

MAINE STATE LEGISLATURE

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N I N E T Y - F I F T H L E G I S L A T U R E

Legislative Document

No. 1144

S. P. 481

In Senate, March 7, 1951.

Referred to the Committee on Public Health, sent down for concurrence and ordered printed.

CHESTER T. WINSLOW, Secretary

Presented by Senator Savage of Somerset.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
FIFTY-ONE

AN ACT Relating to Registration of Dentists and Dental Hygienists.

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

Sec. 1. R. S., c. 66, § 1, amended. Section 1 of chapter 66 of the revised statutes is hereby amended by inserting after the 3rd sentence 2 new sentences to read as follows:

'The present members of the board now in existence shall hold office for the residue of the respective terms for which they have been appointed and thereafter until their successors are appointed. No person shall be eligible for appointment to the board who has been convicted of a violation of any of the provisions of this or any other prior dental practice act or who has been convicted of a felony.'

Sec. 2. R. S., c. 66, § 2, amended. The 1st 2 sentences of section 2 of chapter 66 of the revised statutes, as amended by section 1 of chapter 347 of the public laws of 1949, are hereby repealed and the following enacted in place thereof:

'The board shall, at its annual meeting, elect from its members a president, vice-president and a secretary-treasurer. Three members shall constitute a quorum. The board shall have a common seal. The board shall hold 1

regular meeting each year at a time and place to be fixed by the board, and special meetings at such other times and places as may be necessary.'

Sec. 3. R. S., c. 66, § 2, amended. The 1st sentence of the 2nd paragraph of section 2 of chapter 66 of the revised statutes is hereby amended to read as follows:

'The secretary ~~of the board shall be the treasurer thereof and~~ shall receive all fees, charges and assessments payable to the board and account for and pay over the same according to law.'

Sec. 4. R. S., c. 66, § 5, amended. The 3rd, 4th and 5th sentences of section 5 of chapter 66 of the revised statutes, as enacted by section 2 of chapter 302 of the public laws of 1945, are hereby amended to read as follows:

'Said certificate shall be considered a license to practice dentistry in this state, except that it shall be unlawful for any person to practice dentistry in this state in any year after the year in which said certificate is issued to him unless he shall pay to the treasurer of the state board of dental examiners on or before January 1st of said year a fee of ~~\$2~~ \$4 for which he shall receive a registration card, which card shall be placed beside or attached to the certificate above mentioned. But practitioners who shall not have paid as above provided shall be reinstated and licensed for the balance of the current year upon payment of a fee of ~~\$2~~ \$4 if paid before March 1, and a fee of \$12 if paid subsequent thereto. New applicants having paid the examination fee shall not be subject to the ~~\$2~~ \$4 annual license fee for the calendar year in which they were licensed.'

Sec. 5. R. S., c. 66, § 6, amended. Section 6 of chapter 66 of the revised statutes, as amended, is hereby further amended to read as follows:

'Sec. 6. Certificates may be issued to practitioners from other states; fee; reciprocity. The board is hereby authorized, at its discretion, without the examination as hereinbefore provided, to issue its certificate to any applicant therefor who shall furnish proof, satisfactory to the board, that he has been duly licensed to practice dentistry in another state after full compliance with the requirements of its dental laws. Provided, however, that if licensed to practice dentistry in said other state after the 1st day of January, 1913, his professional education shall not be less than is required in this state, and provided that such applicant shall have been at least 5 years in actual practice in the state in which said license was granted. **No license shall be issued under the provisions of this section unless the state, territory or district from which the applicant comes shall accord equal rights to**

dentists of Maine holding a license from the Maine dental board. Provided further, that the board may, at its discretion, recognize a certificate granted by the national board of dental examiners in lieu of, or subject to, such examination as may be required. Every certificate so given shall state upon its face the grounds upon which it is granted, and the applicant may be required to furnish his proof upon affidavit. The fee for such certificate shall be ~~\$50~~ \$25.'

Sec. 6. R. S., c. 66, § 10, amended. Section 10 of chapter 66 of the revised statutes is hereby amended by inserting before the last sentence 2 new sentences to read as follows:

'The board may suspend or revoke a dental license now in force or that shall be hereafter given for dishonorable conduct on the part of any licensee under this chapter, whether such conduct is similar or dissimilar to any acts herein expressly named, but which is detrimental to the public health, safety or welfare. The board may by rules define dishonorable conduct.'

Sec. 7. R. S., c. 66, § 14, amended. Section 14 of chapter 66 of the revised statutes is hereby amended to read as follows:

'**Sec. 14. Affiliation with American association of dental examiners.** The board may affiliate with the ~~national~~ American association of dental examiners, as an active member, and pay regular annual dues to said association and may send ~~a delegate~~ **1 or more delegates** to the meetings of the said national association of dental examiners; such ~~delegate~~ **delegates** shall receive the compensation provided for in section 1.'

Sec. 8. R. S., c. 66, § 15, repealed and replaced. Section 15 of chapter 66 of the revised statutes is hereby repealed and the following enacted in place thereof:

'**Sec. 15. Definitions; persons excepted.**

I. Any person shall be deemed to be practicing dentistry who performs, or attempts or professes to perform, any dental operation or oral surgery or dental service of any kind, gratuitously or for a salary, fee, money, or other remuneration paid, or to be paid directly or indirectly, to himself or to any other person or agency who is a proprietor of a place where dental operations, oral surgery or dental services are performed; or who directly or indirectly, by any means or method, takes impression of the human tooth, teeth, jaws or performs any phase of any operation incident to the replacement of a part of a tooth; or supplies artificial substitutes for the natural teeth, or who furnishes, supplies, constructs, re-

produces or repairs any prosthetic denture, bridge, appliance or any other structure to be worn in the human mouth, except on the written prescription of a duly licensed and registered dentist; or who places such appliance or structure in the human mouth, or adjusts or attempts or professes to adjust the same, or delivers the same to any person other than the dentist upon whose prescription the work was performed; or who professes to the public by any method to furnish, supply, construct, reproduce or repair any prosthetic denture, bridge, appliance or other structure to be worn in the human mouth, or who diagnoses, or professes to diagnose, prescribes for or professes to prescribe for, treats or professes to treat, disease, pain, deformity, deficiency, injury or physical condition of the human teeth or jaws or adjacent structure, or who extracts or attempts to extract, human teeth, or corrects or attempts to correct, malformations of teeth or of the jaws; or who repairs or fills cavities in the human teeth; or who diagnoses, makes and adjusts appliances to artificial casts or malposed teeth for treatment of the malposed teeth in the human mouth, with or without instruction; or who uses a roentgen or x-ray machine for the purpose of taking dental x-rays or roentgenograms, or who gives, or professes to give, interpretations or readings of dental x-rays or roentgenograms, or who gives, or professes to give, interpretations or readings of dental x-rays or roentgenograms; or who administers an anaesthetic of any nature in connection with a dental operation, or who uses the words dentist dental surgeon, oral surgeon or the letters D.D.S., D.M.D., or any other words, letters, title or descriptive matter which in any way represents him as being able to diagnose, treat, prescribe or operate for any disease, pain, deformity, deficiency, injury or physical condition of the teeth or jaws or adjacent structures; or who states, or professes, or permits to be stated or professed by any means or method whatsoever that he or she can perform or will attempt to perform dental operations or render a diagnosis connected therewith.

II. Nothing in this chapter shall apply to the following practices, acts and operations:

A. The practice of his profession by a physician or surgeon licensed as such under the laws of this state, unless he practices dentistry as a specialty;

B. The giving by a qualified anaesthetist or registered nurse of an anaesthetic for a dental operation under the direct supervision of a licensed dentist or physician;

C. The practice of dentistry in the discharge of their official duties by graduate dentists or dental surgeons in the United States army, navy, public health service, coast guard or veterans' bureau;

D. The practice of dentistry by a licensed dentist of other states or countries at meetings of the Maine state dental association or components thereof or other like dental organizations approved by the board, while appearing as clinicians;

E. The filling of prescriptions of a licensed and registered dentist as hereinafter provided by any person or persons, association, corporation or other entity, for the construction, reproduction or repair of prosthetic dentures, bridges, plates or appliances to be used or worn as substitutes for natural teeth, provided that such person or persons, association, corporation or other entity shall not solicit nor advertise, directly or indirectly, by mail, card, newspaper, pamphlet, radio or otherwise, to the general public to construct, reproduce or repair prosthetic dentures, bridges, plates or other appliances to be used or worn as substitutes for natural teeth;

F. The use of roentgen or x-ray machines or other rays for making radiograms as or similar records of dental or oral tissue under the supervision of a licensed dentist or physician; provided, however, that such service shall not be advertised by any name whatever as an aid or inducement to secure dental patronage, and no person shall advertise that he has, leases, owns or operates a roentgen or x-ray machine for the purpose of making dental radiograms of the human teeth or tissues or the oral cavity or administering treatment thereto for any disease thereof.

III. The term proprietor, as used in this chapter, shall be deemed to include any person who:

A. Employs dentists or dental hygienists in the operation of a dental office; or

B. Places in possession of a dentist or dental hygienists or other agent such dental material or equipment as may be necessary for the management of a dental office on the basis of a lease or any other agreement for compensation for the use of such material, equipment or offices; or

C. Retains the ownership or control of dental equipment or material or office and makes the same available in any manner for the use by dentists or dental hygienists or other agents; provided, however, that

nothing in this subsection shall apply to bona fide sales of dental equipment or material secured by a chattel mortgage or retain title agreement. A licensee of dentistry who enters into any of the above described arrangements with an unlicensed proprietor may have his license certificate suspended or revoked by the board.

IV. No corporation shall practice, offer or undertake to practice or hold itself out as practicing dentistry. Every person practicing dentistry as an employee of another shall cause his name to be conspicuously displayed and kept in a conspicuous place at the entrance of the place where such practice is conducted; provided, however, that nothing herein contained shall prohibit a licensed dentist from practicing dentistry as the employee of another licensed dentist in this state, or from practicing dentistry as the employee of any state hospital or state institution where his only remuneration is from the state, or from any corporation which provides dental service for its employees at no profit to the corporation.'

Sec. 9. R. S., c. 66, § 17, repealed and replaced. Section 17 of chapter 66 of the revised statutes is hereby repealed and the following enacted in place thereof:

'Sec. 17. Members of board to investigate complaints. Each member of the board is constituted an agent, who shall investigate all complaints and all cases of non-compliance with or violation of the provisions of laws relating to dentists. The board is hereby authorized and directed to:

I. Employ such persons as it may deem necessary to assist it in carrying out its duties in the administration and enforcement of this chapter, and to provide offices, furniture, fixtures, supplies, printing or secretarial service, and may expend such funds as may be deemed necessary therefor, and may, with the approval of the attorney general, appoint an attorney to advise and assist in the carrying out and enforcing of the provisions of this chapter.

II. Investigate violations of the provisions of this chapter that may come to the knowledge of the board, and to institute or cause to be instituted before the board or in a proper court appropriate proceedings in connection therewith.

III. Adopt rules and regulations to carry out and make effective the provisions of this chapter and to modify or repeal said rules and regulations whenever in the discretion of the board it is deemed necessary.'

Sec. 10. R. S., c. 66, § 19, repealed and replaced. Section 19 of chapter

66 of the revised statutes is hereby repealed and the following enacted in place thereof:

‘Sec. 19. Penalty for other violation; duty of prosecuting officers. Whoever violates any provision of the 18 preceding sections, for the violation of which no penalty has been prescribed, shall be punished by a fine of not less than \$50, nor more than \$300, or by imprisonment for not less than 10 days, nor more than 30 days. A subsequent conviction shall be punished by the maximum penalties prescribed in this section. The several prosecuting officers of this state, on notice from any member of the board, shall institute prosecutions for offenses under the 18 preceding sections.

I. Dentists shall be permitted to insert a professional card in the local press, in programs and yearbooks. Institutional advertising by dental associations and groups is encouraged and approved. A dentist shall be permitted to use signs to advertise his name, the fact that he is engaged in the practice of dentistry, the location of his office and his office hours. These signs shall be limited to a total area of not more than 600 square inches and shall not contain letters more than 7 inches in height. Such signs may be placed only within the professional office or offices or upon the doors or windows thereof, or on the door or within or upon the building or premises in or on which such office or offices are located. Violation of any of these provisions of this section shall subject the dentist to the same liabilities and penalties as are provided in the preceding section hereof.

II. Any dentist who shall use the services of any person, which word when used in this section shall include all legal entities, not licensed to practice dentistry in this state, to construct, alter, repair or duplicate any denture, plate, partial plate, bridge, splint, orthodontic or prosthetic appliance, shall first furnish such unlicensed person with a written prescription, on forms prescribed by the board, which shall contain:

- A. The name and address of such unlicensed person;**
- B. The patient's name or number. In the event such number is used, the name of the patient shall be written upon the duplicate copy of such prescription retained by the dentist;**
- C. The date on which it was written;**
- D. A prescription of the work to be done, with diagrams if necessary;**
- E. A specification of the type and quality of materials to be used;**

F. The signature of the dentist and the number of his Maine license.

Such unlicensed person shall retain the original prescription and the dentist shall retain a duplicate copy thereof for inspection by the board, or its agent, for 2 years.'

Sec. 11. R. S., c. 66, § 20, repealed and replaced. Section 20 of chapter 66 of the revised statutes, as amended, is hereby repealed and the following enacted in place thereof:

'Sec. 20. Change of address. Every licensed dentist or dental hygienist, upon changing his place of business, shall within 30 days thereafter furnish the secretary-treasurer of the board with his new address. Failure to comply with the provisions of this section within the period specified shall be punishable by a fine of \$5.'

Sec. 12. R. S., c. 66, § 21, repealed and replaced. Section 21 of chapter 66 of the revised statutes, as amended, is hereby repealed and the following enacted in place thereof:

'Sec. 21. Injunction; procedure. When it appears to the board that any person is violating any of the provisions of this chapter, the board may in its own name bring an action in a court of competent jurisdiction for an injunction, and courts of this state may enjoin any person from violation of the provisions of this chapter, regardless of whether proceedings have been or may be instituted before the board or whether criminal proceedings have been or may be instituted.'

Sec. 13. R. S., c. 66, § 22, repealed and replaced. Section 22 of chapter 66 of the revised statutes, as amended, is hereby repealed and the following enacted in place thereof:

'Sec. 22. Power to issue subpoenas, etc. In all matters pending before it, the board shall have the power to issue subpoenas and compel the attendance of witnesses and the production of all necessary papers, books and records, documentary evidence and materials. Any person failing or refusing to appear or testify regarding any matter about which he may be lawfully questioned or to produce any papers, books, records, documentary evidence or materials in the matter to be heard, after having been required by order of the board or by a subpoena of the board to do so may, upon application to any municipal court of the state, be ordered to comply therewith, and upon failure to comply with the order of said municipal court, the court may compel obedience by attachment as for contempt as in case of disobedience of a similar order or subpoena issued by said court. Every

member of the board shall have authority to issue subpoenas, to administer oaths to witnesses or to take their affirmation. A subpoena may be served upon any person named therein, anywhere within the state with the same fees and mileage by any officer authorized to serve subpoenas in civil actions, in the same manner as is prescribed in the revised statutes for subpoenas issued out of the courts of this state.'

Sec. 14. R. S., c. 66, §§ 23, 24, 25, 26, 27 and 28, additional. Chapter 66 of the revised statutes is hereby amended by adding thereto 6 new sections, to be numbered 23, 24, 25, 26, 27 and 28, to read as follows :

'Sec. 23. Specialists; certificate of qualification, examination, fee. No dentist shall announce or hold himself out to the public as a specialist, or as being specially qualified in any particular branch of dentistry, or as giving special attention to any branch of dentistry, or limiting his practice to any branch of dentistry, unless he has complied with additional requirements established by the board, and has been issued a certificate of qualification authorizing him to do so. The board is hereby empowered to establish higher standards and additional requirements for any dentist who desires to announce or hold himself out to the public as being specially qualified in any particular branch of dentistry. The board is hereby empowered to give such examination as it may deem necessary to determine the qualifications of applicants, and may secure such assistance as the board may deem advisable in determining the qualifications of applicants. Upon application to the board of any licensed dentist in this state, the board may issue a certificate of qualification to such dentist authorizing the applicant to hold himself out, or to announce to the public, that he is specially qualified in, or limits his practice to, or gives special attention to any one of the recognized branches of dentistry. The application to the board shall be upon such form and contain such information as the board may require, and shall be accompanied by a fee, to be determined by the rules of the board, said fee of \$50 to assist in defraying the expenses in connection with the issuance of said certificates of qualifications. Any dentist holding a certificate of qualification under the provisions of this section may announce his limitation of practice by using such terms and in such manner as the board may approve, together with the name of such branch of dentistry for which he is authorized to hold himself out as having special qualifications. Any dentist who shall hold himself out, or announce in any manner, by the use of any terms signifying or indicating that he limits his practice, or is specially qualified in any particular branch of dentistry, or gives special attention to any particular branch of dentistry, or shall use equivalent words or phrases to announce the same, without

having obtained a certificate of qualification therefor, shall be guilty of a misdemeanor, and his license to practice dentistry shall be subject to suspension or revocation. Any announcement in the manner hereinabove indicated shall be prima facie evidence that such dentist is practicing in 1 branch of dentistry.

Sec. 24. Dental hygienists; use of former employers' lists, penalty. The board shall revoke or suspend the license of any registered and licensed dental hygienist who is found guilty of using or attempting to use in any manner whatsoever any prophylactic lists, call lists, records, reprints or copies of same, or information gathered therefrom, of the names or patients whom he might have served in the office of a prior employer, unless such names appear upon the bona fide call or prophylactic list of his present employer and were caused to so appear through the legitimate practice of dentistry as provided for in this chapter. The board shall also suspend or revoke the license of any licensed dentist who is found guilty of aiding or abetting or encouraging a dental hygienist employed by him to make use of a so-called prophylactic call list, or the calling by telephone or by use of written letters transmitted through the mails to solicit patronage from patients formerly served in the office of any dentist formerly employing such hygienist. No order of suspension or revocation provided in this section shall be made or entered except after hearing by the board as provided in this chapter, and such order shall be subject to appeal as provided by section 12.

Sec. 25. Permits for internship; revocation, suspension. The board shall have authority, upon presentation of satisfactory credentials and under such rules and regulations as the board may prescribe, to issue a permit to a graduate of an approved dental school or college who has not been licensed or registered to practice dentistry in this state, and who has not failed to pass an examination for license in this state, to serve as a dental interne for a period of not more than 1 year in state maintained and operated hospitals, or health and welfare services of the state of Maine that may offer such a post; provided that such hospitals maintain a recognized staff of one or more licensed dentists. Such interne shall function under the supervision and direction of the dental staff of such hospitals, his work to be limited to the patients confined to the hospital in which he serves, and he shall be without fee or compensation other than that received in salary or other remuneration from such hospitals. The board shall have the power to revoke the permit of any such interne at any time within the year for which it is issued upon the recommendation of such procedure by the executive officer of the resident dental staff of the hospital in which

he serves or for any other reason which the board may deem justifiable. Such limited permits granted for the purpose of internships shall automatically expire at the end of 1 year and shall not be subject to renewal.

Registration of Dental Hygienists

Sec. 26. Dental hygienists; powers, duties; license of registered dentist to be revoked for violation. Any registered or licensed dentist may employ women assistants who shall be known as dental hygienists. Such dental hygienists may operate x-ray machines for the purpose of dental diagnosis, and make oral examinations by mouth mirror and explorer for the detection of cavities, and remove lime deposits, accretions, and stains from the exposed surfaces of the teeth and directly beneath the free margin of the gum, and make local applications of medicaments to the surfaces of the teeth and gums, but shall not perform any other operation on the teeth or mouth or on any diseased tissues of the mouth. They may operate in the office of any registered or licensed dentist or in any public or private institution under the general supervision of a registered or licensed dentist. The board may revoke the license of any registered or licensed dentist who shall permit any dental hygienists operating under his supervision to perform any operation other than that permitted under the provisions of this section.

Sec. 27. Examination; qualifications; fees. No person shall enter practice as a dental hygienist in this state until she has passed an examination given her by the board, or a sub-committee of said board which it may appoint, under such rules and regulations as it may deem fit and proper to formulate. The fee for said examination shall be \$25 and any applicant failing to pass said examination shall be entitled to 1 additional examination without further cost. The fee for each re-examination after the first shall be \$5. The said board shall issue certificates of ability to practice as dental hygienists in this state to those who have passed said examination, which certificate shall be displayed in a conspicuous place in the room or rooms in which she practices; provided, however, that no person shall be entitled to such certificate unless she shall be 18 years of age, of good moral character, and shall have completed a 4 years' course in a standard high school or its equivalent, and unless she is a graduate of a reputable training school for dental hygienists. Said certificate shall be considered a license to practice as a dental hygienist in this state, except that it shall be unlawful for any person to practice as a dental hygienist in this state in any year after the year in which said certificate is issued to her unless she shall pay to the treasurer of the board on or before January 1st of said

year a fee of \$2, for which she shall receive a registration card, which card shall be placed beside or attached to the certificate above mentioned.

Sec. 28. Dental hygienists licensed in another state may receive certificate without examination; proof required; fee. The board may, at its discretion, without the examination as hereinabove provided, issue its certificate to any applicant therefor who shall furnish proof satisfactory to said board that she has been duly licensed to practice as a dental hygienist in another state after full compliance with the requirements of its dental laws; provided, however, that her professional education shall not be less than that required in this state.. Every certificate so given shall state upon its face the grounds upon which it is granted and the applicant may be required to furnish her proof upon affidavit. The fee for such certificate shall be \$25.'