

MAINE STATE LEGISLATURE

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130th MAINE LEGISLATURE

FIRST REGULAR SESSION-2021

Legislative Document

No. 26

S.P. 34

In Senate, January 13, 2021

An Act To Allow a Dentist To Administer Botulinum Toxin and Dermal Fillers

(EMERGENCY)

Submitted by the Department of Professional and Financial Regulation pursuant to Joint Rule 204.

Received by the Secretary of the Senate on January 11, 2021. Referred to the Committee on Health Coverage, Insurance and Financial Services pursuant to Joint Rule 308.2 and ordered printed.

A handwritten signature in black ink, appearing to read 'D M Grant'.

DAREK M. GRANT
Secretary of the Senate

Presented by Senator BRENNER of Cumberland.

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

3 **Whereas,** the sole purpose of the Board of Dental Practice is to protect the public
4 health and welfare by ensuring that the public is served by competent and honest
5 practitioners and by establishing minimum standards of proficiency; and

6 **Whereas,** former board rule Chapter 9: Complaints/Investigations/Unprofessional
7 Conduct, Section II, paragraph U, which was repealed effective April 5, 2020, contained
8 language restricting a dentist's scope of practice to administer botulinum toxins and dermal
9 fillers to dental procedures; and

10 **Whereas,** substantive policy decisions such as expanding or restricting scopes of
11 practice are appropriate for the legislative process, not an administrative rule-making
12 process; and

13 **Whereas,** immediate enactment of this legislation is necessary to continue protecting
14 the public by ensuring that authorization for a dentist to administer botulinum toxin and
15 dermal fillers to a patient as part of a dental treatment plan is continued as part of a dentist's
16 scope of practice; and

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

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

22 **Sec. 1. 32 MRSA §18325, sub-§1, ¶O,** as amended by PL 2015, c. 488, §33, is
23 further amended to read:

24 O. A violation of this chapter or a rule adopted by the board; ~~and~~

25 **Sec. 2. 32 MRSA §18325, sub-§1, ¶P,** as enacted by PL 2015, c. 488, §34, is
26 amended to read:

27 P. Failure to comply with the requirements of Title 22, section 7253-; and

28 **Sec. 3. 32 MRSA §18325, sub-§1, ¶Q** is enacted to read:

29 Q. Administering botulinum toxins or dermal fillers to a patient when that
30 administration is not supported by a diagnosed dental condition or is not part of a
31 patient's dental treatment plan.

32 **Sec. 4. 32 MRSA §18371, sub-§1, ¶M,** as enacted by PL 2015, c. 429, §21, is
33 amended to read:

34 M. Prescribe drugs or medicine and administer local anesthesia, analgesia including
35 nitrous oxide and oxygen inhalation and, with the appropriate permit issued by the
36 board, administer sedation and general anesthesia necessary for proper dental
37 treatment; ~~and~~

38 **Sec. 5. 32 MRSA §18371, sub-§1, ¶N,** as enacted by PL 2015, c. 429, §21, is
39 amended to read:

1 N. Take case histories and perform physical examinations to the extent the activities
2 are necessary in the exercise of due care in conjunction with the provision of dental
3 treatment or the administration of anesthesia. A dentist is not permitted to perform
4 physical examinations within a hospital licensed by the Department of Health and
5 Human Services unless this activity is permitted by the hospital.; and

6 **Sec. 6. 32 MRSA §18371, sub-§1, ¶O** is enacted to read:

7 O. Administer botulinum toxins or dermal fillers to a patient with a diagnosed dental
8 condition or when that administration is identified as part of a patient's dental treatment
9 plan.

10 **Emergency clause.** In view of the emergency cited in the preamble, this legislation
11 takes effect when approved.

12 SUMMARY

13 This bill authorizes within a dentist's scope of practice the use of botulinum toxins or
14 dermal fillers when supported by a patient's diagnosed dental condition or as a part of a
15 patient's dental treatment plan. It also adds additional grounds the Board of Dental Practice
16 may consider when taking disciplinary action against a dentist to include administering
17 botulinum toxins or dermal fillers to a patient for a nondental condition or treatment.

18 The bill places into statute the limitations on a dentist's administering botulinum toxins
19 or dermal fillers that were in former Board of Dental Practice rule Chapter 9:
20 Complaints/Investigations/Unprofessional Conduct, which was repealed and replaced on
21 April 5, 2020.