

# MAINE STATE LEGISLATURE

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ONE HUNDRED AND THIRD LEGISLATURE

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Legislative Document

No. 1448

S. P. 551

In Senate, March 8, 1967

Referred to Committee on Legal Affairs. Sent down for concurrence and ordered printed.

JERROLD B. SPEERS, Secretary

Presented by Senator Lund of Kennebec.

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STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED  
SIXTY-SEVEN

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**AN ACT** Revising the Laws Relating to Dentists and Dental Hygienists.

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

**Sec. 1. R. S., T. 32, c. 14, additional.** Title 32 of the Revised Statutes is amended by adding a new chapter 14, as follows:

**CHAPTER 14**

**DENTISTS AND DENTAL HYGIENISTS**

**SUBCHAPTER I**

**GENERAL PROVISIONS**

§ 861. 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 this section within the period specified shall be punished by a fine of \$5.

§ 862. 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 this chapter, regardless of whether proceedings have been or may be instituted before the Administrative Hearing Commissioner or whether criminal proceedings have been or may be instituted.

**SUBCHAPTER II**  
**BOARD OF DENTAL EXAMINERS**

**§ 871. Membership; appointment; vacancies; removal; nominations; compensation**

The Board of Dental Examiners, as heretofore established and hereinafter in this chapter called the "board", shall consist of 5 members of the dental profession appointed by the Governor with the advice and consent of the Council. They shall be graduates of a reputable dental college and shall have been in the actual practice of dentistry in this State for at least 10 years immediately preceding the appointment. One member shall be appointed annually, as the terms of the present members expire, to hold office for 5 years from the 1st day of January and until his successor is 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. No person shall be eligible to appointment on said board who shall have served 10 years or more on a dental examining board in this State. All appointments to said board shall be made in the following manner: The Maine Dental Association may at its annual meeting each year nominate 6 members of said association who fulfill all the foregoing requirements, whose names shall be forthwith certified to the Governor by the president and secretary of said association, and if said list is so submitted in any year, the Governor shall, until the date of the next annual meeting of said association, appoint as dental examiner one of those men whose names appear on said list. Any vacancy in said board shall be filled by the appointment of a person qualified as aforesaid, to hold office during the unexpired term of the member whose place he fills. The Governor with the advice and consent of the Council may remove any member of said board on proven charges of inefficiency, incompetence, immorality or unprofessional conduct.

The members of the board, except the secretary, shall each receive as compensation for their services \$50 a day for the time actually spent and their necessary expenses incurred in the discharge of their duties, to be certified by the secretary of the board.

**§ 872. Elections; quorum; reports; records; treasurer; expenses**

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 one 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. The board shall at least annually give examinations for applicants to practice dentistry in the State of Maine at such time and place as may be designated by the board. They may make such rules, not contrary to law, as they may deem necessary for the performance of their duties and shall conduct theoretical and clinical examinations upon such subjects pertaining to dentistry as the board shall designate. They shall annually make a report of their proceedings to the Governor, and shall furnish to the Secretary of State a list of persons to whom certificates have been

granted during the year. A record of proceedings kept by the secretary of the board shall be open for public inspection at reasonable times.

The secretary-treasurer shall receive all fees, charges and assessments payable to the board and account for and pay over the same according to law. The secretary shall receive an annual salary to be fixed by the board not to exceed \$1,200, which shall be received by him in lieu of a per diem compensation. The secretary shall be paid his necessary expenses incurred in the discharge of his official duties, including clerical and stenographic assistance, printing and postage. Such salary and allowance for expenses shall be certified by the president of the board.

### § 873. Complaints

Each member of the board is constituted an agent, who shall have authority to investigate all complaints and all cases of noncompliance with or violation of the provisions of laws relating to dentists. The board is authorized to:

1. Employees; attorney. 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 this chapter.

2. Investigations. Investigate violations of this chapter that may come to the knowledge of the board, and to institute or cause to be instituted appropriate proceedings in connection therewith.

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

### § 874. Affiliation with American Association of Dental Examiners

The board may affiliate with the American Association of Dental Examiners as an active member and pay regular dues to said association and may send one or more delegates to the meetings of the said American Association of Dental Examiners. Such delegates shall receive compensation provided for in section 871.

## SUBCHAPTER III

### DENTISTS

### § 881. Definitions; persons excepted

1. Practicing dentistry. 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 impressions 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, reproduces 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 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.

2. Exemptions. 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; the removing of sutures, the dressing of wounds, the application of dressings and bandages and injection of drugs subcutaneously or intravenously by a registered nurse 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 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; and

F. The use of roentgen or x-ray machines or other rays for making radiograms or similar records of dental or oral tissue under the supervision of a licensed dentist or physician; 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.

3. Proprietor. 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 hygienist 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 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 these arrangements with an unlicensed proprietor may have his license certificate suspended or revoked.

4. Corporations; names. 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. This subsection shall not 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 employes at no profit to the corporation.

#### § 882. Qualifications

All persons applying for examination and a certificate to practice dentistry in this State shall be at least 21 years of age, of good moral character, citizens of

the United States and shall be graduates of and have a diploma from a reputable dental college, school or dental department of a reputable university approved by the board.

§ 883. Application for examination; subjects; reexamination

Not less than 10 days prior to the date upon which an examination is held, each applicant for certificate to practice dentistry shall file an application for examination and pay to the secretary of the board a fee of \$50 and present himself for examination at the first regular meeting of the board after such application is filed. Such fee may be refunded to the applicant by the board for good cause shown. The examination may be clinical or theoretical, or both. The theoretical examination may be written or oral, or both, at the option of said board, and may include such subjects as the board may deem appropriate. 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. The board shall require as part of the examination a clinical demonstration of the candidate's skill in dentistry. An applicant who fails to pass the first examination to the satisfaction of the board shall be entitled to one reexamination with a charge of \$25 and the fee for any subsequent examination shall be \$50.

§ 884. Certificate; fees; registration cards

The board shall issue under its seal, to all persons who shall successfully pass said examination, its certificate of ability to practice dentistry in this State, signed by its president and secretary. Whenever requested by a member or authorized agent of the board, a dentist shall exhibit his license. 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 board on or before January 1st of said year a fee of \$10 for which he shall receive a registration card, which card shall be placed beside or attached to the certificate. Practitioners who shall not have paid as provided shall be reinstated and licensed for the balance of the current year upon payment of a fee of \$20 if paid before March 1st. A license to practice is automatically suspended on March 1st for nonpayment of registration fee and may be reinstated on payment of fee of \$25. New applicants having paid the examination fee shall not be subject to the \$10 annual license fee for the calendar year in which they were licensed.

§ 885. Reciprocity with other states; fees

The board is authorized, at its discretion, without the examination as 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. If licensed to practice dentistry in said other state after the first day of January, 1913, his professional education shall not be less than is required in this State, and 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 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 Board of

Dental Examiners. Every license 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 license shall be \$50.

§ 886. Permits for internship; revocation; suspension

The board shall have the 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 intern for a period of one year, provided that such hospitals maintain a recognized staff of one or more licensed dentists. Such intern 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 shall receive no 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 intern 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 one year and may not be subject to renewal.

Special permits shall be issued by the State Board of Dental Examiners to dentists of good standing and morality practicing outside the State when the request for such dentists comes from some charitable or social organization within the State and when the intention of such charitable or social organization is to provide free dental care for the public when no resident dental service is available. Such permit shall be issued for one year and shall not be subject to renewal.

§ 887. Fee for duplicate certificate

An applicant for a duplicate certificate granted upon proof of loss of the original shall pay a fee of \$10.

§ 888. Lawful practitioners

Only those persons who were in the lawful practice of dentistry on the 13th day of March, 1913, and those who have received certificates, as provided for by law since such date, shall be deemed lawful practitioners of dentistry in this State.

§ 889. Drugs or medicines prescribed

A dentist or dental surgeon shall have the right to prescribe drugs or medicine, perform such surgical operations, administer general and local anaesthetics and use such appliances as may be necessary for proper dental treatment.

§ 890. Prescription required for dental laboratory

1. Prescription. 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.

#### § 891. Revocation of license

1. Causes. The Administrative Hearing Commissioner may revoke, suspend, or refuse to renew the license of any dentist for any of the following causes:

- A. Conviction of a felony or misdemeanor involving moral turpitude, in which case the record of conviction or a copy thereof, certified by the clerk of the court or by the judge in whose court the conviction is had, shall be conclusive evidence.
- B. Renting or lending to any person his license or diploma to be used as a license or diploma, or illegally or fraudulently obtaining a license from the board.
- C. Proof of incompetence or unskillfulness.
- D. Failure or refusal to comply with the lawful orders of the board.
- E. Addiction to a drug habit.
- F. Chronic alcoholism.
- G. Physical or mental disability, or other condition to the extent that continued practice would be dangerous to patients or to the public.
- H. Unprofessional or immoral conduct, which includes, but is not limited to, the following acts:

(1) Advertising for dental patronage by means of circulars, handbills, posters, cards, stationery, stereopticon slides, radio, newspapers, telephone directory, television, motion pictures or public address systems; making use of any advertising statements of a character tending to deceive or mislead the public; advertising professional superiority or the performance of professional service in a superior manner; advertising to use drugs, patents, nostrums or proprietary medicines; placing the name of his dental hygienist on his door, cards or letter heads; advertising prices for pro-

professional services; advertising credit or terms of credit; advertising by means of electric sign, illuminated sign, sign that sets forth more than the name, profession, title, such as D.M.D. or D.D.S., and office hours of the dentist; sign where lettering is more than 7 inches in height, or whose signs altogether total more than 600 square inches; use of signs located other than 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; advertising by means of a sign or display that contains or is a representation or reproduction of a tooth, bridgework or any portion of the human head; advertising free dental work or free examination; or advertising to guarantee any dental service or to perform any dental operation or act painlessly; or employing or making use of advertising solicitors or free publicity press agents.

(2) Using the telephone directory for more than 2 listings, one in the "white" and one in the "yellow" section; using other than regularly used small type, no large or bold-face type or multi-colored, or set in a border of any kind; using more than the name, title, address and telephone number in the yellow section; when practice is limited, using terms other than "Practice limited to (the one specialty)"; using or permitting the listing of his name or address under any separate limitation of practice or specialty heading.

(3) Obtaining any fee by fraud or misrepresentation; splitting fees; willfully violating the confidence of the dentist-patient relationship.

I. Permitting any dental hygienists operating under his supervision to perform any operation other than that permitted under section 895.

#### § 892. Unlawful practice

Whoever practices dentistry without obtaining the certificate and subsequently the registration card required by law, or whoever practices dentistry under a false or assumed name, or under the license or registration of another person of the same name, or under the name of a corporation, company, association, parlor or trade name, or whoever, being manager, proprietor, operator or conductor of a place for performing dental operations, employs a person who is not a lawful practitioner of dentistry of this State to do dental operations as defined in section 881, or permits such persons to practice dentistry under a false name, or assumes a title or appends or prefixes to his name the letters which falsely represent him as having a degree from a dental college, or who impersonates another at an examination held by the board or who knowingly makes a false application or false representation in connection with such examination shall be punished by a fine of not less than \$200 nor more than \$500, or by imprisonment for not more than 30 days, or by both. Each act constituting a violation of any of the provisions of this chapter shall be held to be a separate offense and on each day on which any such violation shall continue a separate offense within the meaning of this law shall be held to be committed. A subsequent conviction shall be punished by the maximum penalties prescribed in this section, and the offender be required to furnish a recognizance conditioned to refrain from further unlawful practice.

### § 893. Fraudulent sale or alteration of diplomas

Whoever sells or offers to sell a diploma conferring a dental degree or a certificate granted pursuant to the laws of this State, or who procures such certificate or diploma with intent that it shall be used as evidence of the right to practice dentistry by a person other than the one upon whom the diploma or certificate was conferred, or who with fraudulent intent alters such diploma or certificate, or uses or attempts to use the same when altered, or whoever attempts to bribe a member of the board by the offer or use of money or other pecuniary reward or by other undue influence shall be punished by a fine of not less than \$200 nor more than \$500, or by imprisonment for not less than 30 days nor more than 60 days, or by both. A subsequent conviction shall be punished by the maximum penalties prescribed in this section.

### § 894. Penalties

Whoever violates any provision of this chapter, for the violation of which no penalty has been prescribed, shall be punished by a fine of not less than \$50 nor more than \$500 or by imprisonment for not less than 10 days nor more than 30 days, or by both. 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 this chapter.

## SUBCHAPTER IV DENTAL HYGIENISTS

### § 895. Definition

Dental hygiene shall mean the treatment of human teeth by scaling, polishing, planing and removing therefrom calcareous deposits, and by removing accumulated accretion from directly beneath the free margins of the gums; the making of x-ray exposures of teeth and surrounding tissues; the clinical examination of the teeth and surrounding tissues for carious lesions, periodontal pockets and other abnormal condition; the obtaining and recording of basic medical and dental histories and information; the instruction of patients in proper tooth care; the application of fluorides or other substances beneficial in the control of caries; the application of desensitizing agents; the polishing and smoothing of rough edges of restorations, and the cementing of facings and pontics outside of a patient's mouth; provided that nothing in Maine Revised Statutes shall be so construed as to effect the practice of medicine or dentistry nor to prevent students of a dental college, university or school of dental hygiene from practicing dental hygiene under the supervision of their instructors; and, provided that nothing in Revised Statutes shall be construed to authorize any dental hygienist to perform any operation in a patient's mouth without general supervision of a dentist within a dentist's office, a public or private institution, or for the Department of Health and Welfare.

### § 896. Qualifications

Any person of good moral character over 19 years of age who is a citizen of the United States of America and has successfully completed 2 years of

training in a school of dental hygiene that is approved by the Board of Dental Examiners shall be eligible to take the examination for the practice of dental hygiene.

§ 897. Application and fee

Any eligible person desiring to practice dental hygiene shall make written application to the Board of Dental Examiners to take the examination. Such application shall be accompanied by an examination fee of \$25. Any applicant failing to pass said examination shall be entitled to one additional examination for which the fee will be \$10. The fee for each reexamination after the first shall be \$25. All examinations may be given by the full board or by a subcommittee of said board which it may appoint.

§ 898. Certificate; annual fee

The 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 exhibited whenever requested by a member or authorized agent of the board. Said certificate shall be considered a license to practice as a dental hygienist in this State for the year in which it is issued. Thereafter, and on or before January first of each year, said dental hygienist shall pay to the secretary of the board an annual registration fee of \$5. A registration card for that year will then be issued, which card is to be placed beside or attached to the certificate. Failure to be properly registered by January first of each year will result in automatic suspension of license to practice dental hygiene. Reinstatement may be made by payment of \$10 to the secretary of the board.

§ 899. Reciprocity

The board may at its discretion, without examination, issue its certificate to any applicant to practice dental hygiene who shall furnish proof satisfactory to said board that said dental hygienist has been duly licensed to practice in another state after full compliance with the requirements of its dental laws, provided that the professional education shall not be less than required in this State. The board may require letters of reference as to ability and moral character. Every certificate so given shall state upon its face that it was granted on the basis of reciprocity. The fee for such certificate shall be \$25.

§ 900. Use of former employers' lists; revocation or suspension of license

The Administrative Hearing Commissioner 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 of 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 Administrative Hearing Commissioner shall 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.**

**Sec. 2. R. S., T. 32, c. 15, repealed.** Chapter 15 of Title 32 of the Revised Statutes, as amended, is repealed.