

# MAINE STATE LEGISLATURE

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# 119th MAINE LEGISLATURE

## FIRST REGULAR SESSION-1999

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Legislative Document

No. 2057

H.P. 1434

House of Representatives, March 25, 1999

**An Act to Amend the Regulation of Dentists Regarding the Use of  
Anesthesia.**

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Reference to the Committee on Business and Economic Development suggested and ordered printed.

A handwritten signature in cursive script that reads "Joseph W. Mayo".

JOSEPH W. MAYO, Clerk

Presented by Representative GOODWIN of Pembroke.

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

Sec. 1. 32 MRSA §1089-A is enacted to read:

**§1089-A. Anesthesia use by dentists**

1. Definitions. As used in this section, unless the context indicates otherwise, the following terms have the following meanings.

A. "Conscious sedation" means a depressed level of consciousness, in which the patient retains the ability to independently and continuously maintain an airway and respond appropriately to physical stimulation or verbal command, produced by a pharmacologic or nonpharmacologic method or combination of the 2.

B. "Deep sedation" means a controlled state of depressed consciousness, accompanied by a partial loss of protective reflexes, including the ability to continually maintain an airway independently or respond purposefully to verbal command, produced by a pharmacologic or nonpharmacologic method or combination of the 2.

C. "General anesthesia" means a controlled state of unconsciousness, accompanied by a partial or complete loss of protective reflexes, including the ability to independently maintain an airway and respond purposefully to physical stimulation or verbal command, produced by a pharmacologic or nonpharmacologic method or combination of the 2.

2. Use of general anesthesia; permit of authorization. A dentist may not induce general anesthesia on an outpatient basis for dental patients unless the dentist possesses a permit of authorization issued by the board. A dentist holding a permit of authorization is subject to review and that permit must be renewed every 5 years, except as provided in subsections 7 and 8.

In order to receive a permit of authorization, the dentist must apply on a prescribed application form to the board, submit an application fee of \$125 and produce evidence showing that the dentist has a properly equipped facility for inducing general anesthesia staffed with a supervised team of auxiliary personnel capable of reasonably handling procedures, problems and emergencies and:

A. Has completed a minimum of one year of advanced training in anesthesiology and related academic subjects, or its equivalent, beyond the undergraduate dental school level;

2 B. Is a diplomate of a national board of oral and  
4 maxillofacial surgery, is a fellow or member of a national  
6 association of oral and maxillofacial surgeons, has  
8 completed a residency in oral and maxillofacial surgery  
10 approved by the American Dental Association or is a fellow  
12 of a national dental society of anesthesiology; or

14 C. Employs or works in conjunction with a trained  
16 anesthesiologist, as defined by a professional society for  
18 anesthesiologists, provided that the anesthesiologist:

20 (1) Is continuously present during the administration  
22 of the anesthetic; and

24 (2) Remains on the premises of the dental facility  
26 until the anesthetized patients are fully recovered and  
28 discharged.

30 A minimum of 6 hours of continuing education is required  
32 biannually for an individual holding a permit under this  
34 subsection. These hours must be directly related to anesthesia  
36 and sedation, physical diagnosis, complications or technique.

38 Adequacy of the facility and competence of the anesthesia team  
40 may be determined as provided in subsection 6.

42 3. Use of deep sedation; permit to induce. A dentist may  
44 not induce deep sedation on an outpatient basis for dental  
46 patients unless the dentist possesses a permit to induce deep  
48 sedation issued by the board. A dentist holding a permit to  
induce deep sedation is subject to review and such a permit must  
be renewed every 5 years, except as provided in subsections 7 and  
8. In order to receive a permit to induce deep sedation, the  
dentist must apply on a prescribed application form to the board,  
submit an application fee of \$125 and produce evidence showing  
that the dentist has a properly equipped facility for the  
induction of deep sedation staffed with a supervised team of  
auxiliary personnel capable of reasonably handling procedures,  
problems and emergencies and:

42 A. Has completed a minimum of one year of advanced training  
44 in anesthesiology and related academic subjects, or its  
46 equivalent, beyond the undergraduate dental school level;

48 B. Is a diplomate of a national board of oral and  
maxillofacial surgery, is a fellow or member of a national  
association of oral and maxillofacial surgeons, has  
completed a residency in oral and maxillofacial surgery

2 approved by the American Dental Association or is a fellow  
3 of a national dental society of anesthesiology; or

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5 anesthesiologist, as defined by a professional society for  
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14 biannually for an individual holding a permit under this  
15 subsection. These hours must be directly related to anesthesia  
16 and sedation, physical diagnosis, complications or technique.

17 Adequacy of the facility and competence of the anesthesia team  
18 may be determined as provided in subsection 6.

19 4. Use of conscious sedation. Regardless of the means of  
20 induction, when conscious sedation is used, the dentist must be  
21 trained and follow a professional dental association's  
22 guidelines. The dentist and dental assistants must have current  
23 certification in basic cardiac life support. The board must  
24 approve all training programs in conscious sedation.

25 5. Minimum standard of care. The following standards of  
26 care are required for dentists inducing general anesthesia, deep  
27 sedation and conscious sedation in the dental office:

28 A. All patients must be continually monitored when  
29 anesthetic agents are employed;

30 B. All facility equipment must be approved by the board  
31 using standards adopted by the board; and

32 C. All facilities must be certified by the board as meeting  
33 standards adopted by a national association of oral and  
34 maxillofacial surgeons for an office anesthesia evaluation  
35 program.

36 6. On-site evaluation of facility. Prior to the issuance  
37 of a permit under subsection 2 or 3, the board shall require an  
38 on-site evaluation of the facility, equipment and personnel to  
39 determine if all board requirements have been met. The  
40 inspection may include observance of an actual or simulated  
41 procedure in which general anesthetic or sedation techniques are  
42 employed. The evaluation may be carried out by a team of  
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2 consultants appointed by the board or by the Anesthesia  
Evaluation Committee pursuant to subsection 11.

4 7. Provisional permit for dentists using anesthesia. A  
dentist who has been inducing general anesthesia or deep sedation  
6 prior to the effective date of this section must make application  
on the prescribed form to the board within one year of the  
8 effective date of this section if the dentist wants to continue  
inducing general anesthesia or deep sedation. If the dentist  
10 meets the requirements of this section, the board shall issue to  
the dentist a provisional permit of one to 3 years. An on-site  
12 evaluation of the facilities, equipment and personnel may be  
required prior to issuance of such a permit.

14 8. Temporary provisional permit for new applicants. For  
16 new applicants who are otherwise properly qualified, a one-year  
provisional permit may be granted by the board based solely upon  
18 the credentials contained in the application, pending complete  
processing of the application and an on-site evaluation.

20 9. Renewal of permits. Permits issued pursuant to  
22 subsections 2 and 3 may be renewed every 5 years as long as a  
successful on-site evaluation pursuant to subsection 6 is  
24 completed within one year prior to permit renewal.

26 The board shall issue an application for renewal one year prior  
to permit renewal. The applicant shall pay a fee established by  
28 the board and the Anesthesia Evaluation Committee shall schedule  
an appointment for an on-site dental anesthesia procedures  
30 evaluation. When the evaluation is successfully completed, the  
applicant must receive a certificate that must be kept in the  
32 office.

34 10. Provisional permit for dentist without formal  
training. The board, based on a formal application stating all  
36 the particulars that would justify the granting of a provisional  
permit, may grant a provisional permit to a dentist who has not  
38 fulfilled the formal training requirements under subsection 2 or  
3 but who can document the induction of general anesthesia or  
40 deep sedation in a competent and effective manner prior to  
implementation of this rule.

42 11. Anesthesia Evaluation Committee. The board shall  
44 appoint an Anesthesia Evaluation Committee composed of at least 3  
dentists with permits issued under this section. To be eligible  
46 to serve on this committee, members must meet the educational and  
clinical requirements set forth in subsections 2 and 3.  
48 Anesthesia Evaluation Committee members must be reimbursed for  
travel expenses incurred while evaluating outpatient facilities.  
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2        12. Morbidity and mortality reports. Within 30 days of an  
3        anesthetic-related mortality or permanently disabling incident,  
4        the licensee under whose care the mortality or disabling incident  
5        occurred must submit to the board a complete report including the  
6        determination that the incident occurred during or as a result of  
7        dental procedures of anesthesia. Failure to report the  
8        information required in this subsection may result in the removal  
9        of the licensee's permit.

10        13. Penalties for violations. A violation of the  
11        provisions of this section pertaining to the use of conscious  
12        sedation, deep sedation or general anesthesia constitutes  
13        unprofessional conduct and may result in disciplinary action  
14        against the dentist.

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### SUMMARY

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19        This bill codifies the Department of Financial and  
20        Professional Regulation rules, with additional changes,  
21        pertaining to the use of anesthesia by dentists.