the advice of the respective bureaus, offices, boards and commissions, may determine the type and form of licenses issued by all agencies within the department. The computer services section shall perform such other administrative services for the agencies within the department as the commissioner directs. [1995, c. 502, Pt. H, §10 (AMD).]

[ 1995, c. 502, Pt. H, §10 (AMD) .]

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

[ 1999, c. 687, Pt. C, §5 (RP) .]

**2-A. Office of Licensing and Registration.** There is created an Office of Licensing and Registration, referred to in this subsection as the "office," composed of the boards, commissions and regulatory functions set forth in section 8001, subsection 38. The commissioner may appoint a Director of the Office of Licensing and Registration and those clerical and technical assistants who are necessary to discharge the duties of the office and shall outline their duties and fix their compensation, subject to the Civil Service Law. Notwithstanding any other provision of law granting authority to a board or commission, the Director of the Office of Licensing and Registration has the following superseding powers, duties and functions:

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

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

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

D. To establish by rule and after reasonable notice to the affected board all fees necessary and appropriate for all boards, commissions and regulatory functions within the office, subject to any fee cap established by statute and applicable to that board, commission or regulatory function. The Director of the Office of Licensing and Registration shall set the criteria for all fees. The criteria must include, but are not limited to, the costs, statutory requirements, enforcement requirements and fees and expenses of each board, commission

or regulatory function. Rules adopted pursuant to this paragraph are routine technical rules pursuant to Title 5, chapter 375, subchapter II-A; [2001, c. 323, §9 (AMD).]

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

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

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

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

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

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

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

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

[ 2001, c. 323, §9 (AMD) .]

**3. License defined.** For purposes of this section, the term "license" means a license, certification, registration, permit, approval or other similar document evidencing admission to or

granting authority to engage in a profession, occupation, business or industry but does not mean a registration, permit, approval or similar document evidencing the granting of authority to engage in the business of banking pursuant to Title 9-B.

[ 1991, c. 509, §1 (AMD) .]

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

[ 1999, c. 386, Pt. B, §3 (AMD) .]

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

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

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

A. [1989, c. 450, §6 (RP).]

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

(1) Issue warnings, censures or reprimands to a licensee or registrant. Each warning, censure and reprimand issued must be based upon violations of different applicable

laws, rules or conditions of licensure or must be based upon separate instances of actionable conduct or activity;

(2) Suspend a license or registration for up to 90 days for each violation of applicable laws, rules and conditions of licensure or registration or for instance of actionable conduct or activity. Suspensions may be set to run concurrently or consecutively. Execution of all or any portion of a term of suspension may be stayed pending successful completion of conditions of probation, although the suspension remains part of the licensee's or registrant's record;

(2-A) Revoke a license or registration;

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

(4) Impose conditions of probation upon an applicant, licensee or registrant. Probation may run for such time period as the bureau, office, board or commission determines appropriate. Probation may include conditions such as: additional continuing education; medical, psychiatric or mental health consultations or evaluations; mandatory professional or occupational supervision of the applicant, licensee or registrant; and other conditions as the bureau, office, board or commission determines appropriate. Costs incurred in the performance of terms of probation are borne by the applicant, licensee or registrant. Failure to comply with the conditions of probation is a ground for disciplinary action against a licensee or registrant. [2001, c. 167, §1 (AMD).]

B. The bureau, office, board or commission may execute a consent agreement that resolves a complaint or investigation without further proceedings. Consent agreements may be entered into only with the consent of: the applicant, licensee or registrant; the bureau, office, board or commission; and the Department of the Attorney General. Any remedy, penalty or fine that is otherwise available by law, even if only in the jurisdiction of the Superior Court, may be achieved by consent agreement, including long-term suspension and permanent revocation of a professional or occupational license or registration. A consent agreement is not subject to review or appeal, and may be modified only by a writing executed by all parties to the original consent agreement. A consent agreement is enforceable by an action in Superior Court. [2001, c. 167, §1 (AMD).]

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

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

(2) Except as provided in Title 37-B, section 390-A, require applicants for license or registration renewal to present proof of satisfactory completion of continuing professional or occupational education in accordance with each bureau's, office's, board's or commission's rules. Failure to comply with the continuing education rules may, in the bureau's, office's, board's or commission's discretion, result in a decision to deny license or registration renewal or may result in a decision to enter into a consent agreement and probation setting forth terms and conditions to correct the licensee's or registrant's failure

to complete continuing education. Terms and conditions of a consent agreement may include requiring completion of increased hours of continuing education, civil penalties, suspension and other terms as the bureau, office, board, commission, the licensee or registrant and the Department of the Attorney General determine appropriate.

Notwithstanding any contrary provision set forth in a bureau's, office's, board's or commission's governing law, continuing education requirements may coincide with the license or registration renewal period;

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

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

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

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

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

F. A bureau, office, board or commission may establish, by rule, procedures for licensees in another state to be licensed in this State by written agreement with another state, by entering into written licensing compacts with other states or by any other method of license recognition considered appropriate that ensures the health, safety and welfare of the public. Rules adopted pursuant to this paragraph are routine technical rules pursuant to Title 5, chapter 375, subchapter 2-A. [2007, c. 402, Pt. C, §2 (AMD).]

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

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

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

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

[ 2007, c. 402, Pt. C, §2 (AMD) .]

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

A. The office, board or commission may deny or refuse to renew a license, may suspend or revoke a license and may impose other discipline as authorized in this subsection for any of the following reasons:

- (1) The practice of fraud, deceit or misrepresentation in obtaining a license from a bureau, office, board or commission, or in connection with services rendered while engaged in the occupation or profession for which the person is licensed;
- (2) Any gross negligence, incompetence, misconduct or violation of an applicable code of ethics or standard of practice while engaged in the occupation or profession for which the person is licensed;
- (3) Conviction of a crime to the extent permitted by Title 5, chapter 341;
- (4) Any violation of the governing law of an office, board or commission;

- (5) Any violation of the rules of an office, board or commission;
- (6) Engaging in any activity requiring a license under the governing law of an office, board or commission that is beyond the scope of acts authorized by the license held;
- (7) Continuing to act in a capacity requiring a license under the governing law of an office, board or commission after expiration, suspension or revocation of that license;
- (8) Aiding or abetting unlicensed practice by a person who is not licensed as required by the governing law of an office, board or commission;
- (9) Noncompliance with an order or consent agreement of an office, board or commission;
- (10) Failure to produce any requested documents in the licensee's possession or under the licensee's control concerning a pending complaint or proceeding or any matter under investigation; or
- (11) Any violation of a requirement imposed pursuant to section 8003-G. [2009, c. 112, Pt. B, §4 (AMD).]

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

- (1) Denial or refusal to renew a license, or issuance of a license in conjunction with the imposition of other discipline;
- (2) Issuance of warning, censure or reprimand. Each warning, censure or reprimand issued must be based upon violation of a single applicable law, rules or condition of licensure or must be based upon a single instance of actionable conduct or activity;
- (3) Suspension of a license for up to 90 days for each violation of applicable laws, rules or conditions of licensure or for each instance of actionable conduct or activity. Suspensions may be set to run concurrently or consecutively. Execution of all or any portion of a term of suspension may be stayed pending successful completion of conditions of probation, although the suspension remains part of the licensee's record;
- (4) Revocation of a license;
- (5) Imposition of civil penalties of up to \$1,500, or such greater amount as may be authorized by statute, for each violation of applicable laws, rules or conditions of licensure or for each instance of actionable conduct or activity; or
- (6) Imposition of conditions of probation upon an applicant or licensee. Probation may run for such time period as the office, board or commission determines appropriate. Probation may include conditions such as: additional continuing education; medical, psychiatric or mental health consultations or evaluations; mandatory professional or occupational supervision of the applicant or licensee; practice restrictions; and other conditions as the office, board or commission determines appropriate. Costs incurred in the performance of terms of probation are borne by the applicant or licensee. Failure to comply with the conditions of probation is a ground for disciplinary action against a licensee. [2009, c. 112, Pt. B, §4 (AMD).]

C. The office, board or commission may execute a consent agreement that resolves a complaint or investigation without further proceedings. Consent agreements may be entered into only with the consent of the applicant or licensee; the office, board or commission; and the Department of the Attorney General. Any remedy, penalty or fine that is otherwise available by law, even if only in the jurisdiction of the Superior Court, may be achieved by consent agreement, including long-term suspension and permanent revocation of a professional or occupational license. A consent agreement is not subject to review or appeal and may be modified only by a writing executed by all parties to the original consent agreement. A consent agreement is enforceable by an action in Superior Court. [2007, c. 402, Pt. C, §3 (NEW).]

D. The office, board or commission may:

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

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

(5) Grant inactive status licenses to licensees in accordance with rules that may be adopted by each office, board or commission. The fee for an inactive status license may not exceed the statutory fee cap for license renewal set forth in the governing law of the office, board or commission. Licensees in inactive status are required to pay license renewal fees for renewal of an inactive status license and may be required to pay a reinstatement fee as set by the Director of the Office of Licensing and Registration if the license is reactivated on a date other than the ordinary renewal date of the license. Any rules of an office, board or commission regulating inactive status licensure must describe the obligations of an inactive status licensee with respect to any ongoing continuing education requirement in effect for licensees of the office, board or commission and must set forth any requirements for reinstatement to active status, which requirements may include continuing education. Rules adopted pursuant to this subparagraph are routine technical rules as described in Title 5, chapter 375, subchapter 2-A; and

(6) Delegate to staff the authority to review and approve applications for licensure pursuant to procedures and criteria established by rule. Rules adopted pursuant to this subparagraph are routine technical rules as described in Title 5, chapter 375, subchapter 2-A. [2007, c. 621, §3 (AMD).]

E. The office, board or commission may require surrender of licenses. In order for a licensee's surrender of a license to be effective, a surrender must first be accepted by vote of the office, board or commission. The office, board or commission may refuse to accept surrender of a license if the licensee is under investigation or is the subject of a pending

complaint or proceeding, unless a consent agreement is first entered into pursuant to this subsection. The consent agreement may include terms and conditions for reinstatement. [2007, c. 402, Pt. C, §3 (NEW).]

F. The office, board or commission may issue a letter of guidance or concern to a licensee. A letter of guidance or concern may be used to educate, reinforce knowledge regarding legal or professional obligations or express concern over action or inaction by the licensee that does not rise to the level of misconduct sufficient to merit disciplinary action. The issuance of a letter of guidance or concern is not a formal proceeding and does not constitute an adverse disciplinary action of any form. Notwithstanding any other provision of law, letters of guidance or concern are not confidential. The office, board or commission may place letters of guidance or concern, together with any underlying complaint, report and investigation materials, in a licensee's file for a specified period of time, not to exceed 10 years. Any letters, complaints and materials placed on file may be accessed and considered by the office, board or commission in any subsequent action commenced against the licensee within the specified time frame. Complaints, reports and investigation materials placed on file are confidential only to the extent that confidentiality is required pursuant to Title 24, chapter 21. [2007, c. 402, Pt. C, §3 (NEW).]

G. The office, board or commission may establish, by rule, procedures for licensees in another state to be licensed in this State by written agreement with another state, by entering into written licensing compacts with other states or by any other method of license recognition considered appropriate that ensures the health, safety and welfare of the public. Rules adopted pursuant to this paragraph are routine technical rules pursuant to Title 5, chapter 375, subchapter 2-A. [2007, c. 402, Pt. C, §3 (NEW).]

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

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

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

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

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

[ 2009, c. 112, Pt. B, §4 (AMD) .]

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

[ 1999, c. 687, Pt. C, §8 (AMD) .]

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

[ 1991, c. 509, §3 (NEW) .]

**8. Display of license.**

[ 2009, c. 112, Pt. A, §2 (RP) .]

**9. Construction.**

[ 1999, c. 687, Pt. C, §9 (RP) .]

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

[ 1995, c. 502, Pt. H, §10 (AMD) .]

**SECTION HISTORY**

1975, c. 556, §1 (NEW). 1975, c. 705, §3 (AMD). 1975, c. 767, §9 (RPR). 1977, c. 113, (AMD). 1977, c. 273, §§1,2 (AMD). 1983, c. 553, §13 (RPR). 1985, c. 748, §18 (AMD). 1985, c. 785, §B55 (AMD). 1987, c. 595, §2 (AMD). 1987, c. 609, §§1,2 (AMD). 1989, c. 450, §6 (AMD). 1991, c. 509, §§1-3 (AMD). 1993, c. 600, §A11 (AMD). 1993, c. 659, §§B2,3 (AMD). 1995, c. 397, §12 (AMD). 1995, c. 502, §H10 (AMD). 1997, c. 210, §§1-3 (AMD). 1997, c. 537, §3 (AMD). 1997, c. 537, §62 (AFF). 1997, c. 680, §A1 (AMD). 1999, c. 184, §§15-17 (AMD). 1999, c. 386, §§B2-5 (AMD). 1999, c. 547, §B78 (AMD). 1999, c. 547, §B80 (AFF). 1999, c. 687, §§C5-9 (AMD). 2001, c. 44, §10 (AMD). 2001, c. 44, §14 (AFF). 2001, c. 167, §1 (AMD). 2001, c. 323, §9 (AMD). 2003, c. 204, §B1 (AMD). 2005, c. 111, §1 (AMD). 2005, c. 474, §1 (AMD). 2007, c. 402, Pt. C, §§2, 3 (AMD). 2007, c. 621, §§2, 3 (AMD). 2009, c. 112, Pt. A, §2 (AMD). 2009, c. 112, Pt. B, §4 (AMD).

## 10 §8003-A. COMPLAINT INVESTIGATION

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

[ 2007, c. 402, Pt. C, §4 (NEW) .]

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

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

[ 2007, c. 402, Pt. C, §4 (NEW) .]

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

[ 2007, c. 402, Pt. C, §4 (NEW) .]

### SECTION HISTORY

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

## 10 §8003-B. CONFIDENTIALITY OF INVESTIGATIVE RECORDS

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

A. A notice of an adjudicatory hearing under Title 5, chapter 375, subchapter 4 has been issued; [2009, c. 465, §1 (AMD).]

B. [1999, c. 687, Pt. C, §10 (RP).]

C. A consent agreement has been executed; or [1989, c. 173, (NEW).]

D. A letter of dismissal has been issued or the investigation has otherwise been closed. [1989, c. 173, (NEW).]

[ 2009, c. 465, §1 (AMD) .]

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

A. To department employees designated by the commissioner; [1989, c. 173, (NEW).]

B. To designated complaint officers of the appropriate board or commission; [1989, c. 173, (NEW).]

C. By a department employee or complaint officer designated by the commissioner when, and to the extent, deemed necessary to facilitate the investigation; [1989, c. 173, (NEW).]

D. To other state or federal agencies when the files contain evidence of possible violations of laws enforced by those agencies; [1989, c. 173, (NEW).]

E. When, and to the extent, deemed necessary by the commissioner to avoid imminent and serious harm. The authority of the commissioner to make such a disclosure shall not be delegated; [1989, c. 173, (NEW).]

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

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

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

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

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

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

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

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

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

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

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

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

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

[ 2009, c. 465, §2 (AMD) .]

**3. Attorney General records.** The provision or disclosure of investigative records of the Department of the Attorney General to a departmental employee designated by the commissioner or to a complaint officer of a board or commission does not constitute a waiver of the confidentiality of those records for any other purposes. Further disclosure of those investigative records is subject to Title 16, section 614 and the discretion of the Attorney General.

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

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

[ 1993, c. 552, §2 (AMD) .]

#### SECTION HISTORY

1989, c. 173, (NEW). 1993, c. 552, §§1,2 (AMD). 1993, c. 719, §12 (AFF). 1993, c. 719, §4 (AMD). 1999, c. 386, §B6 (AMD). 1999, c. 687, §§C10,11 (AMD). 2001, c. 345, §1 (AMD). 2009, c. 465, §§1, 2 (AMD).

## 10 §8003-C. UNLICENSED PRACTICE

**1. Complaints of unlicensed practice.** A board or commission identified in section 8001, subsection 38 or section 8001-A or a regulatory function administered by the Office of Licensing and Registration identified in section 8001, subsection 38 may receive or initiate complaints of unlicensed practice.

[ 2009, c. 465, §3 (AMD) .]

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

[ 1999, c. 687, Pt. C, §12 (NEW) .]

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

A. A person who practices or represents to the public that the person is authorized to practice a profession or trade and intentionally, knowingly or recklessly fails to obtain a license as required by the laws relating to a board, commission or regulatory function identified in section 8001, subsection 38 or section 8001-A or intentionally, knowingly or recklessly practices or represents to the public that the person is authorized to practice after the license required by the laws relating to a board, commission or regulatory function identified in section 8001, subsection 38 or section 8001-A has expired or been suspended or revoked commits a Class E crime; and [2009, c. 465, §4 (AMD).]

B. A person who practices or represents to the public that the person is authorized to practice a profession or trade and intentionally, knowingly or recklessly fails to obtain a license as required by the laws relating to a board, commission or regulatory function identified in section 8001, subsection 38 or section 8001-A or intentionally, knowingly or recklessly practices or represents to the public that the person is authorized to practice after the license required by the laws relating to a board, commission or regulatory function identified in section 8001, subsection 38 or section 8001-A has expired or been suspended or revoked when the person has a prior conviction under this subsection commits a Class D crime. Title 17-A, section 9-A governs the use of prior convictions when determining a sentence, except that, for purposes of this paragraph, the date of the prior conviction must precede the commission of the offense being enhanced by no more than 3 years. [2009, c. 465, §4 (AMD).]

[ 2009, c. 465, §4 (AMD) .]

**4. Unlicensed practice; civil penalties.** Any person who practices or represents to the public that the person is authorized to practice a profession or trade without first obtaining a license as required by the laws relating to a board, commission or regulatory function identified in section 8001, subsection 38 or section 8001-A or after the license has expired or has been

suspended or revoked commits a civil violation punishable by a fine of not less than \$1,000 but not more than \$5,000 for each violation. An action under this subsection may be brought in District Court or, in combination with an action under subsection 5, in Superior Court.

[ 2009, c. 465, §5 (AMD) .]

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

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

[ 2007, c. 402, Pt. C, §5 (AMD) .]

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

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

**SECTION HISTORY**

1999, c. 687, §C12 (NEW). 2003, c. 452, §E10 (AMD). 2003, c. 452, §X2 (AFF). 2005, c. 378, §1 (AMD). 2005, c. 378, §29 (AFF). 2007, c. 402, Pt. C, §5 (AMD). 2009, c. 44, §1 (AMD). 2009, c. 465, §§3-5 (AMD).

**10 §8003-D. INVESTIGATIONS; ENFORCEMENT DUTIES; ASSESSMENTS**

When there is a finding of a violation, a board or commission identified in section 8001, subsection 38 or section 8001-A or the Office of Licensing and Registration with regard to a regulatory function identified in section 8001, subsection 38 administered by the office may assess the licensed person or entity for all or part of the actual expenses incurred by the board, commission, Office of Licensing and Registration or their agents for investigations and enforcement duties performed. [2009, c. 465, §6 (AMD).]

"Actual expenses" include, but are not limited to, travel expenses and the proportionate part of the salaries and other expenses of investigators or inspectors, hourly costs of hearing

officers, costs associated with record retrieval and the costs of transcribing or reproducing the administrative record. [1999, c. 687, Pt. C, §12 (NEW).]

The board , commission or Office of Licensing and Registration, as soon as feasible after finding a violation, shall give the licensee notice of the assessment. The licensee shall pay the assessment in the time specified by the board , commission or Office of Licensing and Registration, which may not be less than 30 days. [2009, c. 465, §6 (AMD).]

#### SECTION HISTORY

1999, c. 687, §C12 (NEW). 2009, c. 465, §6 (AMD).

### **10 §8003-E. CITATIONS AND FINES**

Any board or commission identified in section 8001, subsection 38 or section 8001-A or a regulatory function administered by the Office of Licensing and Registration identified in section 8001, subsection 38 may adopt by rule a list of violations for which citations may be issued by professional technical support staff. A violation may carry a fine not to exceed \$200. Citations issued by employees of the Office of Licensing and Registration or an affiliated board must expressly inform the licensee that the licensee may pay the fine or request a hearing before the board or commission or the Office of Licensing and Registration with regard to a regulatory function identified in section 8001, subsection 38 administered by the office regarding the violation. [2009, c. 465, §7 (AMD).]

#### SECTION HISTORY

1999, c. 687, §C12 (NEW). 2009, c. 465, §7 (AMD).

### **10 §8003-F. DISPOSITION OF FEES**

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

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

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

#### SECTION HISTORY

1999, c. 687, §C12 (NEW).

## **10 §8003-G. DUTY TO REQUIRE CERTAIN INFORMATION FROM APPLICANTS AND LICENSEES**

The Office of Licensing and Registration, referred to in this subsection as "the office," including the licensing boards and commissions and regulatory functions within the office, shall require: [2007, c. 621, §4 (NEW).]

**1. Respond to inquiries.** All applicants for license renewal to respond to all inquiries set forth on renewal forms; and

[ 2007, c. 621, §4 (NEW) .]

**2. Report in writing.** All licensees and applicants for licensure to report in writing to the office no later than 10 days after the change or event, as the case may be:

A. Change of name or address; [2007, c. 621, §4 (NEW).]

B. Criminal conviction; [2007, c. 621, §4 (NEW).]

C. Revocation, suspension or other disciplinary action taken in this or any other jurisdiction against any occupational or professional license held by the applicant or licensee; or [2007, c. 621, §4 (NEW).]

D. Any material change in the conditions or qualifications set forth in the original application for licensure submitted to the office. [2007, c. 621, §4 (NEW).]

[ 2007, c. 621, §4 (NEW) .]

### SECTION HISTORY

2007, c. 621, §4 (NEW).

## **10 §8004. ANNUAL REPORTS**

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

### SECTION HISTORY

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

## **10 §8004-A. LEGISLATIVE REPORTS**

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

### SECTION HISTORY

2001, c. 323, §10 (NEW).

### **10 §8005. COMPLIANCE WITH SUPPORT ORDERS; LICENSE QUALIFICATIONS AND CONDITIONS**

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

#### **SECTION HISTORY**

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

### **10 §8005-A. LICENSEES NOT IN COMPLIANCE WITH COURT-ORDERED FINE, FEE OR RESTITUTION; LICENSE QUALIFICATIONS AND CONDITIONS**

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

#### **SECTION HISTORY**

2003, c. 193, §1 (NEW).

### **10 §8006. LICENSEES NOT IN COMPLIANCE WITH COURT ORDER OF SUPPORT AND OTHER COURT ORDERS; ENFORCEMENT OF PARENTAL SUPPORT OBLIGATIONS AND SUSPENSIONS**

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

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

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

(1) No more than 60 days in arrears in making any of the following payments:

(a) Payments in full for current support;

(b) Periodic payments on a support arrearage pursuant to a written agreement with the Department of Health and Human Services; and

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

(2) No more than 30 days in arrears in making payments as described in subparagraph

(1) if the obligor has been in arrears for more than 30 days in making payments as described in subparagraph (1) at least 2 times within the past 24 months. [2003, c. 396, §1 (RPR); 2003, c. 689, Pt. B, §6 (REV).]

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

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

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

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

[ 2003, c. 396, §2 (AMD) .]

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

[ 2003, c. 193, §2 (NEW) .]

#### SECTION HISTORY

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

### **10 §8007. BOARD MEMBER CANDIDATE INFORMATION**

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

This information must be provided to all new candidates for membership on an occupational and professional regulatory board and to members seeking reappointment in order to fully

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

#### SECTION HISTORY

1993, c. 600, §A12 (NEW).

### **10 §8008. PURPOSE OF OCCUPATIONAL AND PROFESSIONAL REGULATORY BOARDS**

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

#### SECTION HISTORY

1993, c. 600, §A12 (NEW).

### **10 §8009. STANDARDIZED TERMS**

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

#### SECTION HISTORY

2007, c. 402, Pt. C, §6 (NEW).

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**BOARD OF  
ELEVATOR &  
TRAMWAY SAFETY  
  
RULES**



## 02 DEPARTMENT OF PROFESSIONAL AND FINANCIAL REGULATION

### 386 BOARD OF ELEVATOR AND TRAMWAY SAFETY

## Chapter 1 – Definitions

Summary: This Chapter defines (1) terms that are used in the rules adopted by the Board and (2) terms used in 32 MRSA Chapter 133, but not defined by statute. Terms used in the Board's rules also are defined by statute and by the national codes adopted in Chapter 11.

### 1. Incorporation by Reference; Conflicts

The Board incorporates in its rules the definitions that appear in 32 MRSA Chapter 133 and in the national codes adopted in Chapter 11 of these Rules.

If a conflict exists as to definitions contained in 32 MRSA Chapter 133, the Board's rules, or the national codes, the definitions in 32 MRSA Chapter 133 prevail over both the definitions in the Board's rules and the definitions in the national codes, and the definitions in the Board's rules prevail over the definitions in the national codes.

### 2. Definitions

As used in the Board's rules, unless the context otherwise indicates, the following terms have the following meanings:

- A. ASME. "ASME" means the American Society of Mechanical Engineers.
- B. ANSI. "ANSI" means the American National Standards Institute.
- C. Chief Inspector. "Chief Inspector" means the Chief Inspector or the Chief Inspector's designee.
- D. Declare Idle. "Declare idle" means to place out of service.
- E. Elevator. "Elevator" means a guided hoisting and lowering mechanism equipped with a car, or platform or load-carrying unit, including the doors, well enclosures, means and appurtenances required by the rules adopted by the Board. "Elevator" includes vertical lifts, incline lifts, escalators and manlifts.
- F. Elevator Mechanic. "Elevator mechanic" means a person who is licensed by the Board to install, service, repair or alter an elevator.
- G. Lift. "Lift" means a platform lift as defined in ASME A18.1.

- H. Lift Mechanic. “Lift mechanic” means a person who is licensed by the Board to install, service, repair or alter a lift.
- I. Place Out of Service. “Place out of service” means to render an elevator, unit or device safe and completely inoperable, other than for the purpose of making repairs, for an indefinite period.
- J. Maximum Load. With respect to elevators, “maximum load” means rated load. With respect to tramways, “maximum load” means design capacity.
- K. Reportable Accident. “Reportable accident” means an incident that is caused by equipment failure or results in significant injury or death to a person or that results in substantial damage to equipment.
- L. Significant Injury (tramways). With respect to tramways, significant injury includes, but is not limited to, an injury arising out of the use of a tramway that reasonably requires emergency or immediate medical attention but does not include injuries sustained during the process of loading or unloading the tramway that are not the result of equipment failure.
- M. Suspend Operation. “Suspend operation” means to not use the elevator, unit or device for any purpose, other than to make repairs, for a limited period of time.
- N. Take Out of Operation or Service. “Take out of operation or service” means to suspend operation.
- O. Tramway Equipment Failure. With respect to tramways, for purposes of the Board’s rules, equipment failure includes, but is not limited to:
- (1) Any malfunction that results in damage to or failure of, tramway components such as wire rope support structures, gear box, motor, bullwheel and bearings, brakes, roll back equipment shafts or couplings;
  - (2) Any deropement of an aerial tramway or lift;
  - (3) Any deropement of a surface lift or tow not caught by designed rope catchers or, if the surface lift or tow is not equipped with rope catchers, any deropement in which the wire rope leaves the tower support or bullwheel and reaches within 2 feet of the surface;
  - (4) Any failure of aerial lift carrier grips resulting in the slippage on the haul rope or detachment of the carrier from the main haul rope; and

(5) Any fire damage to mechanical equipment, control building, drive building or any structure close enough to the tramway to interfere with proper operation of the tramway.

AUTHORITY: 32 MRSA §§15202, 15206

EFFECTIVE DATE: January 5, 2009

**02 DEPARTMENT OF PROFESSIONAL AND FINANCIAL REGULATION**

**386 BOARD OF ELEVATOR AND TRAMWAY SAFETY**

**Chapter 3 – Variances**

Summary: This Chapter prescribes procedures for the filing of a petition for a variance under 32 M.R.S.A. § 15204.

**1. Application and Fee**

A petition for a variance must be submitted to the Chief Inspector on a petition form provided by the Department and must be accompanied by the filing fee. The owner shall comply with any request by the Chief Inspector for additional information.

AUTHORITY: 32 M.R.S.A. §§ 15204, 15206

EFFECTIVE DATE: January 1, 2003

**02 DEPARTMENT OF PROFESSIONAL AND FINANCIAL REGULATION**

**386 BOARD OF ELEVATOR AND TRAMWAY SAFETY**

**Chapter 7 – Advisory Rulings**

Summary: This Chapter establishes requirements and guidelines for the Board’s discretionary issuance of advisory rulings.

**1. Authority and Scope**

The Board may issue an advisory ruling in accordance with 5 M.R.S.A. § 9001 concerning the applicability of a statute or rule to existing facts. The Board shall review each request for an advisory ruling to determine whether the requested ruling is appropriate. The Board may, at its discretion, decline to issue an advisory ruling if the question is hypothetical, if there is insufficient information upon which to base a ruling or for any other reason the Board deems proper.

**2. Submission**

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

**3. Ruling**

The Board shall issue advisory rulings in writing. The advisory ruling must include a statement of the facts or assumptions, or both, upon which the ruling is based. The statement, without reference to other documents, must be sufficiently detailed to apprise the reader of the factual basis of the opinion. The assent of four members of the Board is required for the issuance of an advisory ruling. The ruling must be signed by the Board’s Chair, must be identified specifically as an advisory ruling and must be numbered serially.

**4. Publication**

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

AUTHORITY: 5 M.R.S.A. § 9001; 32 M.R.S.A. § 15206

EFFECTIVE DATE: January 1, 2003

02 DEPARTMENT OF PROFESSIONAL AND FINANCIAL REGULATION

386 BOARD OF ELEVATOR AND TRAMWAY SAFETY

## Chapter 11 – National Codes Applicable to Elevators and Tramways

Summary: This Chapter specifies the national safety codes and standards that apply to elevators and tramways installed in the State of Maine. Additional requirements regarding elevators and tramways are contained in 32 MRSA Chapter 133 and in other chapters of the rules adopted by the Board.

### 1. Adoption of Codes; Exceptions; Conflicts

The Board adopts and incorporates into this Chapter by reference the standards of the national codes and addenda specified in sections 2 and 4. When a rule in another Chapter refers to a national code, the reference is to the edition of the code and addenda adopted in this Chapter. In the event of a conflict between a standard in a national code or addenda and the provision of a Maine statute or the Board's rules, the provision of the Maine statute or the Board's rules governs.

### 2. Elevators

- A. Pre-1984. The design, construction, installation, maintenance, repair, alteration, operation and inspection of elevators installed before January 1, 1984, must comply with the standards of ASME A17.3, 2005 edition.
- B. On or After January 1, 1984. The design, construction, installation, maintenance, repair, alteration, operation and inspection of elevators installed on or after January 1, 1984, must comply with the standards of the following national codes and addenda:

<u>Type of Elevator</u>	<u>National Code</u>	<u>Supplement/Addenda to Code</u>
Elevators	ASME A17.1, 2007 edition	
Platform Lifts	ASME A18.1, 2005 edition	
Belt Manlifts	ASME A90.1, 2003 edition	

Vertical Reciprocating Conveyors	ASME B20.1, 2006 edition, to the extent that ASME B20.1 applies to vertical reciprocating conveyors
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Any device or equipment that constitutes an elevator, as that term is defined by 32 MRSA § 15202(5), must be designed, constructed, installed, maintained, repaired, altered, operated, and inspected in accordance with the standards specified in this section and not with any other national codes or standards.

**NOTE:**

When ASME A17.1 refers to editions of the code in effect at an earlier time, the relevant versions of the code are as follows:

<u>Date of Installation</u>	<u>National Code</u>	<u>Supplement/Addenda to Code</u>
1/1/84 to 6/3/92	ASME A17.1, 1981 edition	1982 Supplement
6/4/92 to 6/30/97	ASME A17.1, 1990 edition	
7/1/97 to 12/31/02	ASME A17.1, 1996 edition	
1/1/03 to effective date of this rule	ASME A17.1 2000 edition	2002 addenda

**3. Exceptions to National Codes - Elevators**

A. The following are exceptions to ASME A17.1:

- (1) ASME A17.1, Section 1.2.1(b) and (c). The Board does not adopt ASME A17.1, Section 1.2.1(b) and (c).
- (2) ASME A17.1, Section 5.2.1.27. In Maine, all Limited Use, Limited Accessibility (LULA) elevators shall be equipped with firefighters' emergency operation which conforms to Section 2.27.
- (3) ASME A17.1, Section 8.11.1.1. In Maine, an individual who is licensed by the Board as an elevator inspector may inspect elevators. The ASME standard provides that anyone who is certified as a Qualified Elevator Inspector may inspect elevators.

- (4) ASME A17.1, Section 8.11.1.1.2. In Maine, a licensed elevator mechanic is required to perform the periodic tests, complete the State Periodic Test Record, and post the completed Periodic Test Record in the machine room. The periodic tests need not be performed in the presence of an inspector. The ASME standard requires that the periodic tests be performed in the presence of an inspector.
- (5) ASME A17.1, Section 8.11.1.3. In Maine, periodic inspections must occur every 12 months and category 1, 3 and 5 periodic tests must be performed at 1-year, 3-year, and 5-year intervals, respectively.

B. The following are exceptions to ASME A18.1:

- (1) ASME A18.1. In Maine, all platform lifts must be equipped with two-way communication.
- (2) ASME A18.1, Section 4, Inclined Stairway Chairlifts, in its entirety.
- (3) ASME A18.1, Section 5, Private Residence Vertical Platforms, in its entirety.
- (4) ASME A18.1, Section 6, Private Residence Inclined Platforms, in its entirety.
- (5) ASME A18.1, Section 7, Private Residence Inclined Stairway Chairlifts, in its entirety.
- (6) ASME A18.1, Section 10.1.1.
  - (a) In Maine, an individual who is licensed by the Board as a private elevator inspector may inspect elevators. The ASME standard provides that anyone who is certified as a Qualified Elevator Inspector may inspect elevators.
  - (b) In Maine, a licensed elevator or lift mechanic is not required to perform periodic inspections and tests in the presence of an inspector.
- (7) ASME A18.1, Section 10.1.2.1. In Maine, a licensed elevator or lift mechanic is required to perform the periodic tests, complete the State Periodic Test Record, and post the completed Periodic Test Record in the machine room. The periodic tests need not be performed in the presence

of an inspector. The ASME standard requires that the periodic tests be performed in the presence of an inspector.

- (8) ASME A18.1, Section 10.2.1. In Maine, routine inspections must occur every 12 months. The ASME standard requires that routine inspections occur every 6 months.

C. The following is an exception to ASME B20.1:

In Maine, vertical reciprocating conveyors can only be installed in industrial facilities, manufacturing facilities and commercial locations where the general public is not permitted. ASME B20.1 does not limit the type of facilities in which vertical reciprocating conveyors may be installed.

#### **4. Tramways**

The design, construction, installation, maintenance, repair, alteration, operation and inspection of all tramways must comply with the provisions of ANSI B77.1, 2006 edition.

#### **5. Exception to National Code - Tramways**

A. The following are exceptions to ANSI B77.1:

- (1) ANSI B77.1, Sections 3.3.4.3 and 4.3.4.3. The alternative method of testing grips every 6 years or 6000 hours is prohibited.
- (2) Each chair must be equipped with a restraining device that will not open under forward pressure.
- (3) Effective 3 years from the effective date of these rules, all signs must comply with Annex D.
- (4) Effective one year from the effective date of these rules, operational controls must comply with Annex E.

#### **NOTE:**

Copies of ASME A17.1, A17.3, A18.1, A90.1 and B20.1 may be purchased from:

The American Society of Mechanical Engineers  
Order Department  
22 Law Drive  
Box 2300  
Fairfield NJ 07007-2300

Telephone: (800) 843-2763  
Web site: [www.asme.org](http://www.asme.org)

A copy of ANSI B77.1 may be purchased from:

American National Standards Institute  
11 West 42<sup>nd</sup> Street  
New York NY 10036  
Telephone: (212) 642-4900  
Web site: [www.ansi.org](http://www.ansi.org)

AUTHORITY: 5 MRSA §8056(1)(B)(1-3), 32 MRSA §15206

EFFECTIVE DATE: January 5, 2009

**02 DEPARTMENT OF PROFESSIONAL AND FINANCIAL REGULATION**

**386 BOARD OF ELEVATOR AND TRAMWAY SAFETY**

**Chapter 13 – Elevators**

Summary: This chapter establishes specific requirements for elevators in addition to those established in 32 MRSA Chapter 133 and the national codes specified in Chapter 11.

**1. New Installations; Alterations**

- A. Before an elevator is installed, the owner shall submit, or cause to be submitted, to the Chief Inspector:
  - (1) Detailed plans for approval;
  - (2) The completed form provided by the Board for approval of plans and specifications;
  - (3) The fee for review of plans and specifications required by Chapter 10, Section 5(16) of the rules of the Office of Licensing and Registration, entitled “Establishment of License Fees;” and
  - (4) The required fee for the initial certificate.
  
- B. Before any alteration of an elevator, the owner shall submit to the Chief Inspector:
  - (1) Detailed plans and/or specifications for approval;
  - (2) The completed form provided by the Board for approval of plans and specifications; and
  - (3) The required fee for review of plans and specifications.

Before beginning any installation or alteration, the owner shall comply with any request by the Chief Inspector for additional plans, specifications, or other information.

**2. Registration Numbers**

Registration numbers must be visible and must be legibly and permanently affixed in the following locations:

- A. Elevators. On the crosshead of the elevator car, controller and disconnect.

- B. Escalators. On the underside of the machine area access cover and controller or other location in the machine area.
- C. Manlifts. On the machine area structure.
- D. Platform Lifts. On the disconnect and tower.
- E. Vertical Reciprocating Conveyors. Marked near the manufacturer's nameplate.

### **3. Standard Key for Firefighters' Service Switches**

Each elevator installed in the state equipped with "Firefighters' Service" and activated by a key operated switch or switches in the lobby, in the elevator car, or in both, must be installed with a key tumbler that accepts the designated standard key, the Yale 3502.

### **4. Size Requirements for Stretchers**

- A. Size Requirements. A passenger elevator, as defined by ASME A17.1, installed in Maine must comply with the requirements of 32 MRSA §15228 and must be able to accommodate the transportation of a person on an ambulance stretcher at least 76 inches long by 24 inches wide placed horizontally in the elevator.
- B. Exclusions. Vertical lifts, inclined lifts and escalators are excluded from the size requirements of 32 MRS. §15228 and this section of the Board's rules.

### **5. Temporary Use of Permanent Elevators**

An elevator being installed for permanent use may be used temporarily during the construction of the building to carry workers and materials if: the elevator has been inspected by the Chief Inspector; the Chief Inspector has certified temporary use of the elevator; and a licensed elevator mechanic operates the elevator at all times during its temporary use. An application for temporary use under this section must be submitted to the Chief Inspector on a form provided by the Department and must be accompanied by the filing fee required by Chapter 10, Section 5(16) of the rules of the Office of Licensing and Registration, entitled "Establishment of License Fees." The Chief Inspector may issue a certificate in accordance with this section for a period not to exceed 60 days.

**6. Vertical Platform Lifts – Disconnecting Means**

The disconnecting means for vertical platform lifts shall be at the lowest landing outside the runway.

AUTHORITY: 32 MRSA §§15206, 15221, 15224, 15227, 15228, 15229

EFFECTIVE DATE: January 5, 2009

02 DEPARTMENT OF PROFESSIONAL AND FINANCIAL REGULATION

386 BOARD OF ELEVATOR AND TRAMWAY SAFETY

## Chapter 15 – Tramways

Summary: This Rule establishes specific requirements for tramways in addition to those established in Title 32, Chapter 133, and the national code specified in Chapter 11.

### 1. New Installations; Alterations

A. Plans and Specifications. Before a tramway is installed, the owner shall submit, or cause to be submitted, to the Chief Inspector:

- (1) Detailed plans and specifications for approval in accordance with ANSI B77.1;
- (2) The form provided by the Board for approval of plans and specifications;
- (3) The fee for review of plans and specifications; and
- (4) The fee for the initial certificate.

Before any ropeway modification of a tramway, the owner shall submit to the Chief Inspector:

- (1) Detailed plans and/or specifications for approval and
- (2) The fee for review of plans and specifications.

Before beginning any installation or ropeway modification, the owner shall comply with any request by the Chief Inspector for additional plans, specifications, or other information. If the Chief Inspector directs that a redesign is necessary, the owner shall follow the same procedure as that for a new installation.

B. Owner's Duty to Report on Progress. During the construction of a tramway, the owner shall inform the Chief Inspector of the progress of construction, including the proposed schedule for construction and any changes to the schedule.

C. Foundations and Anchorage. The owner shall provide the Chief Inspector a minimum of 48 hours notice before pouring concrete and installing anchorage. All excavations for foundations and anchorage must be inspected by the Chief Inspector before any structures are installed. The owner shall take samples of

concrete used in the construction of the tramway as directed by the Chief Engineer and send them to a laboratory designated by the Chief Inspector for analysis at the owner's expense.

**2. Acceptance Tests**

Before any newly installed tramway or any newly altered existing tramway is placed in operation for the public, the Chief Inspector shall inspect and witness the acceptance test of the system.

**3. Initial Inspection Expenses**

The inspection of all excavations for foundations and anchorage, including pouring of concrete and installation of the ledge anchorage and any other preliminary inspection, constitute part of the initial inspection. Accordingly, the owner is responsible for their completion and cost.

AUTHORITY: 32 M.R.S.A. §§ 15206, 15221, 15224, 15229

EFFECTIVE DATE: January 1, 2003

02 DEPARTMENT OF PROFESSIONAL AND FINANCIAL REGULATION

386 BOARD OF ELEVATOR AND TRAMWAY SAFETY

## Chapter 21 – Elevator Owners’ Duties and Responsibilities

Summary: This Chapter establishes general duties and responsibilities of owners of elevators. Duties and responsibilities of owners also are set forth in 32 MRSA Chapter 133, and elsewhere in the Board’s rules.

### 1. Initial Inspections

- A. Interim Certificate. After the Chief Inspector has made the initial inspection of an elevator, and if the elevator complies with all provisions of 32 MRSA Chapter 133, the Board’s rules, and the applicable national code, the Chief Inspector may issue an interim certificate for the operation of the elevator up to 60 days pending issuance of the initial inspection certificate.
- B. Expenses. The owner or the owner’s designee shall pay the initial inspection fee required by Chapter 10, Section 5(16) of the rules of the Office of Licensing and Registration, entitled “Establishment of License Fees,” and any related expenses for the initial inspection of an elevator. If the fee has not been paid by the date the interim certificate expires, the Chief Inspector shall direct the owner to suspend operation of the elevator.

### 2. Application for Annual Inspection Certificates

- A. Notice. Approximately 90 days before the expiration of an inspection certificate, the Department will send an application for a new inspection certificate to the owner. A failure by the Department to send the application does not relieve the owner of the duty to file a timely application for a new certificate.
- B. Submission. The owner shall submit to the Board an application for a new inspection certificate, the inspection report and the certificate fee required by Chapter 10, Section 5(16) of the rules of the Office of Licensing and Registration, entitled “Establishment of License Fees,” no later than 30 business days before the date the current inspection certificate expires. The owner shall ensure that the elevator is inspected in sufficient time to comply with the requirements of this paragraph. The Board may assess a late inspection certificate fee if the owner fails to submit the application, inspection report, and certificate fee at least-30 days prior to the date the current inspection certificate expires.
- C. Rejection of Reports. The Chief Inspector may reject any inspection report that is incomplete, illegible or otherwise fails to comply with the requirements of 32 MRSA

Chapter 133 or the rules adopted by the Board. If a report is rejected, the Chief Inspector shall return the report with a statement of the reasons for rejection to the owner.

### **3. Expiration of Inspection Certificates**

- A. Date of Expiration. Annual inspection certificates for elevators expire on the last day of the month when the unit was last inspected and will expire annually on the last day of that month unless the owner petitions the Chief Inspector, on a form provided by the Board, to change the month of inspection. .
- B. Suspension of Operation. If an inspection certificate expires before the Board issues a new inspection certificate, on the date of expiration the owner shall suspend operation of the elevator until the Board issues a new inspection certificate.

### **4. Orders of Correction**

When an owner receives an order of correction stating that an elevator requires repair, the owner will not receive a new inspection certificate for the elevator until the owner submits satisfactory written evidence that the repairs have been completed.

### **5. Posting of Certificate**

- A. Display and Location. The owner shall ensure that the original or a copy of the current inspection certificate issued under 32 MRSA §15221 is displayed at all times in accordance with the following:
  - (1) Elevators. The owner of an elevator shall post the original or a copy of the inspection certificate in a conspicuous location in the elevator car.
  - (2) Escalators. The owner of an escalator shall post the original or a copy of the inspection certificate in a conspicuous location at the entrance to the escalator.
  - (3) Inclined Lifts. The owner of an inclined lift shall post the original or a copy of the inspection certificate at the bottom of the lift.
  - (4) Manlifts. The owner of a manlift shall post the original or a copy of the inspection certificate in a conspicuous place at the bottom landing.
  - (5) Vertical Lifts. The owner of a vertical lift shall post the original or a copy of the inspection certificate in the cab.

- (6) If an owner posts a copy of the inspection certificate rather than the original, the copy must state that it is a copy and specify the location where the original is located and available for examination.

- B. Replacement. If an original inspection certificate is lost or stolen, the owner must replace the certificate promptly, but in any event not later than 30 days after the date it was lost or stolen. An application for replacement of an original certificate must be made on a form provided by the Board and must be accompanied by the replacement fee required by Chapter 10, Section 3(1) of the rules of the Office of Licensing and Registration, entitled "Establishment of License Fees."

## 6. General Responsibility

Owners shall ensure that all parts of elevators, including machines, cars, hoistways, hoistway landing opening protective devices and all appurtenances are maintained in a structurally sound, firmly secured, and sufficient condition to perform safely the work for which they were intended and are kept sufficiently clean to prevent fire hazards. No existing elevator may be altered by removing, modifying or rendering inactive any safety feature that was part of the original installation or that was added at a later date, if the alteration diminishes the safety of the elevator below that which existed before the alteration.

## 7. Change of Status

- A. Owner. An owner shall report to the Board any change in the owner's address or telephone number within 10 days of the change.
- B. Elevator. An owner shall report to the Board any change of status with respect to an elevator within 10 days of the change. The report must be made on a form provided by the Board. As used in this section, "change of status" means the transferral of ownership of an elevator, physical removal of an elevator, or placing an elevator out of service.

## 8. Accidents

- A. Reporting of Accidents
  - (1) Initial Report. When a reportable accident occurs, the owner of the elevator shall report the accident to the Chief Inspector immediately, and in any event not later than 24 hours after the accident. The report must state the owner's name, the location of the accident, a brief statement of facts surrounding the accident, and the name(s) and telephone number(s) of the person(s) to be contacted regarding the accident.

- (2) Additional Information. After making the initial report required by subparagraph (1), the owner of an elevator involved in a reportable accident shall provide to the Chief Inspector any additional information requested by the Chief Inspector regarding the accident or the elevator.

B. Suspension of Operation

When a reportable accident occurs, the owner shall immediately suspend operation of the elevator, and the elevator must remain out of operation until the Chief Inspector has approved resumption of operation.

C. Examination and Determination

- (1) Examination. When a reportable accident occurs that results in significant injury to a person or substantial damage to equipment, the Chief Inspector shall examine the elevator and investigate the circumstances surrounding the accident.

When a reportable accident occurs that involves equipment failure to an elevator and does not result in significant injury to a person or substantial damage to equipment, the Chief Inspector may authorize a licensed elevator mechanic to examine the elevator and to report to the Chief Inspector the findings from the examination.

- (2) Determination. After the Chief Inspector has examined, or has caused to be examined, the elevator and the circumstances surrounding the reportable accident, the Chief Inspector shall:
  - (a) Approve the resumption of operation;
  - (b) Direct that the owner continue to suspend operation until required repairs have been made;
  - (c) Summarily revoke the inspection certificate in accordance with 32 MRSA §15211(2); or
  - (d) Take other action with respect to the operation of the elevator that the Chief Inspector deems appropriate to ensure the safety of the public.

**9. Unsafe Conditions**

If an owner becomes aware of an unsafe condition involving an elevator, the owner shall immediately notify the Chief Inspector in accordance with the procedure for reporting accidents specified in section 8.

**10. Placing an Elevator Out of Service**

An owner who:

- A. Voluntarily places an elevator out of service;
- B. Is required to place an elevator out of service by 32 MRSA Chapter 133 or the Board's rules; or
- C. Is directed by the Board or the Chief Inspector to place an elevator out of service

shall comply with the standards of the applicable national codes specified in Chapter 11 and the provisions of this section.

When an owner places an elevator out of service, the work must be performed by a licensed elevator mechanic except as provided in 32 MRSA §15213.

AUTHORITY: 32 MRSA §§15206, 15211, 15212, 15221, 15229

EFFECTIVE DATE: January 5, 2009

02 DEPARTMENT OF PROFESSIONAL AND FINANCIAL REGULATION

386 BOARD OF ELEVATOR AND TRAMWAY SAFETY

## Chapter 23 – Tramway Owners’ Duties and Responsibilities

Summary: This Chapter establishes general duties and responsibilities of owners of tramways. Duties and responsibilities of tramway owners also are set forth in 32 MRSA Chapter 133, and elsewhere in the Board’s rules.

### 1. Inspections

A tramway must be inspected by a licensed private tramway inspector or the Chief Inspector.

To obtain an annual inspection certificate, the owner of a tramway must comply with the following:

- A. Certificate Inspection. The following inspections must be completed annually, and the reports of the inspections filed, together with the certificate fee required by Chapter 10, Section 5(16) of the rules of the Office of Licensing and Registration, entitled “Establishment of License Fees,” with the Chief Inspector:
  - (1) Inspection by a licensed private tramway inspector or the Chief Inspector when the weather allows a complete inspection of all stationary and moving parts and all safety devices;
  - (2) Wire rope inspection by a licensed private wire rope inspector if the tramway is equipped with a wire rope; and
  - (3) Submission of satisfactory written evidence to the Chief Inspector that any noted deficiencies or required repairs have been made.
- B. Notice of Operation. The owner shall notify the Chief Inspector in writing that the tramway has begun operation no later than 10 days after the tramway begins operation for the season.
- C. Seasonal Operation Inspection. Tramways must be inspected by a licensed private tramway inspector or the Chief Inspector not later than 30 days after the tramway begins operation for the ski season. The owner shall file with the Chief Inspector the operational inspection report and written evidence that any noted deficiencies or required repairs have been made.

- D. Off-Season Operation Inspection. In addition to the requirements of paragraph A, when a tramway is operated for public use outside of the customary skiing season, the owner shall have the tramway inspected by a licensed private tramway inspector or the Chief Inspector during the time of off-season operation. The owner shall file with the Chief Inspector the off-season operation inspection report and written evidence that any noted deficiencies or required repairs have been made.

The owner shall inform the Board whether the tramway will be used for off-season operation in the application for the annual certificate.

## 2. **Expiration of Inspection Certificates**

- A. Date of Expiration. Annual inspection certificates for tramways expire on December 31 of each year.
- B. Suspension of Operation. If an inspection certificate expires before the Board issues a new inspection certificate, the owner shall suspend operation of the tramway on the date of expiration until the Board issues a new inspection certificate.

## 3. **Application for Annual Inspection Certificates**

- A. Notice. Approximately 90 days before the expiration of an inspection certificate, the Office of Licensing and Registration will send an application for a new inspection certificate to the owner. A failure by the Office of Licensing and Registration to send the application does not relieve the owner of the duty to file a timely application for a new certificate.
- B. Submission. The owner shall submit to the Board an application for a new inspection certificate, the inspection report, the wire rope inspection report, if applicable, and the certificate fee required by Chapter 10, Section 5(16) of the rules of the Office of Licensing and Registration, entitled "Establishment of License Fees," no later than 30 business days before the date the current inspection certificate expires. The owner shall ensure that the tramway is inspected in sufficient time to permit the owner to comply with the requirements of this paragraph. The Board may assess a late inspection certificate fee if the owner fails to submit the application, inspection report, and certificate fee at least 30 days prior to the date the current inspection certificate expires.
- C. Rejection of Reports. The Chief Inspector may reject any inspection report that is incomplete, illegible or otherwise fails to comply with the requirements of 32 MRSA Chapter 133, or the rules adopted by the Board. If a report is rejected, the Chief

Inspector shall return the report with a statement of the reasons for rejection to the owner.

#### 4. Orders of Correction

When an owner receives an order of correction stating that a tramway requires repair, the owner will not receive a new inspection certificate for the tramway until the owner submits satisfactory written evidence that the repairs have been completed.

#### 5. Posting of Certificate

- A. Display. The owner shall ensure that the original or a copy of the inspection certificate is displayed at all times in a conspicuous place at the loading point. If an owner posts a copy of the inspection certificate rather than the original, the copy must state that it is a copy and specify the location where the original is located and available for examination.
- B. Replacement. If an original inspection certificate is lost or stolen, the owner must replace the certificate promptly, but in any event not later than 30 days after the date it was lost or stolen. An application for replacement of an original certificate must be made on a form provided by the Board and must be accompanied by the fee for replacement.

#### 6. Change of Status

- A. Owner. An owner shall report to the Board any change in the owner's address or telephone number within 10 days of the change.
- B. Tramway. An owner shall report to the Board any change of status with respect to a tramway within 10 days of the change. The report must be made on a form provided by the Board. As used in this section, "change of status" includes but is not limited to the transfer of ownership of a tramway, a decision to begin operation outside of the customary skiing season, a decision to discontinue operation outside of the customary skiing season, physical removal of a tramway, or placing a tramway out of service.

#### 7. Accidents

- A. Reporting of Accidents
  - (1) Initial Report. The owner of the tramway shall report immediately a reportable accident to the Chief Inspector, and in any event not later than 24 hours after the accident. The report must include the owner's name, the location of the accident, a brief statement of facts surrounding the accident, and the name(s) and telephone number(s) of the person(s) to be contacted regarding the accident.

Note: To report an accident, refer to the accident telephone number listed on the certificate.

(2) Additional Information. After making the initial report required by subparagraph (1), the owner of a tramway involved in a reportable accident shall provide any additional information requested by the Chief Inspector regarding the accident or the tramway.

B. Suspension of Operation

(1) When a reportable accident occurs that results from equipment failure or substantial damage to such equipment, the owner shall immediately suspend operation of the tramway, and the tramway must remain out of operation until the Chief Inspector has approved resumption of operation.

(2) When a reportable accident involving significant injury occurs where there is no evidence that the accident was due to equipment failure and the accident did not result in significant damage to such equipment, operation of the tramway may be resumed, provided the owner certifies in writing to the Board that the owner has inspected the tramway or caused the tramway to be inspected and the owner has verified that the accident was not the result of equipment failure and did not result in substantial damage to equipment. The certification need not be provided prior to resuming operation of the tramway but must be provided within 72 hours of resuming operations.

C. Examination and Determination

(1) Examination. When a reportable accident occurs, the Chief Inspector shall examine the tramway and investigate the circumstances surrounding the accident.

(2) Determination. In the event that the Chief Inspector has examined, or has caused to be examined, the tramway and the circumstances surrounding the reportable accident pursuant to subparagraph (1), the Chief Inspector may:

(a) Approve the resumption of operation if suspension has occurred pursuant to paragraph B (1);

(b) Direct that the owner continue to suspend operation until required repairs have been made if suspension has occurred pursuant to paragraph B (1);

(c) Summarily revoke the inspection certificate in accordance with 32 MRSA §15211(2); or

- (d) Take other action with respect to the operation of the tramway that the Chief Inspector deems appropriate to ensure the safety of the public.

## 8. **Unsafe Conditions**

If an owner becomes aware of an unsafe condition involving a tramway, the owner shall immediately notify the Chief Inspector in accordance with the procedures for reporting accidents specified in section 7. An unsafe condition includes but is not limited to:

- A. Any abnormal operation of tramway equipment involving operating speed, operation of the brakes, and/or anti-roll back equipment; and
- B. Any evacuation of an aerial lift.

## 9. **Maintenance Personnel**

- A. Training and Competence. Tramway owners shall ensure that maintenance personnel employed to work on tramway equipment are trained and competent. Maintenance personnel shall possess demonstrable ability to solve problems related to tramways and to perform work necessary to ensure safe operation of the equipment. Such ability may be demonstrated by a recognized degree or certificate of professional standing, or by extensive knowledge, training and experience.
- B. Training and Technical Proficiency. It is the tramway owner's responsibility to ensure that all maintenance personnel are properly trained on the types of equipment that they maintain. Training must ensure that maintenance personnel possess technical proficiency in the equipment for which they are responsible and that they are familiar with the applicable national codes specified in Chapter 11 and the provisions of this section. Training may include, but is not limited to:
  - (1) Manufacturers' training seminars;
  - (2) Other technical seminars; and
  - (3) On-the-job training.
- C. Scope of Obligation; Documentation. The owner's responsibilities under this section extend to the owner's employees; contractors and subcontractors who work on or maintain the owner's tramways; and employees of such contractors and subcontractors. The training of all such individuals shall be documented in records maintained by the owner. The owner shall make these records available upon request to the Board and the Chief Inspector.

AUTHORITY: 32 MRSA §§15206, 15211, 15212, 15221, 15229

EFFECTIVE DATE: January 5, 2009

02 DEPARTMENT OF PROFESSIONAL AND FINANCIAL REGULATION

386 BOARD OF ELEVATOR AND TRAMWAY SAFETY

## Chapter 31 – Licensed Private Elevator Inspectors

Summary: This Chapter establishes requirements for initial and annual licensure of private elevator inspectors in accordance with 32 MRSA §15208. This Chapter also establishes requirements for inspections and reports of inspections of elevators and standards for audits of inspections and inspection reports.

### 1. Applications

Applications for examination and licensure must be made on forms provided by the Board and must be accompanied by the fees required by Chapter 10, Section 5(16) of the rules of the Office of Licensing and Registration, entitled “Establishment of License Fees.”

### 2. Qualifications for Licensure

To qualify for a private elevator inspector’s license, an applicant must:

- A. Qualified Elevator Inspector Certification. Be certified as a Qualified Elevator Inspector (“QEI”) by an organization accredited by the ASME Qualification of Inspectors Committee, and submit to the Board, together with the application to take the examination required by this Chapter, satisfactory evidence of certification;
- B. Examination. Obtain a grade of at least 80% on an examination administered by the Board. To be eligible to take the examination, the applicant must submit proof of QEI certification;
- C. Deadline for Application for License. Apply for the license within 90 days after receiving notification of a passing score on the examination; and
- D. Fee; Forfeiture. Submit the examination fee together with the application for the license. An applicant who fails to appear for a scheduled examination without notifying the Board before the examination forfeits the examination fee.

### 3. Renewal of License

- A. Expiration. All private elevator inspector licenses expire on August 31.
- B. Eligibility for Renewal. To renew a private elevator inspector’s license, the applicant for renewal must comply with the provisions of 32 MRSA §15216-C and

this Chapter and must present satisfactory written evidence that the applicant is QEI certified at the time of application for renewal. A license may be renewed up to 90 days after expiration upon payment of the required late fee in addition to the required renewal fee. See Chapter 10, Section 5(16) of the rules of the Office of Licensing and Registration, entitled “Establishment of License Fees” and Chapter 11 of the rules of the Office of Licensing and Registration, entitled “Late Renewals.”

#### **4. Reinstatement of License**

- A. More than 90 Days but Not More than Two Years. An individual who fails to renew a private elevator inspector’s license for more than 90 days but not more than two years from the date of expiration may reinstate the license without taking the examination by filing a new application for renewal; presenting satisfactory written evidence that the applicant is QEI certified; and by filing and paying the license fee, late fee and additional late fee required by Chapters 10 and 11 of the rules of the Office of Licensing and Registration.
- B. More than Two Years. An individual who fails to renew a private elevator inspector’s license for more than two years from the date of expiration must obtain a new license by satisfying the requirements of 32 MRSA Chapter 133 and sections 1 and 2 of this Chapter.

#### **5. Inspections**

Licensed private elevator inspectors shall conduct inspections in accordance with the guidelines in ASME A17.2 to the extent applicable and the standards adopted in Chapter 11. In the event of a conflict between the guidelines of ASME A17.2 and the standards adopted in Chapter 11, the standards adopted in Chapter 11 govern.

#### **NOTE:**

Copies of ASME A17.2 (“Guide for Inspection of Elevators, Escalators, and Moving Walks”) may be purchased from:

The American Society of Mechanical Engineers  
Order Department  
22 Law Drive  
Box 2300  
Fairfield NJ 07007-2300  
Telephone: (800) 843-2763  
Web Site: [www.asme.org](http://www.asme.org)

#### **6. Unsafe Conditions**

If a licensed private elevator inspector observes an unsafe condition during an inspection, the licensed private elevator inspector shall immediately notify the Chief Inspector in accordance with 32 MRSA §15226 and the procedure for reporting accidents specified in Chapter 21.

## **7. Inspection Reports**

Licensed private elevator inspectors shall submit reports of elevator inspections in accordance with 32 MRSA §15221 on forms provided by the Board. Each report must relate to only one elevator, which must be designated by its registration number. The private elevator inspector shall give the completed report to the owner of the elevator for submission to the Board.

## **8. Audit of Inspections and Inspection Reports**

- A. Authority. The Chief Inspector may audit inspections of elevators and inspection reports of licensed private elevator inspectors to ensure compliance with 32 MRSA Chapter 133 and the Board's rules. The Chief Inspector need not select reports for audit randomly.
- B. Standards. In conducting audits of inspections and inspection reports, the Chief Inspector shall determine whether the licensed private elevator inspector complied with the provisions of 32 MRSA Chapter 133, the Board's rules, and the applicable national code specified in Chapter 11.

## **9. Independent Contractor**

In performing all duties and tasks relating to elevators, licensed private elevator inspectors are deemed to be acting as independent contractors and not as officers, employees, or agents of the State of Maine. The State assumes no liability for the actions or omissions of licensed private elevators inspectors.

AUTHORITY: 32 MRSA §§15206, 15208, 15216-C, 15221, 15226

EFFECTIVE DATE: January 5, 2009

02 DEPARTMENT OF PROFESSIONAL AND FINANCIAL REGULATION

386 BOARD OF ELEVATOR AND TRAMWAY SAFETY

## Chapter 33 – Licensed Private Tramway Inspectors

Summary: This Chapter establishes requirements for initial and renewal licensure of private tramway inspectors in addition to those established by 32 M.R.S.A § 15209. The Chapter also establishes requirements for inspections and reports of inspections of tramways and standards for audits of inspections and inspection reports. Requirements for licensure of private wire rope inspectors are set forth in Chapter 35.

### 1. Applications

Applications for examination and licensure must be on forms provided by the Board and must be accompanied by the fees established by the Director.

### 2. Qualifications for Licensure

To qualify for a private tramway inspector's license, an applicant must:

- A. General Qualifications. Meet the qualifications specified in 32 M.R.S.A. § 15209 and this Chapter;
- B. Examination. Unless a waiver is granted in accordance with 32 M.R.S.A. § 15209(5), obtain a grade of at least 80% on an examination administered by the Board. To be eligible to take the examination, the applicant must satisfy the requirements of 32 M.R.S.A. § 15209;
- C. Deadline for Application. Apply for the license within 90 days after receiving notification of a passing score on the examination; and
- D. Fee; Forfeiture. Submit the examination fee together with the application for the license. An applicant who fails to appear for a scheduled examination without notifying the Board before the examination forfeits the examination fee.

### 3. Renewal of License

- A. Expiration. All private tramway inspector licenses expire on December 31.
- B. Eligibility for Renewal. To renew a private tramway inspector's license, the applicant must comply with 32 M.R.S.A. § 15216-C and this Chapter. A license

may be renewed up to 90 days after expiration upon payment of a late fee in addition to the renewal fee.

#### **4. Reinstatement of License**

- A. More than 90 Days but Not More than Two Years. An individual who fails to renew a private tramway inspector's license for more than 90 days but not more than two years from the date of expiration, may reinstate the license without taking the examination required by section 2, paragraph B, by filing a new application for renewal and by filing and paying the application fee, license fee, and penalty as set forth in the Office of Licensing and Registration Rules Chapter 10, Establishment of License Fees, Section 4.
- B. More than Two Years. An individual who fails to renew a private tramway inspector's license for more than two years from the date of expiration must obtain a new license by satisfying the requirements of Title 32, Chapter 133, and of sections 1 and 2 of this Chapter.

#### **5. Inspections**

Licensed private tramway inspectors shall conduct inspections in accordance with the standards adopted in Chapter 11.

#### **6. Unsafe Conditions**

If a licensed private tramway inspector observes an unsafe condition during an inspection, the licensed private elevator inspector shall immediately notify the Chief Inspector in accordance with 32 M.R.S.A. § 15226 and with the procedure for reporting accidents specified in Chapter 23.

#### **7. Inspection Reports**

Licensed private tramway inspectors shall submit reports of tramway inspections in accordance with 32 M.R.S.A. § 15221 on forms acceptable to the Board. Each report must include the registration number of each tramway inspected as well as any deficiencies noted. The private tramway inspector shall give the completed report to the owner of the tramway for submission to the Board.

#### **8. Audit of Inspections and Inspection Reports**

- A. Authority. The Chief Inspector may audit inspections of tramways and inspection reports of licensed private tramway inspectors to ensure compliance with Title 32, Chapter 133, and these rules. The Chief Inspector need not select reports for audit randomly.

- B. Standards. In conducting audits of inspections and inspection reports, the Chief inspector shall determine whether the licensed private tramway inspector complied with the provisions of Title 32, Chapter 133, these rules, and the national code specified in Chapter 11.

**9. Independent Contractor**

In performing all duties and tasks relating to tramways, licensed private tramway inspectors are deemed to be acting as independent contractors and not as officers, employees, or agents of the State of Maine. The State assumes no liability for the actions or omissions of licensed private tramway inspectors.

AUTHORITY: 32 M.R.S.A. §§ 15206, 15209, 15216-C, 15221, 15226  
EFFECTIVE DATE: January 1, 2003

**02 DEPARTMENT OF PROFESSIONAL AND FINANCIAL REGULATION**

**386 BOARD OF ELEVATOR AND TRAMWAY SAFETY**

**Chapter 35 – Licensed Wire Rope Inspectors**

Summary: This Chapter establishes requirements for initial and renewal licensure of private wire rope inspectors in addition to those established by 32 M.R.S.A § 15209-A. The Chapter also establishes requirements for inspections and reports of inspections of tramways equipped with wire rope and standards for audits of inspections and inspection reports.

**1. Applications**

Applications for licensure must be on forms provided by the Board and must be accompanied by the fees established by the Director.

**2. Qualifications for Licensure**

An applicant for a private wire rope inspector’s license must meet the qualifications specified in 32 M.R.S.A. § 15209-A.

**3. Renewal of License**

- A. Expiration. All private wire rope inspector licenses expire on December 31.
- B. Eligibility for Renewal. To renew a private wire rope inspector’s license, the applicant must comply with 32 M.R.S.A. § 15216-C and this Chapter. A licensed wire rope inspector who fails to apply for renewal of the license within 90 days of the expiration of the license must apply and meet all qualifications for an initial wire rope inspector’s license. A license may be renewed up to 90 days after expiration upon payment of a late fee in addition to the renewal fee.

**4. Inspections**

Licensed private wire rope inspectors shall conduct inspections in accordance with the standards adopted in Chapter 11.

**5. Unsafe Conditions**

If a licensed private wire rope inspector observes an unsafe condition during the course of an inspection, the inspector shall immediately report the unsafe condition to the Chief Inspector in accordance with the procedure for reporting accidents in Chapter 23.

## **6. Inspection Reports**

Licensed private wire rope inspectors shall prepare reports of inspections of tramways equipped with wire rope on forms provided by the Board. Each report must relate to only one tramway, which must be designated by its registration number. The private wire rope inspector shall give the completed report to the owner of the tramway for submission to the Board.

## **7. Audit of Inspections and Inspection Reports**

- A. Authority. The Chief Inspector may audit inspections of wire ropes and inspection reports of licensed private wire rope inspectors to ensure compliance with Title 32, Chapter 133, and the Board's rules. The Chief Inspector need not select reports for audit randomly.
- B. Standards. In conducting audits of inspections and inspection reports, the Chief Inspector shall determine whether the licensed private wire rope inspector complied with the provisions of Title 32, Chapter 133, the Board's rules, and the national code specified in Chapter 11.

## **8. Independent Contractor**

In performing all duties and tasks relating to tramways equipped with wire rope, licensed private wire rope inspectors are deemed to be acting as independent contractors and not as officers, employees, or agents of the State of Maine. The State assumes no liability for the actions or omissions of licensed private wire rope inspectors.

AUTHORITY: 32 M.R.S.A. §§ 15206, 15209-A, 15216-C, 15221, 15226  
EFFECTIVE DATE: January 1, 2003

02 DEPARTMENT OF PROFESSIONAL AND FINANCIAL REGULATION

386 BOARD OF ELEVATOR AND TRAMWAY SAFETY

## Chapter 37 – Licensed Elevator Mechanics

Summary: This Chapter establishes requirements for initial and renewal licensure of elevator mechanics in addition to those established by 32 M.R.S.A §§ 15213-15216-C.

### 1. Applications

Applications for examination and licensure must be on forms provided by the Board and must be accompanied by the fees established by the Director.

### 2. Qualifications for Licensure

To qualify for an elevator mechanic's license, an applicant must:

- A. Experience. Present satisfactory written evidence that the applicant has:
- (1) At least 2 years' experience in the service, repair, alteration or installation of elevators while employed by an elevator company;
  - (2) At least 4000 hours' experience, over at least a 2-year period, in the service, repair, alteration or installation of elevators other than while employed by an elevator company; or
  - (3) Has at least 4000 hours' experience, over at last a 2-year period, in the service, repair, alteration or installation of elevators either while employed by an elevator company or in any other capacity.
- B. Examination. Obtain a grade of at least 80% on an examination administered by the Board. To be eligible to take the examination, the applicant must satisfy the requirements of section 2, paragraph A;
- C. Deadline for Application. Apply for the license within 90 days after receiving notification of a passing score on the examination; and
- D. Fee; Forfeiture. Submit the examination fee for an elevator mechanic's license together with the application for the license. An applicant who fails to appear for a scheduled examination without notifying the Board before the examination forfeits the examination fee.

### **3. Renewal of License**

- A. Expiration. All elevator mechanic licenses expire on August 31.
- B. Eligibility for Renewal. To renew an elevator mechanic's license, an applicant for renewal must comply with the provisions of 32 M.R.S.A. § 15216-C. A license may be renewed up to 90 days after expiration upon payment of a late fee in addition to the renewal fee.

### **4. Reinstatement of License**

- A. More than 90 Days but Not More than 2 Years. An individual who fails to renew an elevator mechanic's license for more than 90 days but not more than two years from the date of expiration, may reinstate the license without taking the examination required by section 2, paragraph B, by filing a new application for renewal and by filing and paying the application fee, license fee, and penalty as set forth in the Office of Licensing and Registration Rules Chapter 10, Establishment of License Fees, Section 4.
- B. More than Two Years. An individual who fails to renew an elevator mechanic's license for more than two years from the date of expiration must obtain a new license by satisfying the requirements of Title 32, Chapter 133, and of sections 1 and 2 of this Chapter.

### **5. Unsafe Conditions**

If a licensed elevator mechanic observes an unsafe condition in the course of installing, servicing, testing or maintaining an elevator, the elevator mechanic shall immediately report the unsafe condition to the Chief Inspector in accordance with the procedure for reporting accidents specified in Chapter 21.

### **6. Independent Contractor**

In performing all duties and tasks relating to elevators, licensed elevator mechanics are deemed to be acting as independent contractors and not as officers, employees, or agents of the State of Maine. The State assumes no liability for the actions or omissions of licensed elevator mechanics.

AUTHORITY: 32 M.R.S.A. §§ 15206, 15213-15216, 15216-C  
EFFECTIVE DATE: January 1, 2003

02 DEPARTMENT OF PROFESSIONAL AND FINANCIAL REGULATION

386 BOARD OF ELEVATOR AND TRAMWAY SAFETY

## Chapter 39 – Licensed Lift Mechanics

Summary: This Chapter establishes requirements for licensure of lift mechanics in addition to those established by 32 M.R.S.A §§ 15213-15216-C.

### 1. Applications

Applications for examination and licensure must be on forms provided by the Board and must be accompanied by the fees established by the Director.

### 2. Qualifications for Initial Licensure

To qualify for a lift mechanic's license, an applicant must:

- A. Experience. Present satisfactory written evidence that the applicant:
- (1) Has at least 2 years' experience in the service, repair, alteration or installation of lifts while employed by an elevator company;
  - (2) Has at least 4000 hours' experience, over at least a 2-year period, in the service, repair, alteration or installation of lifts other than while employed by an elevator company;
  - (3) Has at least 4000 hours' experience, over at least a 2-year period, in the service, repair, alteration or installation of lifts either while employed by an elevator company or in any other capacity; or
  - (3) Holds a current Maine elevator mechanic's license.
- B. Examination. Obtain a grade of at least 80% on an examination administered by the Board. To be eligible to take the examination, the applicant must satisfy the requirements of section 1, paragraph A or B. An applicant holding a current Maine elevator mechanic's license need not take the examination;
- C. Deadline for Application. Apply for the license within 90 days after receiving notification of a passing score on the examination; and
- D. Fee; Forfeiture. Submit the examination fee for a lift mechanic's license together with the application for the license. An applicant for licensure who fails to appear

for a scheduled examination without notifying the Board before the examination forfeits the examination fee.

### **3. Renewal of License**

- A. Expiration. All lift mechanic licenses expire on August 31.
- B. Eligibility for Renewal. To renew a lift mechanic's license, an applicant must comply with 32 M.R.S.A. § 15216-C. A license may be renewed up to 90 days after expiration upon payment of a late fee in addition to the renewal fee.

### **4. License Reinstatement**

- A. More than 90 Days but Not More than Two Years. An individual who fails to renew a lift mechanic's license for more than 90 days but not more than two years from the date of expiration, may reinstate the license without taking the examination required by section 2, paragraph B, by filing a new application for renewal and by filing and paying the application fee, license fee, and penalty as set forth in the Office of Licensing and Registration Rules Chapter 10, Establishment of License Fees, Section 4.
- B. More than Two Years. An individual who fails to renew a lift mechanic's license for more than two years from the date of expiration must obtain a new license by satisfying the requirements of Title 32, Chapter 133, and of sections 1 and 2 of this Chapter.

### **5. Unsafe Conditions**

If a licensed lift mechanic observes an unsafe condition in the course of installing, servicing, testing or maintaining a lift, the lift mechanic shall immediately report the unsafe condition to the Chief Inspector in accordance with the procedure for reporting accidents specified in Chapter 21.

### **6. Independent Contractor**

In performing all duties and tasks relating to lifts, licensed lift mechanics are deemed to be acting as independent contractors and not as officers, employees, or agents of the State of Maine. The State assumes no liability for the actions or omissions of licensed lift mechanics.

AUTHORITY: 32 M.R.S.A. §§ 15206, 15213-15216, 15216-C  
EFFECTIVE DATE: January 1, 2003

**02 DEPARTMENT OF PROFESSIONAL AND FINANCIAL REGULATION**

**386 BOARD OF ELEVATOR AND TRAMWAY SAFETY**

**Chapter 41 – Elevator Contractors**

Summary: 32 M.R.S.A. § 15208-A requires that those engaged in the installation, sale, service, maintenance or inspection of elevators in Maine register with the Board annually. This Chapter establishes additional requirements relating to the registration of elevator contractors.

**1. Initial Registration**

An elevator contractor shall register with the Board in accordance with 32 M.R.S.A. § 15208-A. The registration must be on forms provided by the Board and must be accompanied by the fee for registration established by the Director.

**2. Renewal of Registration**

A. Date of Expiration. Initial and annual registrations for all elevator contractors expire on August 31.

B. Renewal of Registration. To renew its registration, an elevator company must comply with 32 M.R.S.A. § 15208-A and this Chapter. The annual fee for registration must accompany the registration form. A registration may be renewed up to 90 days after expiration upon payment of a late fee in addition to the renewal fee.

**3. Unsafe Conditions**

If an elevator contractor, or the inspector, mechanic or helper of an elevator contractor, observes an unsafe condition in the course of installing, servicing, maintaining, testing or inspecting an elevator, the elevator contractor, inspector, mechanic or helper shall immediately notify the Chief Inspector in accordance with the procedure for reporting accidents specified in Chapter 21.

**4. Change in Information**

An elevator contractor shall notify the Board in writing, including by electronic mail, of any change in the information provided to the Board at the time of initial or annual registration.

**5. Independent Contractor**

In performing all duties and tasks relating to elevators, elevator contractors and their inspectors, mechanics and helpers are deemed to be acting as independent contractors and not as officers, employees, or agents of the State of Maine. The State assumes no liability for the actions or omissions of elevator contractors, or their inspectors, mechanics, or helpers.

AUTHORITY: 32 M.R.S.A. §§ 15206, 15208-A  
EFFECTIVE DATE: January 1, 2003

**02 DEPARTMENT OF PROFESSIONAL AND FINANCIAL REGULATION**

**041 OFFICE OF LICENSING AND REGISTRATION**

**Chapter 10: ESTABLISHMENT OF LICENSE FEES**

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

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**1. Definitions**

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

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

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

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

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

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

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

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

**4. Refunds**

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

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

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

**16. Board of Elevator and Tramway Safety**

Elevator Mechanic	1 yr	\$50
Lift Mechanic	1 yr	\$50
Elevator Inspector	1 yr	\$50
Tramway Inspector	1 yr	\$50
Wire Rope Inspector	1 yr	\$50
Elevator Contractor	1 yr	\$50
Application	NA	\$25
Examination	NA	\$100
Late renewal:		
More than 90 days	NA	\$50
Certificate of Inspection	1 yr	\$70
Late Inspection Certificate Fee	NA	\$50

**ELEVATOR AND TRAMWAY INSPECTION FEES**

1. VARIANCE AND PLAN REVIEW
  - 1.1 Petition for a variance..... \$100.00
  - 1.2 Plan Reviews is \$5.00 per \$1000.00 of valuation of the installation as covered by the blueprints. The minimum fee is \$35.00 and the maximum fee is \$100.00.
2. INSPECTION - ELEVATOR (For Inspection by a State Inspector)
  - 2.1 Initial Inspection..... \$250.00 plus travel expenses
  - 2.2 Annual Inspection .....\$100.00 plus \$10.00 per landing
  - 2.3 Follow-up inspection .....\$100.00 plus \$10.00 per landing



- 3. INSPECTION - TRAMWAY (For Inspection by a State Inspector)
  - 3.1 Initial Inspection..... \$250.00 plus travel expenses
  - 3.2 Annual Inspection..... \$200.00
  - 3.3 Annual Wire Rope ...\$30.00 per each 500 feet of length, sheave to sheave
  - 3.4 Follow-up Inspection..... \$100.00 plus expenses

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

EFFECTIVE DATE: November 6, 2007

Chapter 11: LATE RENEWALS

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

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1. Applicability

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

2. Late Renewal Within 90 Days of Expiration

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

3. Late Renewal Beyond 90 Days of Expiration

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

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

4. Notice

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

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

EFFECTIVE DATE: September 9, 2001





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Office of Licensing and Registration  
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