

# MAINE STATE LEGISLATURE

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FIRST REGULAR SESSION

ONE HUNDRED AND TENTH LEGISLATURE

Legislative Document

No. 860

S. P. 298

In Senate, February 13, 1981

Referred to the Committee on Business Legislation. Sent down for concurrence and ordered printed.

MAY M. ROSS, Secretary of the Senate

Presented by Senator Trafton of Androscoggin.

Cosponsor: Senator Collins of Knox.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED AND EIGHTY-ONE

AN ACT to Establish the Dental Practice Act.

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

Sec. 1. 32 MRSA c. 16, as amended, is repealed.

Sec. 2. 32 MRSA c. 89 is enacted to read:

CHAPTER 89

DENTAL HYGIENISTS AND DENTISTS

SUBCHAPTER I

GENERAL PROVISIONS

§ 8051. Addresses and change of address

Every licensee under this chapter shall perform the following acts. Failure to do so is a civil violation for which a forfeiture of not more than \$25 may be adjudged. The licensee shall:

1. Place of practice. Furnish the secretary of the board his place or places of practice; and

2. Change. Upon a change of name or registered address or addresses, within

30 days of the change, furnish the secretary-treasurer of the board with his new address.

**§ 8052. 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 Judge or whether criminal proceedings have been or may be instituted.

**SUBCHAPTER II**

**BOARD OF DENTAL EXAMINERS**

**§ 8061. Membership; appointment; vacancies; removal; nominations; compensation**

The Board of Dental Examiners, in this chapter called the "board," shall consist of 5 members of the dental profession, one dental hygienist and one representative of the public appointed by the Governor.

Members of the dental profession shall be graduates of a reputable dental college and shall have been in actual practice of dentistry in this State for at least 10 years immediately preceding the appointment. One dentist shall be appointed annually, as the terms of present members expire, to hold office for 5 years from the first day of January and until his successor is appointed. The public member shall be appointed to a 5-year term and shall serve until his successor is appointed. No person is 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 crime punishable by more than one year's imprisonment. No person is eligible to appointment on the board who has served 10 years or more on a dental examining board in this State. All appointments of dentist members to the board shall be made in the following manner. The Maine Dental Association may at its annual meeting each year nominate 6 dentists, who fulfill all the requirements of this section, whose names shall be forthwith certified to the Governor by the president and secretary of the association and, if the list is so submitted in any year, the Governor shall, until the date of the next annual meeting of the association, appoint as a dentist member of the board one of those persons whose names appear on the list. Any vacancy on the board shall be filled by the appointment of a person qualified under this section to hold office during the unexpired term of the member whose place he fills, if the vacancy is that of a dentist member, or, in the case of a public member, by appointment of another public member.

The dental hygienist must be qualified pursuant to subchapter IV. He must be a legal resident of the State and have been in practice in the State for at least 5 years immediately preceding appointment. The dental hygienist member of the

board shall be a full voting member of the board. The term of the dental hygienist is 4 years, except that the member shall serve until a successor is appointed. The Governor shall consult with the Maine Dental Hygienists Association prior to the appointment of a dental hygienist to the board. The Governor shall fill any vacancy of the dental hygienist member of the board by appointing a person, qualified under the terms of this chapter, to hold office during the unexpired term of the member whose place is filled. No person may serve more than 2 consecutive terms. No person is eligible to serve who has been convicted of a violation of this chapter or any prior Dental Practice Act, or who has been convicted of crime punishable by more than one year imprisonment. No dental hygienist is eligible to serve as a member of the board while employed by a dentist who is a member of the board. No dentist is eligible to serve as a member of the board while a dental hygienist whom he employs is serving as a member of the board.

The Governor may remove any member of the board on proven charges of inefficiency, incompetence, immorality or unprofessional conduct. The members of the board shall each receive as compensation for their services \$75 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.

**§ 8062. 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. Five 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, including telephone conferences. They may make such rules, not contrary to law, as they deem necessary for the performance of their duties and shall conduct theoretical and clinical examinations upon such subjects pertaining to dentistry, dental hygiene and denture technology as the board designates. 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. The secretary shall keep records of all proceedings of the board and be the custodial of its records, which records shall constitute and be recognized as the official records of the board and 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 the charges according to law. The secretary shall receive an annual salary to be fixed by the board, not to exceed \$2,500 plus per diem for attendance at all meetings. The secretary shall be paid for his necessary expenses incurred in the discharge of his official duties, including clerical and stenographic assistance, printing and postage. His salary shall be certified by the president of the board. The secretary-treasurer shall be bonded at board expense.

**§ 8063. Complaints; authorization**

Each member of the board or any of its complaints and all cases of noncompliance with or violation of the laws relating to licenses under this chapter and make inspections of the premises and records of any person licensed under this chapter. The board may:

1. **Employees; attorney.** Employ such persons as it deems 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 deemed necessary therefor, and may appoint an attorney to assist in carrying out and enforcing this chapter;

2. **Investigations.** Investigate violations of this chapter that come to the knowledge of the board;

3. **Conciliation agreements.** If the board finds reasonable grounds to believe that a violation of this chapter has occurred or is occurring, invite the accused individual to voluntarily appear before the board to informally discuss the violation and attempt to reach agreement to a resolution of the violation. The agreed resolution may include, but is not limited to, license revocation, suspension or restriction. Any agreement reached shall be reduced to writing and signed by the accused individual, who shall thereafter be finally bound by its terms. An individual who signs a conciliation agreement is not subject to any further disciplinary proceedings upon the violation which is the subject thereof, as long as that individual is in compliance with the conciliation agreement. No statement made by or agreement signed by an accused individual, at the informal conciliation discussion described in this subsection, may be introduced against him in any legal proceeding, civil or criminal;

4. **Proceedings.** Institute or cause to be instituted appropriate legal proceedings; and

5. **Rules and regulations.** Adopt rules and regulations to carry out and make effective this chapter and to modify or repeal the rules and regulations whenever in the discretion of the board it is deemed necessary. The board may establish rules and regulations relating to false, deceptive and misleading advertising, except that no rule or regulation may be inconsistent with any rule or regulation promulgated pursuant to Title 5, section 207, subsection 2. The board may adopt rules and regulations for a system of continuing education, compliance with which shall be a requirement and condition precedent to the renewal of licenses, registration or authority issued by the board.

**§ 8064. Affiliation with the American Association of Dental Examiners**

The board and its members may affiliate with the American Association of Dental Examiners as an active member and pay regular dues to the association and send 2 or more delegates to the meetings of the American Association of Dental Examiners. Such delegates shall receive compensation provided for in section 8061.

**§ 8065. Budget.**

The board shall submit to the Commissioner of Human Services its budgetary requirements in the same manner as is provided in Title 5, section 1665, and the commissioner shall in turn transmit these requirements to the Bureau of the Budget without any revision, alteration or change.

**§ 8066. Liaison; limitations**

On or before Augusta 1st of each year, the board shall submit to the Commissioner of Human Services, for the preceding fiscal year ending June 30th, its annual report of its operations and financial position, together with such comments and recommendations as the board deems essential.

The commissioner shall act as a liaison between the board and the Governor.

The commissioner may not exercise or interfere with exercise of discretionary, regulatory or licensing authority granted by statute to the board.

**SUBCHAPTER III****DENTISTS****§ 8071. Definitions; persons excepted**

1. Practicing dentistry. Any person is 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 services are performed; or who directly or indirectly, by any means or method, takes impressions of the human tooth, teeth or jaws, or performs any phase of any operation incident to the replacement of a part of a tooth; 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 structure, or delivers it 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, jaws or adjacent structure, or who repairs or fills cavities in the human teeth; or who diagnoses, makes and adjusts appliances to artificial casts or malposed teeth for the 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 roentgenographs, or who gives or professes to give interpretations or readings of dental x rays or roentgenograms; or who

administers an anesthetic of any nature in connection with a dental operation, or who uses the words dentist or dental surgeon, or the letters D.D.S. or 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, jaws or adjacent structures; or who states or professes, or permits to be stated or professed, by any means or method whatsoever that he can perform or will attempt to perform dental operations or render a diagnosis connected therewith.

2. Exemptions. Nothing in this chapter applies 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 anesthetist or registered nurse of an anesthetic 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 of Veterans' Administration;

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

E. The filling of laboratory procedure authorizations of a licensed and registered dentist by any person or persons, association, corporation or other entity, for the construction, reproduction or repair of oral prosthetic appliances to be used or worn as substitutes for natural teeth, provided that such person or persons, association, corporation or other entity does not solicit nor advertise directly or indirectly, by mail, card, newspaper, pamphlet, radio, television 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 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 may 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, tissues or the oral cavity or administering treatment thereto for any disease thereof;

G. Impressions taken by dental hygienists or dental assistants for study purposes only; and

H. The practice of denture technology under the direct supervision of a licensed dentist.

3. Proprietor. The term proprietor, as used in this chapter, includes any person who:

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

B. Places in possession of a dentist or dental hygienist or other dental auxiliaries 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 security agreement or retain title agreement. A person licensed to practice dentistry who enters into any of these arrangements with a person who is not licensed to practice dentistry may have his license suspended or revoked.

4. Corporations; names. No corporation may 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 does not prohibit a licensed dentist from practicing dentistry as the employee of another licensed dentist in this State, as an employee of a nonprofit corporation, as an 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.

This subsection does not prohibit the practice of dentists who have incorporated their practices as permitted by Title 13, chapter 22.

5. Dentist of record. Each office established or maintained in this State for the practice of dentistry by any person or persons subject to this chapter must be registered and must be under the direct supervision of a resident manager, who may be either a principal or staff employee holding a permit under section 8074 or 8075 which is in full force and effect.

The patient entering a multidentist practice, at the onset of treatment, shall be informed in writing as to the identity of his dentist of record. Such identity shall at least consist of the name and telephone number.

Each patient shall have a dentist of record. The dentist of record shall remain primarily responsible for all dental treatment on that patient, regardless of whether the treatment is rendered by the dentist himself or by another dentist, dental hygienist, denture technologist or dental auxiliary rendering such



treatment in conjunction with, at the direction or request of, or under the supervision of such dentist of record. The purposes of this subsection are to assign primary responsibility for each patient to one dentist in a multidentist practice of any nature and to assign primary responsibility to the dentist for treatment rendered by a dental hygienist, denture technologist or auxiliary under his supervision. This subsection shall not be construed to assign any responsibility to a dentist of record for treatment rendered pursuant to a proper referral to another dentist not in practice with the dentist of record, or to prohibit a patient from voluntarily selecting a new dentist without permission of the dentist of record.

6. **Illegal activity.** It is illegal to teach procedures in Maine schools of dental hygiene, dental assisting or denture technology which cannot be legally practiced in this State.

§ 8072. **Qualifications**

Before receiving a certificate of ability to practice dentistry in this State, a person shall be of good moral character, a graduate of or have a diploma from an accredited dental college, school or dental department of a university approved by the board, and shall have successfully passed the examinations as prescribed by the board.

For the purposes of this section, a licensed dentist is deemed, by the application for and acceptance of the certificate of ability, to have given his consent to a mental or physical examination or both, when directed by the board. The board may direct the examination whenever it determines a dentist may be suffering from a mental illness which may be interfering with his competent practice of dentistry or from the use of intoxicants or drugs to an extent that they may be preventing him from practicing dentistry competently and with safety to patients. A dentist examined pursuant to an order of the board has no privilege to prevent the testimony of the examining individual or to prevent the acceptance into evidence of the report of any examining individual. Upon failure to comply with an order by the board to submit to a mental or physical examination, the Administrative Court or the board shall immediately order the certificate of ability of the dentist suspended until such time as he submits to the examination.

§ 8073. **Examination; licensure**

Any eligible person desiring to practice dentistry in this State shall make written application on prescribed forms to the Board of Dental Examiners. Such application shall be accompanied by a fee of \$100 in the form of a certified check or money order.

The board may, at its discretion, recognize the results of any examination given by the National Board of Dental Examiners, or any clinical or theoretical testing agency approved by the board, in lieu of or in addition to such examination or examinations as it may require.

The board may, at its discretion, require a personal interview.

**§ 8074. Certificates; fees; registration cards**

1. **Certificate of ability.** The board shall issue under its seal, to any person who has successfully passed the examination, a certificate of ability to practice dentistry in this State, signed by a majority of the members of the board, which majority shall include the president, vice-president and the secretary.

2. **Evidence of authority.** Whenever requested by a member or authorized agent of the board, a dentist shall exhibit his certificate, which is prima facie evidence of authority to practice dentistry in this State in the year it is issued and in subsequent years when properly renewed under subsection 4.

3. **Practice without certificate.** It is unlawful for any person to practice dentistry in this State in any year after the year in which a certificate of ability is issued to him, unless he has received a biennial registration of renewal card under, or exempted by, subsection 4.

4. **Renewal procedure; fee; reinstatement.** On or before January 1st of even-numbered years, any person wishing to renew his certificate of ability to practice dentistry in this State shall pay to the secretary of the board a fee of not more than \$100 to be determined by the board. Upon payment of the fee, he shall receive a registration of renewal card which he shall place beside or attach to his certificate. New applicants who have paid the application fee are not subject to this subsection until the following biennial registration.

5. **Suspension.** The certificate of ability shall be deemed suspended of any person who fails to timely pay the fee indicated in subsection 4. The board shall reinstate the authority to practice dentistry of any person who, on or before February 1st, pays the renewal fee plus an additional fee to be determined by the board, but not to exceed \$50. The board may reinstate the authority to practice dentistry of any person who fails to seek renewal on or before February 1st, subject to terms and conditions it deems appropriate, including a late payment fee determined by the board, but not to exceed \$100.

6. **Certificate revoked for failure to maintain resident practice.** If a licensee of this State does not maintain a resident practice of dentistry in this State within 5 years of the date of issue of his license or certificate of ability to practice dentistry, his certificate shall be deemed revoked; or if the licensee ceases to maintain a resident practice of dentistry for 5 consecutive years in this State, the certificate of ability shall be deemed revoked. This subsection does not apply to dentists practicing as members of one of the United States Armed Forces or the United States Public Health Service.

**§ 8075. Endorsement; fees**

The board is authorized, at its discretion, without examination as provided, to issue its certificate to any applicant therefor who furnishes proof, satisfactory to the board, that he has been duly licensed to practice dentistry in another state for 5 years after full compliance with the requirements of its dental laws. If licensed

to practice dentistry in the other state, his professional education shall not be less than is required in this State, and such applicant shall have been in actual practice for the last 5 years in the state in which the license was granted. Every certificate of ability so given shall state upon its face the grounds upon which it is granted, and the applicant may be required to furnish proof upon affidavit. The fee for such certificate of ability shall be established by the board, not to exceed \$150.

§ 8076. Permits for internship; revocation; suspension

The board may, upon presentation of satisfactory credentials and under such rules and regulations as the board prescribes, 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 licensure in this State, to serve as a dental intern in an accredited hospital for a period of one month, provided that such hospital maintains a recognized staff of one or more licensed dentists. Such intern shall function under the supervision and direction of the dental staff of that hospital, his work shall be limited to the patients in the hospital in which he serves, and he shall receive no fee or compensation other than that received in salary or other remuneration from hospital. The board may revoke the permit of any such intern at any time within the month 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 deems justifiable. The limited permits granted for the purpose of internships shall automatically expire at the end of one month and may be subject to renewal.

The board may, upon presentation of satisfactory proof of academic affiliation and good academic standing, issue a permit to a bona fide dental student of a school or university acceptable to the board, after the completion of satisfactory training, to perform limited dental service commensurate with his level of training under the supervision and control of a licensed dentist in a teaching school or in institutional and public health service programs within the State. The board shall, prior to the issuance of such a dental student permit, determine that the supervision and control of the service performed by the student is not only adequate, but that the rendering of these dental services will add to the student's knowledge and skill in his profession. The permit shall be issued for a fixed period of time and may be renewed or revoked by the board at its discretion.

§ 8077. Fee for duplicate certificate

An applicant for a duplicate certificate granted upon proof of loss of the original shall pay a fee of \$25.

§ 8078. Lawful practitioners

Those persons who have received certificates, and are legally registered with the board biennially as provided for by law, are deemed lawful practitioners of dentistry in this State.

**§ 8079. Drugs and dental procedures**

A dentist may prescribe drugs or medicines, perform such surgical operations, administer general and local anesthetics and use such appliances as may be necessary for proper dental treatment. A dentist may take case histories and perform physical examinations to the extent such activities are necessary in the exercise of due care in conjunction with the provision of dental treatment to the administration of general or local anesthetics. Nothing contained in this section permits a dentist to perform physical examinations within a hospital licensed by the Department of Human Services, unless such activities are permitted by the hospital.

**§ 8080. Laboratory procedure authorization**

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

1. Name and address. The name and address of the unlicensed person;
2. Patient information. The patient's name or number. In the event a number is used, the name of the patient shall be written upon the duplicate copy of the laboratory procedure authorization retained by the dentist;
3. Date. The date on which it was written;
4. Authorization. The laboratory procedure authorization of the work to be done, with diagrams if necessary;
5. Materials. A specification of the type and quality of materials to be used; and
6. Signature. The signature of the dentist and the number of his Maine license. The unlicensed person shall retain the original laboratory procedure authorization and the dentist shall retain a duplicate copy thereof for 2 years.

**§ 8081. Revocation of license**

1. Causes. The Administrative Hearing Judge or the Board of Dental Examiners may revoke, suspend or refuse to renew the license of the 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 copy thereof, certified by the clerk of the court or by the judge, in whose court the conviction is had, is 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 gross ignorance or gross lack of proficiency;
- D. Failure or refusal to comply with lawful orders of the board;
- E. Practicing dentistry while under the influence of or impaired by any substance adversely affecting his professional ability or judgement;
- F. Keeping his person, employees, office, instruments, laboratory equipment, appliances or supplies in an unsanitary condition;
- G. Physical or mental disability, or other condition to the extent that continued practice would be injurious to patients or to the public;
- H. Unprofessional conduct, which includes, but is not limited to, the following acts:

(1) Making use of any advertising statements of a character tending to deceive or mislead the public; advertising to use drugs, patents, nostrums or proprietary medicines; or advertising to perform any operation or act painlessly; and

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

(3) Including a statement of specialization of practice in announcements, letterheads, directory listings and advertisements, unless at the time of the announcement he has successfully completed an accredited advanced educational program of 2 or more years in length in such special areas of dental practice approved by the American Dental Association. Areas of specialization of practice are endodontics, oral pathology, oral surgery or oral and maxillofacial surgery, orthodontics, pedodontics or dentistry for children, periodontics, prosthodontics and dental public health. Nothing in this subsection prohibits a dentist, who is not a specialist in any of the specialty areas listed in this subsection, from announcing a limitation of practice to one or more of the specialty areas, provided that the announcement, letterhead, directory listing or advertisement includes, in a prominent place, the following notice:

**“GENERAL DENTIST — LIMITATION OF  
PRACTICE DOES NOT IMPLY ADVANCED  
TRAINING IN THE AREA OF LIMITATION”**

A general dentist may not announce a limitation of practice to an area which is not an approved specialty, as specified in this subsection;

- I. Permitting any dental hygienist, dental assistant or denture technologist operating under his supervision to perform any operation other than that permitted under section 8091 or 8096;
- J. Improper prescription of drugs; and

**K. Encouraging or abetting a dental hygienist to obtain lists of a former employer.**

**2. Hearings.** The board may file charges against those who appear to be in violation of this chapter and may either hold hearings on the charges or may transfer the charges to the Administrative Court for hearing and disposition.

Any person against whom charges are filed shall be notified of the hearing on the charges, and may appear with witnesses and may be heard by counsel. If that person has left the State or cannot be found by reasonable search, notice may be deemed sufficient upon showing that notification was mailed to the last known address. The board shall have the same powers to summon witnesses to attend such hearings and to swear them as are conferred upon other judicial agencies in this State.

The board after a hearing may, by a majority vote of the whole board, suspend, revoke or cancel any certificate, registration, license or authority issued by it, if it appears that the holder of such certificate, registration, license or authority is guilty of any violation of this section, section 8096 or 8123.

The Superior Court upon petition of a person whose certificate, registration, license or authority has been suspended, revoked or cancelled may enter a decree revising or reversing the decision of the board, in accordance with the standards for review provided in this State; but, prior to the entry of such decree, no order may be made or entered by the court to stay or supersede any suspension, revocation or cancellation of any such certificate, registration, license or authority.

#### **§ 8082. Unlawful practice**

Whoever commits any of the following acts is guilty of a Class D crime. 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 continues, 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 shall be required to furnish a recognizance conditioned to refrain from further unlawful practice:

- 1. No certificate.** Practices dentistry without obtaining the certificate and subsequently the registration card required by law;
- 2. False name.** Practices dentistry under a false name or assumed name;
- 3. Other license.** Practices under the license or registration of another person of the same name;
- 4. Other name.** Practices under the name of a corporation, company, association, parlor or trade name;
- 5. Employs for dentistry.** As being manager, proprietor, operator or conductor of a place for performing dental operations, employs a person who is

not a lawful practitioner of dentistry in this State to perform dental operations as defined in section 8071;

6. **Permits practice.** Permits such persons to practice dentistry under a false name;

7. **Assumes title.** Assumes a title or appends or prefixes to his name the letters which falsely represent him as having a degree from a dental college;

8. **Impersonates.** Impersonates another at an examination held by the board;

9. **False application.** Knowingly makes a false application or false representation in connection with such examination;

10. **Practice.** Practices as a dental hygienist or denture technologist without having a proper certificate; or

11. **Employs for dental hygiene.** Employs a person as a dental hygienist or denture technologist who is not licensed to practice.

#### § 8083. 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 that certificate or diploma with intent that it 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 that diploma or certificate, or uses or attempts to use the diploma or certificate 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 undue influence is guilty of a Class D crime.

#### § 8084. Penalties

Whoever violates any provision of this chapter, for which no penalty has been prescribed, commits a Class D crime.

#### § 8085. Peer review committee member's liability

No member of a peer review committee of a state or local association or society composed of doctors of dentistry is liable in damages to any person for any action taken or recommendation made within the scope of the functions of that committee, if the committee member acts without malice and in the reasonable belief that such action or recommendation is warranted by the facts known to him, after reasonable effort to obtain the facts of the matter as to which such action is taken or recommendation is made.

### SUBCHAPTER IV DENTAL HYGIENISTS

#### § 8091. Definition

The dental hygienist may perform, under the supervision of a dentist of record,

such duties as are defined and set forth in the rules and regulations of the board; provided that nothing in this subchapter may be construed to affect the practice of medicine or dentistry, or to prevent students of a dental college, university or school of dental hygiene from practicing dental hygiene under the supervision of their instructors.

**§ 8092. Qualifications**

Before receiving a certificate of licensure to practice dental hygiene in this State, a person shall be:

1. Good character. Of good moral character;
2. Completed training. One who has successfully completed 2 years of training in an accredited school of dental hygiene approved by the board, or who is a full-time dental student who has successfully completed at least half of the prescribed course of study in an accredited dental college, but who has not graduated from any dental college; and
3. Examined. One who has successfully passed an examination or examinations as prescribed by the board.

For the purposes of this subsection, a licensed dental hygienist is deemed, by the application for and acceptance of the license, to have given his consent to a mental or physical examination when directed by the board. The board may direct the examination whenever it determines a dental hygienist may be suffering from a mental illness which may be interfering with his competent practice of dental hygiene or from the use of intoxicants or drugs to an extent that they may be preventing him from practicing dental hygiene competently and with safety to patients. A dental hygienist examined pursuant to an order of the board shall have no privilege to prevent the testimony of the examining individual or to prevent the acceptance into evidence of the report of any examining individual. Upon failure to comply with an order of the board to submit to a mental or physical examination, the Administrative Court or the board shall immediately order the license or authority to practice of the dental hygienist suspended until such time as he submits to the examination.

**§ 8093. Examination; licensure**

Any eligible person desiring to practice dental hygiene in this State shall make written application on prescribed forms to the Board of Dental Examiners. The application shall be accompanied by a certified check or money order in the amount of \$50. The board may at its discretion recognize the results of any examination given by the National Board of Dental Examiners or any clinical or theoretical testing agency approved by the board in lieu of or in addition to such examination or examinations as it may require. The board at its discretion may require a personal interview.

**§ 8094. Certificate; fees**

1. Certificate of ability. The board shall issue under its seal, to any person



who has successfully passed the examination and met any other requirements of the board, a certificate of ability to practice dental hygiene in this State, signed by the president and secretary.

2. Evidence of authority. Whenever requested by a member or authorized agent of the board, a dental hygienist shall exhibit his certificate, which is prima facie evidence of authority to practice dental hygiene in this State in the year it is issued and in subsequent years when properly renewed under, or if exempted by, subsection 4.

3. Practice without certificate. It is unlawful for any person to practice dental hygiene in this State in any year after the year in which a certificate of ability is issued to him, unless he has received a biennial registration or renewal card, or is exempted by subsection 4.

4. Renewal procedure; fee; reinstatement. On or before January 1st of odd-numbered years, any person wishing to renew his certificate of ability to practice dental hygiene in this State shall pay to the secretary of the board a fee of not more than \$50 to be determined by the board. Upon payment of the fee, he shall receive a registration or renewal card which he shall place beside or attach to his certificate. New applicants having paid the examination fee are not subject to this subsection until the following biennial registration.

5. Suspension. The board shall automatically suspend the authority to practice of any person who fails to timely pay the fee indicated in subsection 4. The board shall reinstate the authority to practice of any person who, on or before February 1st, pays the renewal fee plus an additional late payment fee to be determined by the board, but not to exceed \$50. The board may reinstate the authority to practice of any person who fails to seek renewal on or before February 1st, subject to terms and conditions it deems appropriate, including a reinstatement fee determined by the board, but not to exceed \$50.

#### § 8095. Endorsement; reciprocity

The board may at its discretion, without examination, issue its certificate to any applicant to practice dental hygiene who furnishes proof satisfactory to the board that the dental hygienist has been duly licensed in another state for 5 years and after full compliance with the requirements of its dental laws, provided that the professional education is not less than required in this State.

The board may require letters of reference as to ability and moral character, as well as an interview. Every certificate so given shall state upon its face that it was granted on the basis of reciprocity or endorsement. The fee for that certificate shall be determined by the board, but not to exceed \$50.

#### § 8096. Revocation or suspension of license

The Administrative Hearing Judge or the board shall revoke, suspend or refuse to renew the license of any dental hygienist for any of the following causes:

1. **Conviction.** Conviction of a felony or misdemeanor involving moral turpitude, in which case the record of conviction or copy thereof, certified by the clerk of the court or by the judge in whose court the conviction is had, shall be conclusive evidence;

2. **Renting license.** 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;

3. **Gross ignorance.** Proof of gross ignorance or gross lack of proficiency;

4. **Failure to comply.** Failure or refusal to comply with the lawful orders of the board;

5. **Under influence.** Practicing dental hygiene while under the influence of or impaired by any substance adversely affecting his professional ability or judgment;

6. **Unsanitary.** Keeping his personal instruments, laboratory equipment, appliances or supplies in an unsanitary condition;

7. **Diability.** Physical or mental disability, or other condition to the extent that continued practice would be injurious to patients or to the public; or

8. **Use of lists.** Using or attempting to use in any manner whatsoever any prophylactic lists, call lists, records, reprints or copies of the same, or information gathered therefrom, of the names of patients whom he might have served in the office of a former 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.

## SUBCHAPTER V

### DENTAL AUXILIARIES

#### § 8101. Definition

Dental auxiliaries include, but are not limited to, dental hygienists, dental assistants, dental laboratory technicians and denture technologists.

Duties of dental auxiliaries are defined and governed by this chapter and the rules and regulations of the Board of Dental Examiners.

## SUBCHAPTER VI

### DENTURE TECHNOLOGISTS

#### § 8121. Definitions

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

1. **Board.** "Board" means the Board of Dental Examiners.

2. **Denture technologist.** “Denture technologist” means a person licensed under this subchapter to engage in the practice of denture technology under the supervision of a dentist of record.

3. **Practice of denture technology.** “Practice of denture technology” means only:

A. The taking of denture impressions and bite registrations for the purpose of or with a view to the making, producing, reproducing, construction, finishing, supplying, altering or repairing of any complete upper or complete lower prosthetic denture, or both, to be fitted to an edentulous arch or arches;

B. The fitting of any complete upper or lower prosthetic denture, or both, to an edentulous arch or arches, including the making, producing, reproducing, construction, finishing, supplying, altering and repairing of such dentures; and

C. Other procedures incidental to the procedures specified in paragraphs A and B, as defined by the board.

§ 8122. Rules and regulations; suspension and revocation of license

The board may adopt rules and regulations to carry out and make effective this chapter and to modify to repeal the rules and regulations whenever in the discretion of the board it is deemed necessary.

§ 8123. Suspension or revocation of license

The Administrative Court or the board may suspend or revoke a license issued under this subchapter whenever it finds a denture technologist:

1. **Holding out.** Has held himself out or permitted himself to be represented as a license dentist;

2. **Improper performance.** Has performed otherwise than at the direction and under the direct supervision of a dentist licensed by the board and practicing in this State. Direct supervision requires the dentist to be on the same premises as the denture technologist;

3. **Improper delegation.** Has been delegated and performed a task or tasks beyond his competence;

4. **Practice under influence.** Has practiced denture technology while under the influence of or impaired by any substance adversely affecting his professional ability or judgment;

5. **Conviction.** Has been convicted in any court, state or federal, of any felony or other offense involving moral turpitude;

6. **Incapacity.** Has a mental or physical illness or condition interfering with his competent practice as a denture technologist;

7. **Failure to comply.** Has failed to comply with the law or any rules or regulations of the board pertaining to denture technology;

8. **Controlled substance.** Has administered, dispensed or prescribed any medication or controlled substance;

9. **False statement.** Has made a false or fraudulent statement or submitted a forged or false document in apply for licensure; or

10. **Unsanitary condition.** Has allowed or keeps his person, instruments, laboratory equipment, appliances or supplies in an unsanitary condition.

#### § 8124. Examinations

1. **Authority.** The board may prepare and give examinations in the area of denture technology for the purpose of licensing denture technologists. All examinations prepared and given under this subchapter may be prepared and given by the full board or by a subcommittee of the board appointed by the board. The board may, at its discretion, recognize the results of a theoretical or clinical testing agency approved by the board in lieu of or in addition to such examination or examinations as it may require.

2. **Eligibility for examination.** A person is eligible to take the examination pursuant to subsection 1 who:

A. Is of good moral character; and

B. Has successfully completed a minimum of 2 years of training in denture technology and related areas as approved by the board.

3. **Application for examination; fee.** Any eligible person desiring to take the examination in order to become licensed as a denture technologist shall make written application to the board to take the examination. This application shall be accompanied by an examination fee of \$100. This shall be by certified check or money order.

For the purposes of this subsection, a licensed denture technologist shall be deemed by the application for and acceptance of the license to have given his consent to a mental or physical examination when directed by the board. The board may direct the examination whenever it determines a denture technologist may be suffering from a mental illness which may be interfering with his competent practice of denture technology or from the use of intoxicants or drugs to an extent that they may be preventing him from practicing denture technology competently and with safety to patients. A denture technologist examined pursuant to an order of the board shall have no privilege to prevent the testimony of the examining individual or to prevent the acceptance into evidence of the report of any examining individual. Upon failure to comply with an order of the board to submit to a mental or physical examination, the Administrative Court or the board shall immediately order the license of the denture technologist suspended until such time as he submits to the examination.

4. **Additional examination; fee.** Any applicant failing to pass the examination shall be entitled to one additional examination, for which the fee shall be \$50.

5. **Timing of examination.** The applicant for an examination in denture technology shall present himself for examination after the first regular meeting of the board after the application is filed and accepted.

§ 8125. Licenses, registration; reciprocity

1. **Authority.** The board may issue licenses to qualified persons to practice denture technology pursuant to this subchapter. The board may, at its discretion, require a person interview.

2. **License issued.** The board shall issue a license for the practice in this State to each person who successfully completes the examination under section 8124 and personal interview if required. This license authorizes the licensee to practice as a denture technologist in the State for the year in which it is issued.

3. **Evidence of authority.** Whenever requested by a member or authorized agent of the board, a denture technologist shall exhibit his certificate, which is prima facie evidence of authority to practice denture technology in this State in the year it is issued and in subsequent years when properly renewed under subsection 5.

4. **Practice without certificate.** It is unlawful for any person to practice denture technology in this State in any year after the year in which a certificate of ability is issued to him unless he has received a registration of renewal card under subsection 5.

5. **Registration.** After a license has been issued under subsection 2, and by January 1st of each year, and denture technologist shall pay to the secretary of the board an annual registration fee of not more than \$50, to be determined by the board, in order to renew the license and to continue to be authorized to practice as a denture technologist in the State.

A registration card for that year shall be issued, which shall be placed beside or attached to the license.

6. **Suspension.** The board shall automatically suspend the authority to practice of anyone who fails to timely pay the fee indicated in subsection 5. The board shall reinstate the authority to practice of any person who, by February 1st, pays the renewal fee plus an additional late payment fee to be determined by the board, but not to exceed \$50. The board may reinstate the authority to practice of any person who fails to seek renewal by February 1st, subject to terms and conditions it deems appropriate, including a reinstatement determined by the board, but not to exceed \$75.

7. **Reciprocity.** The board may at its discretion, without examination, issue a license to any applicant to practice as a denture technologist who furnishes proof satisfactory to the board that the applicant has been duly licensed in another state or Canadian Province for 5 years after full compliance with the requirements of its dental laws, provided that the licensure requirements are, in all essentials, at least equivalent to those of this State.

The board may require letters of reference about the denture technologist and may require a personal interview. Every license so given shall state upon its face that it was granted on the basis of reciprocity. The fee for such certificate shall be \$100.

**§ 8126. Persons and practices not affected**

Nothing in this subchapter may be construed to prohibit a duly qualified dental surgeon, dentist, laboratory technician or dental hygienist from performing work or services performed by a denture technologist licensed under this subchapter to the extent those persons are authorized to perform the same services under existing Maine law.

Nothing in this subchapter may be construed to prevent students of a dental college, university, school of dental hygiene or school of denture technology from practicing denture technology under the supervision of their instructors.

**§ 8127. Liability of the dentist for denture technologist's actions**

The dentist of record is deemed legally liable for the activities of the denture technologist. The denture technologist shall be construed as the dentist's agent.

**§ 8128. Legislative review**

The board shall make a report to the Joint Standing Committee on Health and Institutional Services by April 1, 1982. This report shall consist of a description of the board's progress in the implementation of this subchapter, including whatever information may be requested by the committee.

**STATEMENT OF FACT**

This bill revises and reallocates the provisions of law regulating dentists, dental hygienists, dental auxiliaries and denture technologists.