

MAINE STATE LEGISLATURE

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121st MAINE LEGISLATURE

FIRST REGULAR SESSION-2003

Legislative Document

No. 1092

S.P. 364

In Senate, March 4, 2003

An Act To Amend the Laws Pertaining to Denturists

Reference to the Committee on Business, Research 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 Senator STANLEY of Penobscot.

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

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

<u>10-A. Board of</u>	<u>Legislative</u>	<u>32 MRSA §15331</u>
<u>Denturists</u>	<u>Per Diem</u>	
	<u>Secretary-</u>	
	<u>Treasurer as</u>	
	<u>determined by</u>	
	<u>board</u>	

Sec. 2. 13 MRSA §732, sub-§4, as enacted by PL 2001, c. 640, Pt. B, §2 and affected by §7, is amended to read:

4. Dentists and denturists. For the purposes of this chapter, a denturist licensed under Title 32, chapter ~~16~~ 137 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. At no time may a denturist or denturists in sum have an equal or greater ownership interest in a dental practice than the dentist or dentists have in that practice.

Sec. 3. 32 MRSA §1071, sub-§3-A, as enacted by PL 2001, c. 260, Pt. B, §2, is amended to read:

3-A. Denturist. The denturist must be qualified pursuant to ~~subchapter VI~~ chapter 137, must be a legal resident of the State and for appointments made after January 1, 2006, the denturist must have practiced in the State for at least 6 years immediately preceding appointment. The denturist member of the board is a full-voting member of the board. The term of the denturist is 5 years. A denturist is not eligible to serve as a member of the board while employed by a dentist who is a member of the board.

Sec. 4. 32 MRSA §1100-A, as amended by PL 1993, c. 600, Pt. A, §87, is further amended to read:

§1100-A. Definition

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

Sec. 5. 32 MRSA c. 16, sub-c. 6, as amended, is repealed.

Sec. 6. 32 MRSA c. 137 is enacted to read:

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CHAPTER 137

DENTURISTS

SUBCHAPTER 1

BOARD OF DENTURISTS

§15331. Membership; appointment; vacancies; removal; nominations; compensation

The Board of Denturists, established by Title 5, section 12004-A, subsection 10-A, and referred to in this chapter as "the board," consists of 3 members who are denturists, appointed by the Governor.

1. Membership. A person is not eligible for appointment to the board who has been convicted of a violation of the provisions of this chapter or any other prior denturism 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 board 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 board on proven charges of inefficiency, incompetence, immorality or unprofessional conduct.

2. Members. A member must be a qualified dentist pursuant to subchapter 2, must be a legal resident of the State and, for appointments made after January 1, 2006, must have practiced in the State for at least 6 years immediately preceding appointment. The term of a member is 5 years.

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

§15332. Elections; quorum; reports; records; treasurer; expenses

At its annual meeting, the board shall elect from among its members a president, a vice-president and a secretary-treasurer. Two members constitute a quorum. The board may have a common seal. At a time and place to be fixed by the board, the board shall hold at least one regular meeting each year and special meetings as necessary. The board may recognize nationally or regionally administered examinations given at least annually for applicants to practice denturism in the State. The board may make rules, not contrary to law, necessary for the performance of

2 its duties. On or before August 1st, the board shall annually
3 make a report of its proceedings to the Commissioner of
4 Professional and Financial Regulation. The secretary-treasurer
5 of the board shall keep records of all proceedings of the board
6 and be the custodian of these records. Records that constitute
7 and are recognized as the official records of the board must be
8 open for public inspection at reasonable times.

9
10 The secretary-treasurer of the board shall collect all fees,
11 charges and assessments payable to the board and account for and
12 pay them according to law. The secretary-treasurer is entitled
13 to receive an annual salary, to be fixed by the board, in lieu of
14 per diem compensation. The secretary-treasurer is entitled to
15 necessary expenses incurred in the discharge of official duties,
16 including clerical and stenographic assistance, printing and
17 postage. The allowance for expenses must be certified by the
18 president of the board.

19 **§15333. Powers**

20 The board may:

21
22
23 1. **Employees and offices; funds.** Employ persons to assist
24 in carrying out its duties in the administration and enforcement
25 of this chapter; provide offices, furniture, fixtures, supplies
26 or printing; and expend funds as determined necessary;

27
28 2. **Rules.** Adopt rules that are necessary for the
29 implementation of this chapter. The rules may include, but need
30 not be limited to, requirements for licensure, interviews for
31 licensing and renewal, continuing education, inactive licensure
32 status, statement of oral conditions, record retention and
33 prelicensure permits. Rules adopted pursuant to this subsection
34 are major substantive rules pursuant to Title 5, chapter 375,
35 subchapter 2-A;

36
37 3. **False advertising.** Adopt rules relating to false,
38 deceptive or misleading advertising, except that no rules may be
39 inconsistent with any rule adopted pursuant to Title 5, section
40 207, subsection 2; and

41
42 4. **Protocols for professional review committee.** Establish
43 protocols for the operation of a professional review committee as
44 defined in Title 24, section 2502, subsection 4-A. The protocols
45 must include the committee's reporting information the board
46 considers appropriate regarding reports received, contracts or
47 investigations made and the disposition of each report, except
48 that the committee is not required to disclose any personally
49 identifiable information. The protocols may not prohibit an
50 impaired dentist from seeking alternative forms of treatment.

2 **§15334. Liaison; limitations**

4 On or before August 1st of each year, the board shall submit
6 to the Commissioner of Professional and Financial Regulation, for
8 the preceding fiscal year ending June 30th, an annual report of
 its operations and financial position, together with comments and
 recommendations the board considers essential.

10 The Commissioner of Professional and Financial Regulation
12 shall act as a liaison between the board and the Governor.

14 The Commissioner of Professional and Financial Regulation
16 may not exercise or interfere with the exercise of discretionary,
18 regulatory or licensing authority granted by law to the board.
20 The commissioner may require the board to be accessible to the
 public for complaints and questions during regular business hours
 and to provide any information the commissioner requires in order
 to ensure that the board is operating administratively within the
 requirements of this chapter.

22 **§15335. Budget**

24 The board shall submit to the Commissioner of Professional
26 and Financial Regulation its budgetary requirements in the same
28 manner as is provided in Title 5, section 1665, and the
30 commissioner shall in turn transmit these requirements to the
32 Bureau of the Budget without any revision, alteration or change,
34 unless alterations are mutually agreed upon by the Department of
 Professional and Financial Regulation and the board or the
 board's designee. The budget submitted by the board to the
 commissioner must be sufficient to enable the board to comply
 with this subchapter.

36 **§15336. Disciplinary actions**

38 1. Disciplinary proceedings and sanctions. Regarding
40 noncompliance with or violation of this chapter or of rules
42 adopted by the board, the board shall investigate a complaint on
 its own motion or upon receipt of a written complaint filed with
 the board.

44 The board shall notify the licensee of the content of a complaint
46 filed against the licensee as soon as possible, but no later than
48 60 days from receipt of this information. The licensee shall
50 respond within 30 days. If the licensee's response to the
 complaint satisfies the board that the complaint does not merit
 further investigation or action, the matter may be dismissed,
 with notice of the dismissal to the complainant, if any.

2 If, in the opinion of the board, the factual basis of the
4 complaint is or may be true and the complaint is of sufficient
6 gravity to warrant further action, the board may request an
8 informal conference with the licensee. The board shall provide
10 the licensee with adequate notice of the conference and of the
12 issues to be discussed. The conference must be conducted in
14 executive session of the board, pursuant to Title 1, section 405,
16 unless otherwise requested by the licensee. Statements made at
18 the conference may not be introduced at a subsequent formal
20 hearing unless all parties consent.

22 If the board finds that the factual basis of the complaint is
24 true and is of sufficient gravity to warrant further action, the
26 board:

28 A. With the consent of the licensee, may enter into a
30 consent agreement that fixes the period and terms of
32 probation best adapted to protect the public health and
34 safety and to rehabilitate or educate the licensee. A
36 consent agreement may be used to terminate a complaint
38 investigation if entered into by the board, the licensee and
40 the Office of the Attorney General;

42 B. In consideration for acceptance of a voluntary surrender
44 of the license if a consent agreement is signed by the
46 board, the licensee and the Office of the Attorney General,
48 may negotiate stipulations, including terms and conditions
50 for reinstatement, that ensure protection of the public
health and safety and that serve to rehabilitate or educate
the licensee;

C. If the board concludes that modification or nonrenewal
of the license is in order, shall hold an adjudicatory
hearing in accordance with the provisions of Title 5,
chapter 375, subchapter 4; or

D. If the board concludes that suspension or revocation of
the license is in order, shall file a complaint in the
District Court in accordance with Title 4, chapter 5.

2. Grounds for discipline. The board may suspend or revoke
a license pursuant to Title 5, section 10004. The following are
grounds for an action to refuse to issue, modify, suspend, revoke
or refuse to renew the license of a person licensed under this
chapter:

A. The practice of fraud or deceit in obtaining a license
under this chapter or in connection with service rendered
within the scope of the license issued;

2 B. Habitual substance abuse that has resulted or is
3 foreseeably likely to result in the licensee's performing
4 services in a manner that endangers the health or safety of
5 patients;

6 C. A professional diagnosis of a mental or physical
7 condition that has resulted or may result in the licensee's
8 performing services in a manner that endangers the health or
9 safety of patients;

10 D. Aiding or abetting the practice of denturism by an
11 individual who is not licensed under this chapter and who
12 claims to be legally licensed;

13 E. Incompetence in the practice of denturism. A licensee
14 is considered incompetent in the practice if the licensee
15 has:

16 (1) Engaged in conduct that evidences a lack of
17 ability or fitness to perform the duties owed by the
18 licensee to a client or patient or the general public;
19 or

20 (2) Engaged in conduct that evidences a lack of
21 knowledge or inability to apply principles or skills to
22 carry out the practice of denturism.;

23 F. Unprofessional conduct. A licensee is considered to
24 have engaged in unprofessional conduct if the licensee
25 violates a standard of professional behavior that has been
26 established in the practice of denturism;

27 G. Subject to the limitations of Title 5, chapter 341,
28 conviction of a crime that involves dishonesty or false
29 statement or that relates directly to the practice of
30 denturism, or conviction of a crime for which incarceration
31 for one year or more may be imposed;

32 H. A violation of this chapter or a rule adopted by the
33 board; or

34 I. Engaging in false, misleading or deceptive advertising.

35 **SUBCHAPTER 2**

36 **DENTURISTS**

37 **§15337. Definitions**

2 As used in this subchapter, unless the context otherwise
3 indicates, the following words have the following meanings.

4 1. Denturist. "Denturist" means a person engaging in the
5 practice of denturism.

6 2. Practice of denturism. "Practice of denturism" means:

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8
9 A. The taking of denture impressions and bite registration
10 for the purpose of or with a view to the making, producing,
11 reproducing, constructing, finishing, supplying, altering or
12 repairing of an upper or lower prosthetic denture, or both,
13 to be fitted to an arch or arches;

14
15 B. The fitting of an upper or lower prosthetic denture, or
16 both, to an arch or arches, including the making, producing,
17 reproducing, constructing, finishing, supplying, altering
18 and repairing of dentures; and

19
20 C. The procedures incidental to the procedures specified in
21 paragraphs A and B, as defined by the board pursuant to
22 section 15333, subsection 2.

23 **§15338. Examinations**

24
25 1. Authority. The board is authorized to prepare and give
26 examinations in the area of denturism for the purpose of
27 licensing denturists. All examinations prepared and given under
28 this subchapter may be prepared and given by the full board, by
29 an appointed subcommittee of the board or by an entity authorized
30 by the board. The board may also recognize a nationally or
31 regionally administered examination given at least annually for
32 applicants to practice denturism in the State.

33
34 2. Examination content. Denturist examinations must
35 consist of a clinical examination and a written examination
36 concerning, but not limited to, dental materials, denture
37 technology, United States Department of Health and Human Services
38 Centers for Disease Control guidelines, basic anatomy and basic
39 pathology.

40
41 3. Eligibility for examination. A person is eligible to
42 take the examination pursuant to subsection 1 if that person:

43
44 A. Is a high school graduate or has obtained high school
45 equivalency; and

46
47 B. Has a diploma from a board-approved denturism
48 postsecondary institution or has completed an equivalent
49 denturist educational program approved by the board.
50

2 4. Application for examination; fee. An eligible person
3 desiring to take an examination in order to become licensed as a
4 denturist shall make a written application to the board to take
5 the examination. This application must be accompanied by an
6 application fee to be determined by the board, but not to exceed
7 \$100, and an examination fee to be determined by the board that
8 may not exceed the actual cost of the examination. The
9 application fee includes the fee for the initial license and is
10 nonrefundable.

12 5. Additional examinations; fee. An applicant failing to
13 pass an examination is entitled to a reexamination upon payment
14 of the examination fee set by the board. If an applicant has
15 failed 3 examinations, the board may require the applicant to
16 complete additional education requirements prior to reexamination.

18 §15339. Licenses; endorsement

20 1. Authority. The board has the authority to issue licenses
21 to qualified persons to practice denturism pursuant to this
22 subchapter.

24 2. License issued. The board shall issue a license for the
25 practice of denturism in this State to each person who has passed
26 an examination under section 15338. This license authorizes the
27 licensee to practice as a denturist in the State until the
28 expiration date that appears on the license.

30 3. Renewal; renewal fee. After a license has been issued
31 under subsection 2 and on or before January 1st of odd-numbered
32 years, a denturist must pay to the board a license renewal fee of
33 not more than \$100, to be determined by the board, in order to
34 renew the license and to continue to be authorized to practice as
35 a denturist in the State, or 1/2 the biennial licensure fee if
36 application is made in an even-numbered year.

38 After the requirements for a license renewal, including any
39 necessary continuing education, have been met, a renewal card of
40 the denturist's license must be issued, which the denturist shall
41 place beside or attach to the denturist's initial license.
42 Denturists who have not paid as provided by January 1st must be
43 reinstated upon payment of a fee, to be determined by the board,
44 of not more than \$50 if paid by February 1st. A license to
45 practice is automatically suspended on February 1st and may be
46 reinstated, if approved by the board, on payment of a fee to be
47 determined by the board of not more than \$100.

48 4. Endorsement. The board, at its discretion, without
49 examination, may issue a license to an applicant to practice as a
50 denturist.

2 denturist who furnishes proof satisfactory to the board that the
3 denturist has been licensed to practice and has actively
4 practiced for a period of 3 years in another state or a Canadian
5 province after full compliance with the requirements of that
6 state's or province's denturism laws if the licensure
7 requirements are, in all essentials, at least equivalent to those
8 of this State. The board may require letters of reference about
9 the denturist. Applicants for licensure by endorsement who meet
10 the requirements of this section must be interviewed in person by
11 the board, or members of the board, prior to being issued a
12 license. Every license so given must state upon its face that it
13 was granted on the basis of endorsement. The fee for the license
14 may not exceed \$100.

15 5. Duplicate license. A duplicate license must be issued
16 to a licensee by the board for a fee of \$15 upon attestation of
17 loss of the original.

18 6. Prohibitions. A denturist may not:

19 A. Falsely claim to be a licensed dentist or allow another
20 to falsely represent the denturist as a licensed dentist;

21 B. Perform a task beyond the denturist's competence; or

22 C. Administer, dispense or prescribe a medication or
23 controlled substance.

24 7. Mental or physical examination. For the purposes of
25 this subsection, by the application for and acceptance of a
26 license a licensed denturist is deemed to have given consent to a
27 mental or physical examination when directed by the board. The
28 board may direct the examination whenever it determines that a
29 denturist may be suffering from a mental illness that may be
30 interfering with the competent practice of denturism or from the
31 use of intoxicants or drugs to an extent that they are preventing
32 the denturist from practicing denturism competently and with
33 safety to the patients. A denturist examined pursuant to an
34 order of the board does not have the privilege to prevent the
35 testimony of the examining individual or to prevent the
36 acceptance into evidence of the report of an examining
37 individual. Failure to comply with an order of the board to
38 submit to a mental or physical examination requires the District
39 Court to immediately order the license of the denturist suspended
40 until the denturist submits to the examination.

41 **§15340. Continuing education**

42 As a condition of a license renewal, a denturist licensee
43 shall submit evidence of successful completion of 20 hours of
44 continuing education.

2 continuing education consisting of board-approved courses
3 completed within the 2 years preceding the application for
4 renewal. The board shall proportionally reduce the continuing
5 education hours required for denturists who have been licensed
6 for less than a 2-year period upon the date of renewal.

7 **§15341. Persons and practices not affected**

8
9 Nothing in this subchapter may be construed to prohibit a
10 duly qualified dental surgeon, dental laboratory technician or
11 dental hygienist from performing work or services performed by a
12 denturist licensed under this subchapter to the extent those
13 persons are authorized to perform the same services under
14 existing state law.

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

19 **Sec. 7. Board rules.** The Board of Denturists, as established
20 in the Maine Revised Statutes, Title 32, chapter 137, upon
21 convening for the first time shall adopt the rules for denturists
22 that the Board of Dental Examiners, as established in Title 32,
23 chapter 16, previously adopted for denturists and that were in
24 existence on the effective date of this Act.
25

26

27 **SUMMARY**

28 **30**

29 This bill removes denturists from the authority of the Board
30 of Dental Examiners and creates a new Board of Denturists under
31 the jurisdiction of the Department of Professional and Financial
32 Regulation.
33
34