

MAINE STATE LEGISLATURE

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FIRST REGULAR SESSION

ONE HUNDRED AND NINTH LEGISLATURE

Legislative Document

No. 1598

H. P. 1365

House of Representatives, May 4, 1979

The Committee on Business Legislation suggested and ordered printed.

Presented by Mr. Dudley of Enfield.

EDWIN H. PERT, Clerk

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-NINE

AN ACT to Provide for the Licensing of Denturists.

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

Sec. 1. 4 MRSA § 555, as last amended by PL 1973, c. 355, § 1, is further amended by adding before the last paragraph, the following new paragraph to read:

For recording license issued by the State Board of Dentistry, \$2;

Sec. 2. 32 MRSA § 1100-A, last sentence, as amended by PL 1977, c. 484, § 1, is further amended to read:

Dental auxiliaries shall include, but not be limited to, dental hygienists, dental assistants, dental laboratory technicians ~~and denturists~~.

Sec. 3. 32 MRSA c. 16, sub-c. VI, as amended, is repealed.

Sec. 4. 32 MRSA c. 85 is enacted to read:

CHAPTER 85

DENTURISTS

§ 8001. Purpose

It is the finding of the Legislature that while the practice of dentistry or dental prosthesis is not a form of treatment for health conditions, it does involve

intra-oral procedures in a person's mouth, and therefore it is declared to be in the public interest and for the protection of the public that this practice be regulated and that requirements be placed upon sanitary conditions and upon the professional and technical expertise of those engaging in the practice. To this end, it is the intent of the Legislature that the provisions of this chapter be liberally construed.

§ 8002. Applicability

1. Dentists exempt. No person licensed as a dentist, according to the law of this State, is required to comply with the provisions of this chapter in order to do anything he is otherwise authorized by law to do.

2. Provisions to be supplemental. All provisions of this chapter relating to the practice of dentistry shall be deemed supplementary to provisions of law dealing with dentists, dental hygienists and dental auxiliaries. No licensed dentist, when engaged in dentistry, nor any dental laboratory technician or dental laboratory, when providing services to a licensed dentist under section 8018 is considered to be engaged in the unauthorized practice of dentistry, notwithstanding any other provision of law.

3. Certain schools exempt. Any school or college conducting an education program for the training of denturists, and the instructors and bona fide students therein, are not considered to be engaged in the unauthorized practice of dentistry or dentistry if the education program has been licensed by the State Board of Dentistry. The board shall issue a denturist education license to any such school or college according to standards and rules formulated under section 8005, subsection 5. The license shall be reviewed annually and remain in force if not withdrawn for cause by the board.

§ 8003. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms shall have the following meanings.

1. Board. "Board" means the State Board of Dentistry.
2. Certification. "Certification" means the method by which the board may verify the technical competence of any dental laboratory technician who is engaged in the construction of removable prosthetic appliances and who seeks certification as provided in section 8016.
3. Dental laboratory technician. "Dental laboratory technician" means a person engaged in laboratory procedures in the construction of prosthetic appliances who is not a licensed dentist.
4. Denturist. "Denturist" means a person who is licensed under this chapter to practice dentistry.
5. Dentistry. "Dentistry" means:

A. The taking of oral impressions and oral bite registrations, the placement or setting of denture teeth or the designing of a denture and the placement or insertion of a denture tryin, any denture or any other intra-oral insertions, for the purpose of making, producing, altering, supplying, furnishing or repairing any prosthetic upper or lower removable denture, or both; or

B. The fabrication or making, producing, altering, supplying, furnishing or repairing of any prosthetic upper or lower removable denture configured or designed for use in the human oral cavity.

6. License. "License" means a license issued by the board under this chapter.

§ 8004. Composition of board; terms of office; removal

The board shall be composed of 5 members appointed by the Governor. The membership of the board shall at all times consist of 3 licensed denturists and one licensed dentist and one consumer from the public; except that, with respect to the initial appointments under this section, 3 persons trained or experienced and knowledgeable in the occupation and technology of dental prosthesis or dentistry shall be appointed in place of the licensed denturists.

The term of office of each member of the board shall be 3 years; except that, of the members first appointed, 3 shall be appointed for terms of one year each and 2 for terms of 2 years each. No board member shall be appointed to serve more than 2 consecutive terms. Any vacancy on the board shall be filled for the remainder of the unexpired term in the same manner as original appointments.

Each appointee to the board shall, before entering upon the discharge of his official duties, take the oath of office prescribed by the Constitution of Maine for all officers of this State.

The board shall organize by electing a chairman, a vice-chairman and a secretary-treasurer, who shall be elected annually from its members. The board shall meet at the calling of a quorum of the board members, at least 4 times annually. Three members of the board shall constitute a quorum for the transaction of all business. Members shall receive no salary, but shall be reimbursed for all expenses incurred in the performance of their duties.

The Governor may for due cause, remove any member from the board.

§ 8005. Powers and duties of the board

The board is authorized to:

1. Licenses, records. Issue licenses and record registrations in accordance with this chapter and adopt rules necessary to effect the provisions of this chapter;

2. **Examinations.** Conduct written and practical examinations to ascertain the qualifications and fitness of applicants for licensure as denturists and to prescribe rules for the examination of applicants;

3. **Hearings.** Conduct all hearings according to the Maine Administrative Procedure Act, Title 5, chapter 375, prior to revoking or suspending a license or registration or levying any administrative fine. The board shall review all evidence or facts that may be presented at the hearings;

4. **Subpoenas.** Issue subpoenas for any witness in connection with any matter within the jurisdiction of the board under this chapter. The subpoena may be signed by any member of the board; and

5. **Standards for education programs.** The board shall formulate standards and rules by which any dentist training or education program, public or private, shall be accredited and recognized by the board for purposes of this chapter, including those education programs and testing or examining bodies in other states and any extended education or postgraduate programs for denturists.

§ 8006. Application for registration and examination

Any person who seeks to practice dentistry in this State shall file an application for registration with the board. Unless the person is exempt from the examination pursuant to section 8009, he shall also file an application for examination accompanied by an examination fee of \$100. Every application for examination shall be filed with the board at least 60 days prior to an examination. All applications shall be on a form approved by the board and shall be reviewed by the board for its acceptance. No examination fee shall be refunded unless the application for examination is rejected, in which case 1/2 of the fee will be refunded.

§ 8007. Examination

The board shall conduct, at least twice each year, an examination of oral, written, practical and professional evaluations of dentistry, which examination shall be equivalent to the examination adopted and used by the National-Regional Board of Dentist Examiners. The board shall seek the assistance of the National-Regional Board of Dentist Examiners or any regional board of the national board in preparing or administering the examination.

§ 8008. Examination, eligibility, exemptions

Any person shall be eligible to take the examination for the purpose of becoming licensed as a dentist if he:

1. **Certified in another state.** Has been certified or licensed by another state, or jurisdiction thereof, as a dentist and has actively engaged in the practice of dentistry prior to application in this State;

2. **Completed training.** Has completed a 180 class hour training or education program designed for dentist training which has been accredited and recognized

by the board according to provisions in this chapter and presents proof of at least 3 years experience as a denturist technician in the arts of dental technology; or

3. **College program.** Has completed a 2-year college program for the training and education of denturists which has been recognized and accredited by the board according to this chapter.

§ 8009. Qualifications for licensing

The board shall issue a license to practice dentistry to any person who:

1. **18 and voter.** Is 18 years of age and legally qualified to vote in the State;
2. **Citizen and resident.** Is a citizen of the United States or has legally declared his intention of becoming a citizen and is a resident of this State;
3. **Examination.** Has qualified for and passed an examination conducted by the board, or has successfully completed the examination given by the National-Regional Board of Denturist Examiners, or any regional board thereof, or any state examination which has been recognized pursuant to section 8005, subsection 5; and
4. **Fee.** Has paid a license fee of \$100.

§ 8010. Recording and displaying of license

Each person granted a license to practice dentistry in this State shall record his license in the office of the clerk of the Superior Court of the county or counties in which he desires to practice dentistry before beginning practice as a denturist in the county or counties and shall, within 60 days of the date of the recording of the license or current license renewal, notify the board of the recording. Each denturist is required to conspicuously display his current license in his office, place of business or place of employment.

§ 8011. Replacement or additional licenses

Whenever a denturist's license is lost or destroyed or whenever an additional copy of the license is needed for display at an additional location of the denturist's business, the denturist may obtain a certified copy of the license from the board for a fee of \$20.

§ 8012. Change of address

When the office or place of business of any denturist practicing in this State is changed, the denturist shall notify the board within 30 days of the change by certified mail.

§ 8013. Practice outside place of business

Nothing in this chapter shall be construed to prohibit a licensed denturist from making a house call to the residence of a consumer who makes a request therefor and is unable to come to the business office of the denturist.

§ 8014. License

1. **Term.** Each license issued shall be effective for a period of 2 years from the date of issuance.

2. **Renewal fee.** Each license issued shall be subject to renewal thereafter by an application on a form prepared and furnished by the board. Each application for renewal of such license shall be accompanied by a renewal fee of \$100.

The board may require an applicant for renewal to complete a postgraduate or continued education program not to exceed 6 hours annually as a prerequisite to license renewal.

§ 8015. Suspension or revocation of license

1. **Grounds.** The board shall suspend or revoke the license of, or otherwise discipline, any dentist on any one of the following grounds:

A. That he is an habitual user of intoxicants or of any controlled substance or is afflicted with senility, psychiatric disorder or other disease considered dangerous to the public health which renders him unfit for the practice of dentistry;

B. That he is professionally incompetent in the judgment of the board, which determination shall be based upon and include professional misconduct or any departure from, or the failure to conform to, the minimum standards of acceptable and prevailing quality and practices of dentistry;

C. That he has committed fraud, deceit or misrepresentation in obtaining his license or registration or conducting his business, so as to bring discredit upon the dentistry profession;

D. That he has committed willful malpractice or negligence in the practice of dentistry or has failed to provide and maintain sanitary facilities and conditions in his place of business;

E. That he has employed or permitted an unlicensed dentist, unregistered dental laboratory technician or other person not authorized to practice dentistry under this chapter to perform any work in his place of business or under his supervision, which work constitutes the practice of dentistry; or

F. That he has been convicted of a crime punishable by a maximum term of imprisonment equal to or exceeding one year in connection with the practice of dentistry in this or any other state.

2. **Record to be kept.** A suspension or revocation of a license shall be noted in the records of the board. Written notice of the suspension or revocation of a license shall be mailed by the board to the licensee, and a certified copy thereof shall be mailed to the clerk of the Superior Court of each county in which the license of the dentist whose license is suspended or revoked is recorded.

§ 8016. Certification of dental laboratory technicians

1. **Registration.** The board shall register dental laboratory technicians engaged in the construction of prosthetic appliances who provide services to a licensed dentist, whether or not at the dentist's place of practice. The board shall also establish a procedure, as a means of identifying experience and expertise, whereby dental technicians who seek certification may be certified by the board.

2. **Records.** The board shall maintain a record of each registered and each certified dental laboratory technician, including his education, job training, experience and other information the board may deem relevant toward encouraging a system to improve the quality and education of dental laboratory technicians.

3. **Fee, renewal.** The board shall impose a fee of \$25 for initial certification or registration. Certification and registration shall be renewed every 2 years, on January 1st of the applicable year, upon application therefor, payment of a fee of \$25 and completion of any continued education required by the board.

4. **Advisory council.** The board may appoint a Certified Laboratory Technician Advisory Council composed of 8 certified dental laboratory technicians who shall serve terms of 2 years each and who shall geographically represent the State. The initial members of the council shall be dental laboratory technicians who are certified by another jurisdiction or by any recognized system or trade association. The members of the council shall assist the board with recommendations to improve and carry out the provisions of this section and shall serve without pay.

5. **Rules.** The board, with the assistance of the council, shall formulate a statement of purpose and adopt rules to carry out the provisions of this section.

§ 8017. Denturist training program

1. **University of Maine.** It is the further intent of the Legislature to see means established for the education and suitable training of denturists to be licensed under this chapter. To give effect to this intent, the University of Maine may establish an accredited denturist training program within the state university system to function within the intent and provisions of section 8002, subsection 3. The program shall be developed to meet the requirements for licensure examination set forth in section 8006 and to utilize administrative and educational mechanisms for continued education programs.

2. **Funding.** Any denturist training program established under this section may be operated with appropriated funds allotted within the overall budget of the state university system together with funds, services, equipment or facilities from the state community college system or with funds which may be received from any federal, state, local, public or private or individual grants or gifts.

3. **Program requirements.** Every program shall consist of 180 class hours instruction and clinical practice directly related to the arts and skills in

dentistry, including taking oral impressions and recording bite relationships of jaws, and denture tooth placement and esthetics, for the purpose of making and delivering artificial dentures to consumer users. In addition, the program shall include other subjects necessary to safe and proper handling of denture customers, such as "microbiology and sterilization," "intra-oral anatomy," "observations on pathology," "psychology of denture customers," "personal and in-office hygiene," "professional conduct and customer management" and "ethical and legal responsibilities of the dentist," including a full review of this chapter, and shall include means for accelerated completion of course requirements. Except as provided in subsection 4, no student shall be accepted into the program unless he has at least 5 years' experience as a dental technician with full knowledge and skills in the fabrication of prosthetic dentures. The program shall be in accordance with applicable guidelines of the United States Federal Trade Commission.

4. Two-year program. It is further intended that the dentist training program shall serve toward the development of a 2-year education program for training of future dentists, which shall accept students of less experience than that specified in subsection 3.

§ 8018. Employment of dental laboratory technicians and dental laboratories by dentist

Every licensed dentist may use the services of a dental laboratory technician or a dental laboratory registered with the board for the purpose of making, constructing, processing, producing, supplying, altering or repairing any prosthetic removable denture. In no event shall the services include the placement or setting of denture teeth or the designing of a denture, which services shall only be performed by the licensed dentist or a licensed dentist. All services provided to a licensed dentist pursuant to this section shall be performed pursuant to a prosthetic prescription or work order furnished and signed by the dentist. The form of the prescription or work order shall be approved by the board.

The failure of any registered dental laboratory technician or registered dental laboratory to have a signed prosthetic prescription or work order when performing services to a licensed dentist, or the failure to maintain a copy of the prescription or work order on file for a period of 2 years, shall be prima facie evidence of violation of this chapter and constitutes a civil violation for which a forfeiture of not more than \$1,000 may be adjudged.

§ 8019. Practice of dentistry; restrictions

Any person who desires the services of a licensed dentist shall first obtain an oral examination performed by a licensed dentist or physician to determine that the person's oral health conditions are acceptable for a prosthetic denture, and shall obtain from the examining dentist or physician a signed prescription that shall be presented within 21 days to the dentist before that dentist may construct a new denture for that person's mouth. This requirement shall not apply for the repairing of any existing prosthetic appliance or denture.

No licensed denturist shall make any oral examination for the determination or treatment of any health conditions, nor shall any denturist be allowed to use any x-ray device or roentgen machine or have any such equipment in his place of business.

§ 8020. Certain acts by dentists or physicians prohibited

Any dentist or physician who charges a fee which, when compared to common and prevailing fees by members of his profession, is determined to be excessive and prohibitive for an oral examination required under section 8019, or who otherwise denies or obstructs a consumer's right to receive or freely transmit a prescription or certificate of oral health to the licensed denturist of the consumer's choice, is guilty of a civil violation, for which a forfeiture of not more than \$1,000 may be adjudged. In addition, the applicable licensing board shall suspend the license of any such dentist or physician for 60 days. This section shall not be applicable where the consumer who is the patient of the dentist or physician has an oral disease or harmful pathological condition which requires dental or medical treatment to render the patient's condition sufficiently controlled or cured so as to meet acceptable oral health conditions for a prosthetic device, as provided in section 8019.

§ 8021. Advertising permitted

Every licensed denturist shall have the right to advertise his services to the public, provided that the advertising does not contain any false, fraudulent, misleading, deceptive, unfair or laudatory statement or claim.

§ 8022. Guarantee

Every consumer who purchases a denture or prosthetic appliance from a licensed denturist shall receive all post-delivery adjustments free of extra charge for the first 60 days, and shall for that period receive a guarantee against any dissatisfaction of fit, comfort or esthetics with the right to receive a refund of payment upon return of the denture or prosthetic appliance. The guarantee shall be in writing and in a form prescribed by the board and shall further provide the consumer with a guarantee against breakage or material or mechanical failure for a period of 6 months from the date of purchase. The guarantee shall not in any manner apply to any alteration or repair of a customer's old or preexisting denture or prosthetic device.

§ 8023. Violations, penalties

Except as otherwise provided in sections 8002 and 8018:

1. Practicing without license. Any person who practices dentistry, performs any service as a denturist, owns, conducts or advertises any business or place of business, directly or indirectly involved in the practice of dentistry, in this State who is not licensed and registered as required by this chapter is guilty of a Class D crime; and

2. Permitting unauthorized practice. Any denturist or dentist who employs or permits an unlicensed denturist, unregistered dental laboratory technician or other person not authorized to practice dentistry under this chapter, to perform any work in his office or place of business or under his supervision, which work constitutes the practice of dentistry, is guilty of a Class E crime.

§ 8024. Enforcement

The board shall assist the several district attorneys and the Attorney General in the enforcement of this chapter and, upon the request of such an attorney, shall furnish him whatever evidence is necessary to assist him in the prosecution of any violation of this chapter.

The board is authorized to appoint investigators or other denturists or dentists to investigate any suspected violation of this chapter or of any rule adopted by the board.

In addition to any other method of enforcement, the board may file civil actions for injunctive relief or restraint against any real or probable violation of these rules.

STATEMENT OF FACT

This bill repeals the current provisions of law regulating the activities of denturists. It enacts a new chapter of law which regulates the practice of dentistry, establishes a new State Board of Dentistry and otherwise fills gaps which were left open by the previous law.