

Chapter 350: LICENSING – SCOPE OF PRACTICE, OBLIGATIONS OF LICENSEES, PROHIBITED PRACTICES

SUMMARY: This chapter describes the scope of practice applicable to the different licenses, obligations of licensees, and prohibited practices.

[**NOTE:** The lists of prohibited practices and obligations of licensees contained in this chapter are not exclusive. See also the *Manufactured Housing Act*, 10 MRSA §9001 *et seq.*, the *Manufactured Housing Warranties law*, 10 MRSA §1401 *et seq.* and the other rules of the board.]

1. Scope of Practice

This section describes the scope of practice applicable to the different licenses issued by the board. No licensee may practice outside the scope of practice applicable to the license or licenses held by the licensee.

A. Dealers—

Dealers are authorized to—

1. Purchase, sell, offer to sell, broker and distribute manufactured housing;
2. Install and service manufactured housing; and
3. Negotiate or act as an agent for the purchase, sale or distribution of manufactured housing.

B. Developer Dealers—

Developer dealers are authorized to—

1. Purchase, sell and offer to sell State-certified modular homes from a licensed manufacturer or dealer for placement on property owned by the developer dealer; and
2. Service (but not install) State-certified modular homes on property owned by the developer dealer under the direction of the manufacturer or dealer from whom the home was purchased.

C. **Installers—**

Installers are authorized to install and service State-certified modular homes.

D. **Manufacturers**

Manufacturers are authorized to—

1. Produce manufactured housing for sale to a licensed dealer or developer dealer; and
2. Install and service manufactured housing produced by that manufacturer.

E. **Mechanics**

Mechanics are authorized to install and service HUD-code and pre-HUD-code homes.

2. **Obligations of Licensees**

A. **Code Compliance; Journeyman Quality Workmanship**

All work performed by manufacturers, dealers, developer dealers, installers, mechanics and their employees in the manufacture, installation and service of manufactured housing shall conform to all codes and standards of the board and be of journeyman quality workmanship or better. All licensees are responsible for proper supervision of their employees.

B. **Contractor Hired by Licensee**

A licensee who contracts for the installation or servicing of manufactured housing manufactured, sold, distributed or brokered by the licensee must ensure that the installation, service or work performed by the contractor conforms to all codes and standards of the board and is of journeyman quality workmanship or better.

C. **Documentation at Work Site**

1. The dealer, or dealer and mechanic of a HUD-code home:
 - (a) Must ensure that the manufacturer's installation instructions are on site at time of installation, and
 - (b) Must leave the instructions with the home upon completion of installation.
2. The dealer, developer dealer and installer of a State-certified modular home, or a manufacturer installing a State-certified modular home:
 - (a) Must ensure that the manufacturer's installation instructions and a copy of the plans of the home are on site at time of installation; and

- (b) Must leave the instructions and plans with the home upon completion of installation.

D. Provision of Service Records

A licensee who services a home shall leave the name of the person providing service and documentation of the work performed with the owner at the time service is provided, or shall mail the information to the owner within 10 days after service is provided.

E. Retention of Records

Licensees shall retain all records relating to the manufacture, sale, brokering, distribution, installation and service of manufactured housing, and all warranty records, for a period of 4 years. Records shall be retained in a manner amenable to inspection and copying by the board.

F. Statutory Warranty Disclosure

The dealer shall disclose the terms of the statutory warranty contained in 10 M.R.S. §1404, describe the role of the Manufactured Housing Board and provide staff contact information, to the buyer at the time of sale. The statutory warranty disclosure form to be used is attached as “Appendix A.”

G. Installation Warranty Disclosure

The installer or the installer and the dealer, when the dealer is responsible for the installation, shall disclose the terms of the installation warranty contained in 10 M.R.S. §1404-A, describe the role of the Manufactured Housing Board and provide staff contact information, to the buyer at the time of sale. The installation warranty disclosure form to be used is attached as “Appendix B.”

3. Prohibited Practices

A. Fraud or Deceit

No licensee may engage in the practice of fraud or deceit in connection with the manufacture, sale, offering for sale, brokering, distribution, installation or service of manufactured housing.

B. Incompetence

- (1) No licensee may engage in conduct that evidences a lack of ability or fitness to discharge the duty owed by the licensee.
- (2) No licensee may engage in conduct that evidences a lack of knowledge or inability to apply principles or skills to carry out the practice for which the license was issued.

C. Lack of Trustworthiness or Financial Responsibility

No licensee may engage in conduct that demonstrates a lack of trustworthiness or financial responsibility.

D. Failure to Maintain Good Business Reputation

No licensee may fail to maintain a good business reputation.

E. Prohibited Contracting for Installation or Service

No licensee may contract with an installer or mechanic to install or service a home unless the installer or mechanic is licensed by the board and the contracted work is within the scope of the license.

F. Recommendation of Unlicensed Installer or Mechanic Prohibited

No licensee may recommend an installer or mechanic to a purchaser for the installation or service of manufactured housing unless the installer or mechanic is a licensee of the board.

G. Prohibited Contract for Trade Services by Unlicensed Person

No licensee may contract for electrical, plumbing oil burner or propane work in connection with the installation or servicing of a home unless the contractor is properly licensed to perform the work by the appropriate licensing board within the Department of Professional and Financial Regulation, Office of Licensing and Registration.

H. Recommendation of Unlicensed Tradesperson Prohibited

No licensee may recommend an electrician, plumber, oil burner technician or propane/natural gas technician to a purchaser in connection with the installation or servicing of a home unless the electrician, plumber, oil burner technician or propane/natural gas technician is properly licensed to perform the work by the appropriate licensing board within the Department of Professional and Financial Regulation, Office of Licensing and Registration.

I. Acceptance of Certain HUD-Code Homes Prohibited

No dealer may accept from a manufacturer a new HUD-code home that does not display the HUD label and a State of Maine Manufacturer Warranty Seal.

J. Acceptance of Certain State-Certified Modular Homes Prohibited

No dealer or developer dealer may accept from a manufacturer a new State-certified modular home that does not display a State of Maine Manufactured Housing Board Seal of Approval Certification of Compliance as a State-certified modular home and a State of Maine Manufacturer Warranty Seal.

K. Sale or Delivery of Certain HUD-Code Homes Prohibited

No manufacturer may sell or deliver into the State of Maine a new HUD code home that does not display the HUD Label label and a State of Maine Manufacturer Warranty Seal.

L. Sale or Delivery of Certain State-Certified Modular Homes Prohibited

No manufacturer may sell or deliver into the State of Maine a new State-certified modular home that does not display a State of Maine Manufactured Housing Board Seal of Approval Certification of Compliance as a State-certified modular home and a State of Maine Manufacturer Warranty Seal.

STATUTORY AUTHORITY: 10 M.R.S.A. §§ 9005-A, 9021

EFFECTIVE DATE:

Appendix A to Chapter 350

Manufactured Housing Board
Statutory Warranty
10 M.R.S. §1404

A statutory warranty is hereby established under which both the manufacturer and the dealer certify that to the best of their knowledge, the new manufactured home is free from any substantial defects in the approved building systems, materials and workmanship. The dealer shall deliver the written warranty to the buyer at the time of sale, and the warranty must contain the following terms:

1. **Defects:** That the manufactured home is free from any substantial defects in materials or workmanship.
2. **Corrective Action:** That the manufacturer or dealer or both shall take appropriate corrective action at the site of the manufactured home in instances of substantial defects in materials or workmanship, which become evident within one year from the date of delivery of the manufactured home to the consumer, provided the consumer or the consumer’s transferee gives written notice of such defects to the manufacturer or dealer at the manufacturer’s or dealer’s business address not later than one year and ten days after date of delivery.
3. **Liability:** That the manufacturer and dealer are jointly and severally liable to the consumer for the fulfillment of the terms of warranty, and the consumer may notify either one or both of the need for appropriate corrective action in instances of substantial defects in the approved building systems, materials or workmanship.
4. **Name, Address and Phone Number of Manufacturer:** That the name, address and phone number of the manufacturer and the dealer where the consumer must mail or deliver written notice of defects to either the dealer or the manufacturer, or both, shall be set forth in the document.
5. **Responsibility:** That, while the manufacturers of any appliances may also issue their own express warranties, the primary responsibility for appropriate corrective action under the warranty rests with the dealer and manufacturer, and the consumer should report all complaints to the dealer and manufacturer initially.
6. **Warranty Supplemental:** That this statutory warranty is in addition to any express warranty provided by the manufacturer or dealer and any warranty created by state or federal law, including the implied warranties of merchantability and fitness for a specific purpose. The Manufactured Housing Board, in consultation with the Department of the Attorney General, shall prepare a written warranty form that contains the terms of subsections 1 to 5 and shall ensure that this warranty form is distributed to all dealers and manufacturers doing business in this State.

The Manufactured Housing Board’s responsibilities include the enforcement of M.R.S. Title 10, Chapter 951: Manufactured Housing Act, the administration and enforcement of rules, and the investigations of complaints.

If, after contacting both dealer and manufacturer concerning potential defects in your home, these defects remain unresolved, you may contact the Department of Professional and Financial Regulation, Manufactured Housing Board, 35 State House Station, Augusta, ME 04333, Telephone (207) 624-8612.

I have read this document and understand my rights established in 10 M.R.S. §1404 – Statutory Warranty.

Homeowner _____ Date _____ Homeowner _____ Date _____

Appendix B to Chapter 350

Manufactured Housing Board
Installation Warranty
10 M.R.S. §1404-A

The installer or the installer and the dealer, when the dealer is responsible for the installation, shall provide a written warranty with each new manufactured housing unit installed for a buyer. The installer shall deliver the written warranty to the buyer at the time of the installation. The warranty must contain the following:

1. **Approved Building Systems, Materials and Workmanship:** That the installation is free from any substantial defects in the approved building systems, materials or workmanship.
2. **Corrective Action:** That the installer or the installer and the dealer, when the dealer is responsible for the installation, shall take appropriate corrective action at the site of the manufactured housing in instances of substantial defects in the approved building systems, materials or workmanship that become evident within one year from the date of the installation of the manufactured housing if the buyer or the buyer's transferee gives written notice of the defects to the installer or the installer and the dealer, when the dealer is responsible for the installation, at the installer's or the installer's and the dealer's business addresses no later than one year and ten days after the date of installation.
3. **Liability:** That the installer or the installer and the dealer, when the dealer is responsible for the installation, are liable to the buyer for the fulfillment of the terms of the warranty.
4. **Name, Address and Phone Number of Installer:** The name, address and phone number of the installer or the installer and the dealer, when the dealer is responsible for the installation, to whom written notice of defects must be mailed or delivered by the buyer.

The Manufactured Housing Board's responsibilities include the enforcement of M.R.S. Title 10, Chapter 951: Manufactured Housing Act, the administration and enforcement of rules, and the investigations of complaints.

If, after contacting both installer and dealer concerning potential defects in your home these defects remain unresolved, you may contact the Department of Professional and Financial Regulation, Manufactured Housing Board, 35 State House Station, Augusta, ME 04333, Telephone (207) 624-8612.

I have read this document and understand my rights established in 10 M.R.S. §1404-A – Installation Warranty.

Homeowner

Date

Homeowner

Date