

MAINE STATE LEGISLATURE

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ONE HUNDRED AND TENTH LEGISLATURE

Legislative Document

No. 1648

S. P. 633

In Senate, May 21, 1981

Reported by Senator Hichens of York from the Committee on Health and Institutional Services and Printed under Joint Rules No. 2.

MAY M. ROSS, Secretary of the Senate

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Sec. 1. 32 MRSA § 1061, as enacted by PL 1967, c. 544, § 80, is repealed and the following enacted in its place:

§ 1061. Addresses and changes of address

1. Furnish to board. Every licensee under this chapter shall:

- A. Furnish the secretary of the board with the place or places of practice; and**
- B. Upon a change of name or registered address or addresses, furnish the secretary-treasurer of the board with the new address within 30 days of the change.**

2. Failure; fee. For failure to comply with this section, a person is subject to a fee of not more than \$25, to be imposed by the board.

Sec. 2. 32 MRSA § 1071, as last amended by PL 1977, c. 473, §§ 1, 2 and 3, is repealed and the following enacted in its place:

§ 1071. Membership; appointment; vacancies; removal; nominations; compensation

The Board of Dental Examiners, in this chapter called the "board," shall

consist of 7 members, appointed by the Governor as follows: Five members of the dental profession, one dental hygienist and one representative of the public.

1. **Membership.** 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 for appointment to the board who has served 10 years or more on a dental examining board in this State. 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 is to be filled or, in the case of a public member, by appointment of another public member. The Governor may remove any member of the board on proven charges of inefficiency, incompetence, immorality or unprofessional conduct.

2. **Dentists.** 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.

Members of the dental profession must hold a valid dental license and must have been in the 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 a successor is appointed. No dentist is eligible to serve as a member of the board while a dental hygienist whom the dentist employs is serving as a member of the board.

3. **Dental hygienist.** The dental hygienist must be qualified pursuant to subchapter IV, a legal resident of the State and must have been in practice in the State for at least 3 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 hygienist to the board. 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.

4. **Public members.** The public member shall be appointed to a 5-year term and shall serve until a successor is appointed.

5. **Compensation.** The members of the board 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.

Sec. 3. 32 MRSA § 1081, sub-5 is enacted to read:

5. Dentist of record; office manager. Each patient shall be provided with a dentist of record. The patient entering a multi-dentist practice, at the onset of treatment, shall be informed as to the identity of the patient's dentist of record. The identity shall at least consist of the name and telephone number.

Each office established or maintained in this State for the practice of dentistry by a person or persons subject to this chapter shall be registered and shall be under the direct supervision of a resident manager, who may be either a principal or staff employee holding a permit under section 1084 or 1085 which is in full force and effect.

Sec. 4. 32 MRSA § 1083, first sentence, as enacted by PL 1967, c. 544, § 80, are amended to read:

Not less than 10 days prior to the date upon which an examination is held, each applicant for a certificate to practice dentistry shall file an application for examination ~~and~~, pay to the secretary of the board a fee of ~~\$50~~ \$100 and present himself for examination at the first regular meeting of the board after such application is filed.

Sec. 5. 32 MRSA § 1083, last sentence, as enacted by PL 1967, c. 544, § 80, is amended to read:

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~~ \$50 and the fee for any subsequent examination shall be ~~\$50~~ \$100.

Sec. 6. 32 MRSA § 1084, 3rd, 4th and 5th sentences, as repealed and replaced by PL 1975, c. 484, § 6, are amended to read:

~~Said~~ **The certification shall be prima facie evidence of authority 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 that person, unless he, the practitioner shall pay to the secretary of the board on or before alternate January 1st of even-numbered years a fee of \$20 not more than \$100 to be determined by the board, for which he the practitioner shall receive a registration card, which card shall be placed beside or attached to the certificate. Practitioners who shall not have not paid as provided shall be reinstated upon payment of a fee of \$30 to be determined by the board of not more than \$50 if paid before March February 1st. A license to practice is automatically suspended on March February 1st for nonpayment of registration fee and may be reinstated, if approved by the board, on payment of a fee of \$50 to be determined by the board, of not more than \$100.**

Sec. 7. 32 MRSA § 1084, last sentence, as repealed and replaced by PL 1975, c. 484, § 6, is repealed and the following enacted in its place:

New applicants having paid the examination fee shall pay either the biennial

registration fee, if they register on an even-numbered year, or half the biennial registration fee is they register in an odd-numbered year.

Sec. 8. 32 MRSA § 1085, last sentence, as enacted by PL 1967, c. 544, § 80, is amended to read:

The fee for such license shall be ~~\$50~~ determined by the board, but not more than \$150.

Sec. 9. 32 MRSA § 1087, as enacted by PL 1967, c. 544, § 80, is amended to read:

§ 1087. Fee for duplicate certificate

An applicant for a duplicate certificate granted upon proof of loss of the original shall pay a fee of ~~\$10~~ \$15.

Sec. 10. 32 MRSA § 1095, as repealed and replaced by PL 1971, c. 159, § 3, is amended to read:

§ 1095. Definition

The dental hygienist may perform, under the supervision of a dentist of record, such duties as shall be defined and set forth in the rules and regulations of the Board of Dental Examiners; provided that nothing in this subchapter shall 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.

Sec. 11. 32 MRSA § 1097, 2nd, 3rd and 4th sentences, as enacted by PL 1967, c. 544, § 80, are amended to read:

Such application shall be accompanied by an examination fee of ~~\$25~~ \$35. Any applicant failing to pass ~~said~~ the examination shall be entitled to one additional examination for which the fee will be ~~\$10~~ \$25. The fee for each reexamination after the first shall be ~~\$25~~ \$35.

Sec. 12. 32 MRSA § 1098, as amended by PL 1975, c. 484, § 13, is further amended to read:

§ 1098. Certificate; biennial fee

The board shall issue certificates of ability to practice as dental hygienists in this State to those who have passed ~~said~~ the examination, which certificate shall be exhibited whenever requested by a member or authorized agent of the board. ~~Said~~ The certificate shall be considered a license to practice as a dental hygienist in this State for the year in which it is issued and in subsequent years when properly renewed under this section. Thereafter, and on or before January first of each odd-numbered year, ~~said~~ the dental hygienist shall pay to the secretary of the board ~~an annual~~ a registration fee of \$5 not more than \$35 to be determined by the board, except that all dental hygienists shall pay a registration fee to be determined by the board of not more than \$17.50 in 1982. A registration card for

~~that year~~ will then be issued, which card is to be placed beside or attached to the certificate. **Dental hygienists who have not paid as provided shall be reinstated upon payment of a fee of not more than \$17.50 to be determined by the board if paid before February first.** Failure to be properly registered by ~~January~~ **February first of each year** will result in automatic suspension of license to practice dental hygiene. Reinstatement may be made, if approved by the board, by payment of ~~\$10~~ **a fee determined by the board of not more than \$35** of the secretary of the board.

Sec. 13. 32 MRSA § 1098-A is enacted to read:

§ 1098-A. Fee for duplicate certificate

An applicant for a duplicate certificate granted upon proof of loss of the original shall pay a fee of \$15.

Sec. 14. 32 MRSA § 1099, last sentence, as enacted by PL 1967, c. 544, § 80, is amended to read:

The fee for such certificate shall be ~~\$25~~ **determined by the board, but not more than \$50.**

Sec. 15. 32 MRSA § 1100, as amended by PL 1973, c. 303, § 3, is further amended by adding at the end the following:

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

- 1. Conviction. Conviction of a crime 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 the dental hygienist 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. Substance abuse. Addiction to a drug habit or chronic alcoholism under the influence of or impaired by any substance adversely affecting professional ability or judgment;**
- 6. Unsanitary conditions. Keeping personal instruments, laboratory equipment, appliances or supplies in an unsanitary condition; or**
- 7. Disability. Physical or mental disability, or other condition to the extent that continued practice would be injurious to patients or to the public.**

Sec. 16. 32 MRSA § 1100-B, sub-§ 2, as enacted by PL 1977, c. 484, § 2, is amended to read:

2. Denturist. "Denturist" means a person licensed under this subchapter to engage in the practice of denture technology under the supervision of a dentist of record.

Sec. 17. 32 MRSA § 1100-D, sub-§ 3, last sentence, as enacted by PL 1977, c. 484, § 2, is amended to read:

This application shall be accompanied by an examination fee of ~~\$25~~ \$35.

Sec. 18. 32 MRSA § 1100-D, sub-§ 4, as enacted by PL 1977, c. 484, § 2, is amended to read:

4. Additional examinations; fee. Any applicant failing to pass the examination shall be entitled to one additional examination, for which the fee shall be ~~\$10~~ \$25. The fee for each additional examination after the first additional examination shall be ~~\$25~~ \$35.

Sec. 19. 32 MRSA § 1100-E, sub-§ 3, first sentence, as enacted by PL 1977, c. 484, § 2, is amended to read:

After a license has been issued under subsection 2, and on or before January 1st of each ~~year~~ odd-numbered years, any denturist shall pay to the secretary of the board ~~an annual~~ a registration fee of ~~\$5 not more than \$35 to be determined by the board~~ in order to renew the license and to continue to be authorized to practice as a denturist in the State, ~~except that all denturists shall pay a registration fee to be determined by the board, of not more than \$17.50 in 1982.~~

Sec. 20. 32 MRSA § 1100-E, sub-§ 3, last 2 sentences, as enacted by PL 1977, c. 484, § 2, are repealed and the following enacted in their place:

Denturists who have not paid as provided by January 1st shall be reinstated upon payment of a fee, to be determined by the board, of not more than \$17.50 if paid by February 1st. A license to practice is automatically suspended on February 1st, and may be reinstated, if approved by the board, on payment of a fee to be determined by the board of not more than \$35.

Sec. 21. 32 MRSA § 1100-E, sub-§ 4, last sentence, as enacted by PL 1977, c. 484, § 2, is amended to read:

The fee for such certificate shall be ~~\$25~~ \$50.

Sec. 22. 32 MRSA § 1100-E, sub-§ 4-A is enacted to read:

4-A. Duplicate certificate. An applicant for a duplicate certificate granted upon proof of loss of the original shall pay a fee of \$15.

Sec. 23. 32 MRSA § 1100-H, as enacted by PL 1977, c. 484, § 2, is amended by adding at the end a new sentence to read:

A further report shall be made to the joint standing committee of the Legislature having jurisdiction over health and institutional services on or before April 1, 1982.

STATEMENT OF FACT

The new draft increases the fees for dentists, dental hygienists and denturists. These fees for examinations, registration, fines for late registration and certificates have not been increased for at least 6 years. The Board of Dental Examiners retains the flexibility of setting the biennial registration fees so that they will be only for the amount necessary to cover expenses.

It also restructures the section on the Board of Dental Examiners, requires everyone to register, and to pay half of the biennial fee if they pass the examination in the alternate year and establishes a biennial registration for dental hygienists and denturists.

Each patient in a multi-dentist practice is to have a dentist of record; multi-dentist practices must be under the supervision of a registered dentist.

Grounds for revocation or suspension of the license of a dental hygienist are added, to parallel those for dentists and denturists.

Finally, the Board of Dental Examiners is to report to the Health and Institutional Services Committee by April 1, 1982 on implementation of the statutes dealing with denturists.