

# MAINE STATE LEGISLATURE

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# 120th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2001

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Legislative Document

No. 1639

S.P. 520

In Senate, March 13, 2001

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### An Act to Improve the Licensing and Regulation of Denturists.

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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 "Joy J. O'Brien".

JOY J. O'BRIEN  
Secretary of the Senate

Presented by President MICHAUD of Penobscot.  
Cosponsored by Representative STANLEY of Medway and  
Representatives: BRYANT of Dixfield, STEDMAN of Hartland.

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

4 **Sec. 1. 5 MRSA §12004-A, sub-§10-A** is enacted to read:

6 10-A. Denturist                      Legislative                      32 MRSA  
Subcommittee                      per diem                      §1078

8 **Sec. 2. 13 MRSA §705**, as amended by PL 1997, c. 313, §1, is  
10 further amended to read:

12 **§705. Corporate organization**

14 An individual or group of individuals duly licensed or  
16 otherwise legally authorized to render the same professional  
18 service within this State may organize and become a shareholder  
20 or shareholders of a professional corporation under the  
22 corporation laws for the sole and specific purpose of rendering  
24 the same and specific professional service. Notwithstanding any  
26 other provisions of law, for the purposes of this chapter,  
28 osteopathic physicians licensed under Title 32, chapter 36 and  
30 physicians and surgeons licensed under Title 32, chapter 48 are  
32 considered to render the same professional service.  
34 Notwithstanding any other provision of law, for the purposes of  
this chapter, a denturist licensed under Title 32, chapter 16 may  
organize with a dentist who is licensed under Title 32, chapter  
16 and may become a shareholder of a dental practice incorporated  
under the corporation laws.

36 **Sec. 3. 32 MRSA §1071, first ¶**, as amended by PL 1999, c. 124,  
38 §1, is further amended to read:

40 ~~Until January 1, 2001, the~~ The Board of Dental Examiners,  
42 established by Title 5, section 12004-A, subsection 10, and in  
44 this chapter called the "board," consists of 8 members, appointed  
46 by the Governor as follows: five members of the dental  
48 profession, one dental hygienist, one denturist and one  
representative of the public. ~~After January 1, 2001, the board~~  
~~consists of 7 members, appointed by the Governor as follows: 5~~  
~~members of the dental profession, one dental hygienist and one~~  
~~representative of the public.~~

50 **Sec. 4. 32 MRSA §1078** is enacted to read:

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**§1078. Denturist Subcommittee**

The Denturist Subcommittee, as established in Title 5, section 12004-A, subsection 10-A, referred to in this section as the "subcommittee," is established as an independent subcommittee of the board.

1. Membership. The subcommittee consists of 2 denturists and one member of the public appointed by the Governor for 5-year terms.

2. Eligibility. A person is not eligible for appointment to the subcommittee who has been convicted of a violation of the provisions of this chapter or any other prior dental practice laws, or who has been convicted of a crime punishable by more than one year's imprisonment. A person is not eligible for appointment to the subcommittee who has served 10 years or more on a dental examining board in this State. Appointment of members must comply with section 60. The Governor may remove a member of the subcommittee on proven charges of inefficiency, incompetence, immorality or unprofessional conduct.

3. Compensation. The members of the subcommittee are entitled to compensation according to the provisions of Title 5, chapter 379. Expenses of the members must be certified by the secretary of the board.

4. Duties. The subcommittee shall:

A. Adopt rules pertaining to denturists not contrary to law and subject to legislative review. Rules adopted pursuant to this paragraph are routine technical rules as defined in Title 5, chapter 375, subchapter II-A;

B. Investigate complaints and discipline denturist licensees;

C. Prepare and give examinations for the purpose of licensing and authorize regional or national examinations for the purpose of licensing;

D. Submit a yearly budget, ensuring that operations of the subcommittee are supported entirely by denturist licensing fees;

E. Approve educational curriculums for the purpose of licensing and continuing education; and

2 F. Hold at least one annual meeting, and special meetings  
3 as necessary, at a time and place to be fixed by the  
4 subcommittee.

5 **Sec. 5. 32 MRSA §1081, sub-§2, ¶¶E and G,** as amended by PL  
6 1993, c. 600, Pt. A, §63, are further amended to read:

7 E. The filling of prescriptions of a licensed dentist or  
8 denturist by any person, association, corporation or other  
9 entity for the construction, reproduction or repair of  
10 prosthetic dentures, bridges, plates or appliances to be  
11 used or worn as substitutes for natural teeth, provided that  
12 this person, association, corporation or other entity does  
13 not solicit nor advertise, directly or indirectly, by mail,  
14 card, newspaper, pamphlet, radio or otherwise, to the  
15 general public to construct, reproduce or repair prosthetic  
16 dentures, bridges, plates or other appliances to be used or  
17 worn as substitutes for natural teeth; ~~and~~

18 G. The taking of impressions by dental hygienists or dental  
19 assistants for study purposes only; and

20 **Sec. 6. 32 MRSA §1081, sub-§2, ¶H** is enacted to read:

21 H. The practice of denturism.

22 **Sec. 7. 32 MRSA §1081, sub-§3, ¶¶A and C,** as amended by PL  
23 1993, c. 600, Pt. A, §63, are further amended to read:

24 A. Employs dentists or dental hygienists, denturists or  
25 other dental auxiliaries in the operation of a dental  
26 office;

27 C. Retains the ownership or control of dental equipment or  
28 material or a dental office and makes the same available in  
29 any manner for the use by dentists or dental hygienists or  
30 other agents, except that nothing in this subsection applies  
31 to bona fide sales of dental equipment or material secured  
32 by a chattel mortgage or retain title agreement. ~~A person  
33 licensed to practice dentistry may not enter into  
34 arrangements with a person who is not licensed to practice  
35 dentistry.~~

36 **Sec. 8. 32 MRSA §1090,** as amended by PL 1993, c. 600, Pt. A,  
37 §72, is further amended to read:

38 **§1090. Prescription required for dental laboratory**

39 **1. Prescription.** A dentist or denturist who uses the  
40 services of a person not licensed to practice dentistry or  
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2 denturism in this State to construct, alter, repair or duplicate  
a denture, plate, partial plate, bridge, splint, orthodontic or  
4 prosthetic appliance shall first furnish the unlicensed person  
with a written prescription, which must contain:

6 A. The name and address of the unlicensed person;

8 B. The patient's name or number. In the event the number is  
used, the name of the patient must be written upon the  
10 duplicate copy of the prescription retained by the dentist;

12 C. The date on which it was written;

14 D. A prescription of the work to be done, with diagrams if  
necessary;

16 E. A specification of the type and quality of materials to  
18 be used; and

20 F. The signature of the dentist or denturist and the number  
of the dentist's or denturist's state license.

22 The unlicensed person shall retain the original prescription and  
24 the dentist or denturist shall retain for 2 years a duplicate  
copy for inspection by the board or its agent. For purposes of  
26 this subsection, "unlicensed person" includes all legal entities.

28 **Sec. 9. 32 MRSA §1100-A**, as amended by PL 1993, c. 600, Pt.  
A, §87, is further amended to read:

30 **§1100-A. Definition**

32 Duties of dental auxiliaries other than dental hygienists  
34 and denturists must be defined and governed by the rules of the  
Board of Dental Examiners. Dental auxiliaries include, but are  
36 not limited to, dental hygienists, dental assistants, and dental  
laboratory technicians ~~and denturists~~.

38 **Sec. 10. 32 MRSA §1100-B, sub-§3, ¶¶A and B**, as amended by PL  
40 1993, c. 600, Pt. A, §88, are further amended to read:

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

48 B. The fitting of a ~~complete-upper-or-lower~~ prosthetic  
50 denture, ~~or-both~~, to an edentulous arch or arches, including

2 the making, producing, reproducing, constructing, finishing,  
supplying, altering and repairing of dentures; and

4 **Sec. 11. 32 MRSA §1100-B, sub-§4** is enacted to read:

6 **4. Subcommittee.** "Subcommittee" means the Denturist  
Subcommittee.

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10 **Sec. 12. 32 MRSA §1100-C, sub-§1**, as amended by PL 1995, c.  
590, §5, is further amended to read:

12 **1. Rules required.** The board subcommittee shall adopt  
14 rules necessary to implement this subchapter. Rules adopted may  
16 pertain, but are not limited to, continuing education, statement  
of oral conditions and other record retention requirements,  
18 prelicensure permits and the specification of other procedures  
to this subchapter are routine technical rules as defined in  
Title 5, chapter 375, subchapter II-A.

20 **Sec. 13. 32 MRSA §1100-C, sub-§6** is enacted to read:

22 **6. Oral health certificate not required.** The rules adopted  
24 by the subcommittee may not require that a denturist hold an oral  
health certificate from a dentist before treating a patient.

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28 **Sec. 14. 32 MRSA §1100-D, sub-§1**, as amended by PL 1995, c.  
590, §6, is further amended to read:

30 **1. Authority.** The board subcommittee is authorized to  
32 prepare and give examinations in the area of denturism for the  
purpose of licensing denturists. All examinations prepared and  
34 given under this subchapter may be prepared and given by the ~~full  
board, by an appointed~~ subcommittee ~~of the board~~ or by an entity  
authorized by the board subcommittee. The ~~board may~~ subcommittee  
36 shall also recognize a nationally or regionally administered  
examination given at least annually for applicants to practice  
38 denturism in the State.

40 **Sec. 15. 32 MRSA §1100-D, sub-§2-A, ¶A**, as enacted by PL 1995,  
c. 590, §6, is repealed.

42  
44 **Sec. 16. 32 MRSA §1100-D, sub-§2-A, ¶B**, as enacted by PL 1995,  
c. 590, §6, is amended to read:

46 **B.** A person is eligible to take the examination if that  
person:

48  
50 (1) Is a high school graduate or has obtained high  
school equivalency; and

2 (2) Has a ~~diploma from a board approved denturism~~  
3 ~~postsecondary institution or has completed an~~  
4 ~~equivalent denturist educational program approved by~~  
5 ~~the board~~ successfully completed a course certified by  
6 the American Denturist Association, the Denturist  
7 Association of Canada, or a successor organization of  
8 either, or the subcommittee.

10 **Sec. 17. 32 MRSA §1100-D, sub-§§3 and 4**, as amended by PL 1995,  
11 c. 590, §6, are further amended to read:

12  
13 **3. Application for examination; fee.** An eligible person  
14 desiring to take an examination in order to become licensed as a  
15 dentist shall make a written application to the board  
16 subcommittee to take the examination. This application must be  
17 accompanied by an application fee, to be determined by the board  
18 subcommittee, ~~but not to exceed \$100~~ and an examination fee to be  
19 determined by the board subcommittee that may not exceed the  
20 actual cost of the examination. The application fee includes the  
21 fee for the initial license and is nonrefundable.

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23 **4. Additional examinations; fee.** An applicant failing to  
24 pass an examination is entitled to a reexamination upon payment  
25 of the examination fee set by the board subcommittee. If an  
26 applicant has failed 3 examinations, the board subcommittee may  
27 require the applicant to complete additional educational  
28 requirements prior to reexamination.

30 **Sec. 18. 32 MRSA §1100-E, sub-§§2 to 4-A**, as amended by PL  
31 1995, c. 590, §7, are further amended to read:

32  
33 **2. License issued.** The Upon recommendation of the  
34 subcommittee, the board shall issue a license for the practice in  
35 this State to each person who has passed an examination under  
36 section 1100-D. This license authorizes the licensee to practice  
37 as a dentist in the State until the expiration date that  
38 appears on the license.

40 **3. Renewal; renewal fee.** After a license has been issued  
41 under subsection 2, and on or before January 1st of odd-numbered  
42 years, a dentist must pay to the board subcommittee a license  
43 renewal fee ~~of not more than \$100~~ to be determined by the board  
44 subcommittee in order to renew the license and to continue to be  
45 authorized to practice as a dentist in the State or 1/2 the  
46 biennial licensure fee if application is made in an even-numbered  
47 year.

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49 After the requirements for a license renewal, including any  
50 necessary continuing education, have been met, a renewal card of



2 the denturist's license must be issued, which the denturist shall  
3 place beside or attach to the denturist's initial license.  
4 Denturists who have not paid as provided by January 1st must be  
5 reinstated upon payment of a fee, to be determined by the board  
6 subcommittee, of not more than \$50 if paid by February 1st. A  
7 license to practice is automatically suspended on February 1st  
8 and may be reinstated, if approved by the board, on payment of a  
9 fee to be determined by the board ~~of not more than \$100~~  
10 subcommittee.

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12 **4. Endorsement.** The board, at its discretion, without  
13 examination, may issue a license to an applicant to practice as a  
14 denturist who furnishes proof satisfactory to the board that the  
15 denturist has been licensed to practice and has actively  
16 practiced for a period of 5 years in another state or Canadian  
17 province after full compliance with the requirements of its  
18 dental laws, if the licensure requirements are, in all  
19 essentials, at least equivalent to those of this State. The board  
20 may require letters of reference about the denturist. Applicants  
21 for licensure by endorsement who meet the requirements of this  
22 section must be interviewed in person by the board, or members of  
23 the board, prior to being issued a license. Every license so  
24 given must state upon its face that it was granted on the basis  
of endorsement. ~~The fee for the license may not exceed \$100.~~

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26 **4-A. Duplicate license.** A licensee must be issued a  
27 duplicate license by the board for a fee of \$15 to be paid to the  
28 subcommittee upon attestation of loss of the original.

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30 **Sec. 19. 32 MRSA §1100-E, sub-§5, ¶B-1,** as enacted by PL 1995,  
31 c. 590, §7, is repealed.

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33 **Sec. 20. 32 MRSA §1100-E, sub-§6,** as amended by PL 1995, c.  
34 590, §7 and PL 1999, c. 547, Pt. B, §78 and affected by §80, is  
35 further amended to read:

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37 **6. Mental or physical examination.** For the purposes of  
38 this subsection, by the application for and acceptance of the  
39 license, a licensed denturist is deemed to have given consent to  
40 a mental or physical examination when directed by the board  
41 subcommittee. The board subcommittee may direct the examination  
42 whenever it determines a denturist may be suffering from a mental  
43 illness that may be interfering with the competent practice of  
44 denturism or from the use of intoxicants or drugs to an extent  
45 that they are preventing the denturist from practicing denturism  
46 competently and with safety to the patients. A denturist  
47 examined pursuant to an order of the board subcommittee does not  
48 have the privilege to prevent the testimony of the examining  
49 individual or to prevent the acceptance into evidence of the  
50 report of an examining individual. Failure to comply with an

2 order of the board subcommittee to submit to a mental or physical  
exam requires the District Court to immediately order the license  
4 of the denturist suspended until the denturist submits to the  
examination.

6 **Sec. 21. 32 MRSA §1100-E-1**, as enacted by PL 1995, c. 590,  
§8, is amended to read:

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10 **§1100-E-1. Continuing education**

12 As a condition of a license renewal, a denturist licensee  
shall must submit evidence of successful completion of 20 hours  
14 of continuing education consisting of board-approved courses  
approved by the subcommittee completed within the 2 years  
16 preceding the application for renewal. The board subcommittee  
shall proportionally reduce the continuing education hours  
18 required for denturists who have been licensed for less than a  
2-year period upon the date of renewal.

20 **Sec. 22. 32 MRSA §1100-K, sub-§3** is enacted to read:

22 **3. Exception.** A denturist who is a licensed dental  
radiographer may expose, develop and interpret X rays without  
24 supervision of a dentist.

26 **Sec. 23. Denturist Subcommittee; staggered terms.**  
Notwithstanding the Maine Revised Statutes, Title 32, section  
28 1078, subsection 1, of those initial appointments to the  
Denturist Subcommittee, one denturist's term must be 5 years, one  
30 denturist's term must be 4 years and the public member's term  
must be 3 years.

32 **Sec. 24. Retroactivity.** That section of this Act that amends  
34 the Maine Revised Statutes, Title 32, section 1071, first  
paragraph applies retroactively to January 1, 2001.

36 **Sec. 25. Transition.** Rules in effect on the effective date of  
38 this Act adopted by the Board of Dental Examiners to regulate the  
practice of denturism remain in effect until amended, repealed or  
40 replaced by the Denturist Subcommittee.

42  
44 **SUMMARY**

This bill makes several changes relating to denturists and  
46 dental practices. Specifically, the bill does the following:

48 1. It authorizes denturists to become shareholders in  
dental practices;

2           2. It adds back the denturist member to the Board of Dental  
2           Examiners;

4           3. It establishes the Denturist Subcommittee as an  
4           independent subcommittee of the Board of Dental Examiners. The  
6           subcommittee consists of 2 denturists and one public member  
6           serving staggered 5-year terms. While licensing authority  
8           remains with the board, the subcommittee is given jurisdiction  
8           over examinations and approval of educational curriculums and  
10          continuing education. Money received from license issuance and  
10          renewal is paid to the subcommittee, which has the duty to ensure  
12          that its operations are supported entirely by those fees;

14          4. It clarifies the definition of the "practice of  
14          denturism";

16          5. It prohibits a mandatory oral health certification as a  
16          precondition for a denturist to treat a patient, and clarifies  
18          that the subcommittee, not the board, will adopt rules to  
18          regulate the practice of denturism;

20          6. It clarifies that the a education requirement may be met  
22          by successful completion of a course certified by the American  
22          Denturist Association or the Denturist Association of Canada; and  
24          

26          7. It provides that denturist who is a licensed dental  
26          radiographer may expose, develop and interpret X rays without  
28          supervision of a dentist.