

# MAINE STATE LEGISLATURE

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# 121st MAINE LEGISLATURE

## SECOND SPECIAL SESSION-2004

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Legislative Document

No. 1958

H.P. 1457

House of Representatives, April 5, 2004

**An Act To Implement the Recommendations of the Joint Standing  
Committee on Business, Research and Economic Development  
Regarding the Board of Dental Examiners Pursuant to Reviews  
Conducted under the State Government Evaluation Act**

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Reported by Representative SMITH of Monmouth for the Joint Standing Committee on Business, Research and Economic Development pursuant to the Maine Revised Statutes, Title 3, section 955, subsection 4 and Resolve 2003, chapter 101, section 1.

*Millicent M. MacFarland*  
MILLICENT M. MacFARLAND  
Clerk

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

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**Sec. 1. 32 MRSA §1071, first ¶,** as amended by PL 2001, c. 260, Pt. B, §1, is further amended to read:

The Board of Dental Examiners, established by Title 5, section 12004-A, subsection 10, and in this chapter called the "board," consists of 8 members, appointed by the Governor as follows: ~~five~~ 4 members of the dental profession, ~~one~~ 2 dental ~~hygienist~~ hygienists, one denturist and one representative of the public.

**Sec. 2. 32 MRSA §1071, sub-§3,** as amended by PL 1993, c. 600, Pt. A, §56, is further amended to read:

**3. Dental hygienists.** The dental ~~hygienist~~ hygienists must be qualified pursuant to subchapter IV 4, must be ~~---a---~~ legal ~~resident~~ residents of the State and must have practiced in the State for at least 6 years immediately preceding appointment. The dental hygienist ~~member~~ members of the board ~~is-a~~ are full-voting ~~member~~ members of the board. The term ~~of-the~~ for a member who is a dental hygienist is 5 years. The Governor may accept nominations from the Maine Dental ~~Hygienists~~ Hygienists' Association and from other organizations and individuals before the appointment of a hygienist to the board. A dental hygienist is not eligible to serve as a member of the board while employed by a dentist who is a member of the board.

**Sec. 3. 32 MRSA §§1078 and 1079** are enacted to read:

**§1078. Subcommittee on Denturist Discipline**

The Subcommittee on Denturist Discipline, referred to in this section as "the subcommittee," is established as follows.

**1. Membership.** The subcommittee consists of 5 members as follows:

A. The denturist who is a member of the board;

B. Two denturists, appointed by the Governor, who are qualified pursuant to subchapter 6, are legal residents of the State and, for appointments made after January 1, 2006, have practiced in the State for at least 6 years immediately preceding appointment; and

C. Two dentists who are members of the board, appointed by the president of the board.

The subcommittee shall annually elect a chair and a secretary.

2           2. Terms. Each of the 3 members of the subcommittee who  
4 also are members of the board shall serve on the subcommittee for  
the duration of that member's term on the board. The term of a  
6 member of the subcommittee who is not a member of the board is 5  
years.

8           3. Duties. The subcommittee shall perform an initial  
10 review of all complaints initiated pursuant to section 1077  
involving denturists. Upon completion of its review of a  
12 complaint, the secretary of the subcommittee shall report to the  
board the subcommittee's recommended disposition of the complaint  
14 in accordance with those dispositions authorized by section  
1077. Notwithstanding the provisions of section 1077, the board  
16 shall adopt the subcommittee's recommended disposition of a  
complaint unless no fewer than 2/3 of the board members who are  
present and voting vote to reject that recommended disposition.

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

24 **§1079. Subcommittee on Dental Hygienist Submissions**

26           The Subcommittee on Dental Hygienist Submissions, referred  
to in this section as "the subcommittee," is established as  
28 follows:

30           1. Membership. The subcommittee consists of 5 members, as  
follows:

32           A. A dental hygienist who is a member of the board;

34           B. Two dental hygienists, appointed by the Governor, who  
36 are qualified pursuant to subchapter 6, are legal residents  
of the State and have practiced in the State for at least 6  
38 years immediately preceding appointment; and

40           C. Two dentists who are members of the board, appointed by  
the president of the board.

42           The subcommittee shall annually elect a chair and a secretary.

44           2. Terms. Each of the 3 members of the subcommittee who  
46 also are members of the board shall serve on the subcommittee for  
the duration of that member's term on the board. The term of a  
48 member of the subcommittee who is not a member of the board is 5  
years.

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2       3. Duties. The subcommittee shall perform an initial  
4       review of all applications for licensure as a dental hygienist  
6       pursuant to section 1097, all submissions relating to continuing  
8       education of dental hygienists pursuant to section 1098-B and all  
10       submissions relating to public health supervision status of  
12       dental hygienists as defined by board rule. Upon completion of  
14       its review of an application or submission, the secretary of the  
16       subcommittee shall report to the board the subcommittee's  
18       recommended disposition of the application or submission,  
20       including issuance, renewal, denial or nonrenewal of a dental  
22       hygienist license. Notwithstanding the provisions of section  
24       1098, the board shall adopt the subcommittee's recommended  
26       disposition of a complaint unless no fewer than 2/3 of the board  
28       members who are present and voting vote to reject that  
30       recommended disposition.

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

40       **Sec. 4. 32 MRSA §1084**, as amended by PL 2003, c. 285, §1, is  
42       further amended to read:

44       **§1084. Licenses; fees**

46       The board shall issue under its seal to any person who  
48       successfully meets all licensure requirements a license to  
practice dentistry in this State, signed by the members of the  
board. A dentist shall publicly exhibit the dentist's license.  
The license is prima facie evidence of authority to practice  
dentistry in this State, except that it is unlawful for a person  
to practice dentistry in this State after the expiration date  
that appears on the license unless the practitioner pays to the  
board on or before January 1st of even-numbered years a fee of  
not more than \$400 ~~\$550~~ to be determined by the board, and meets  
other conditions that the board may require. Upon receipt of the  
required fee, the board shall issue a renewal of the  
practitioner's license, which the practitioner shall place beside  
or attach to the practitioner's initial license. Practitioners  
who have not paid as provided and who otherwise qualify for  
renewal may be reinstated upon payment of a fee to be determined  
by the board of not more than \$200 if paid before February 1st. A  
license to practice is automatically suspended on February 1st  
for nonpayment of the license renewal fee and may be reinstated,  
if approved by the board, on payment of a fee to be determined by  
the board of not more than \$400 ~~\$550~~. A new applicant having  
paid the application fee shall pay either the biennial licensure  
fee, if the applicant applies ~~on~~ in an even-numbered year, or

2 half the biennial licensure fee if the applicant applies in an  
odd-numbered year.

4 **Sec. 5. 32 MRSA §1084-B** is enacted to read:

6 **§1084-B. Mental or physical examination**

8 For the purposes of this section, by application for and  
10 acceptance of a license to practice, a licensed dentist is  
12 considered to have given consent to a mental or physical  
14 examination when directed by the board. The board may direct a  
16 dentist to submit to an examination whenever the board determines  
18 the dentist may be suffering from a mental illness that may be  
20 interfering with the competent practice of dentistry or from the  
22 use of intoxicants or drugs to an extent that they are preventing  
24 the dentist from practicing dentistry competently and with safety  
to patients. A dentist examined pursuant to an order of the  
board may not prevent the testimony of the examining individual  
or prevent the acceptance into evidence of the report of an  
examining individual. Failure to comply with an order of the  
board to submit to a mental or physical examination results in  
the immediate suspension of the license of the dentist by order  
of the District Court until the dentist submits to the  
examination.

26 **Sec. 6. 32 MRSA §1085**, as amended by PL 2003, c. 557, §1, is  
28 further amended to read:

30 **§1085. Endorsement; fees**

32 The board is authorized, at its discretion, without the  
34 examination as provided, to issue a license to an applicant who  
36 furnishes proof, satisfactory to the board, that the applicant  
38 has been licensed to practice dentistry in another state or a  
40 Canadian province after full compliance with the requirements of  
42 its dental laws. If an applicant is licensed to practice  
44 dentistry in another state or a Canadian province, that  
46 applicant's professional education may not be less than is  
48 required in this State and the applicant must have been at least  
3 years in actual practice in the state or Canadian province in  
which the license was granted. Applicants for licensure by  
endorsement who meet the requirements of this section must be  
interviewed in person by the board or members of the board, prior  
to being issued a license. Every license of this type issued by  
the board must state upon its face the grounds upon which it is  
issued and the applicant may be required to furnish proof upon  
affidavit. The fee for the license is determined by the board,  
but may not be more than \$400 \$550.

2           **Sec. 7. 32 MRSA §1097**, as amended by PL 1993, c. 600, Pt. A,  
§81, is further amended to read:

4           **§1097. Application; fee**

6           An eligible person desiring to practice dental hygiene must  
8           make written application to the Board of Dental Examiners to take  
the examination. The application must be accompanied by a fee to  
10           be determined by the board not to exceed ~~\$100~~ \$175. Applicants  
for licensure shall must pay a fee set by the board for the  
12           examination. The board may recognize a nationally or regionally  
administered examination for applicants to practice dental  
14           hygiene in the State.

16           **Sec. 8. 32 MRSA §1098, 1st ¶**, as amended by PL 1993, c. 600,  
Pt. A, §82, is further amended to read:

18           The board shall issue a license to practice as a dental  
hygienist in this State to an individual who has met the  
20           licensure requirements. The license must be exhibited publicly  
at the person's place of employment. The license authorizes  
22           practice as a dental hygienist in this State for the year in  
which it is issued until the expiration date that appears on the  
24           license. On or before January 1st of each odd-numbered year, the  
dental hygienist must pay to the board a license renewal fee of  
26           not more than ~~\$100~~ \$175 to be determined by the board or 1/2 of  
the biennial licensure fee if the applicant applies in an  
28           even-numbered year. Dental hygienists who have not paid as  
provided must be reinstated upon payment of a fee of not more  
30           than \$50 to be determined by the board if paid before February  
1st of the year in which license renewal is due. Failure to be  
32           properly licensed by February 1st results in automatic suspension  
of a license to practice dental hygiene. Reinstatement may be  
34           made, if approved by the board, by payment to the  
secretary-treasurer of the board of a fee determined by the board  
36           of not more than ~~\$100~~ \$175.

38           **Sec. 9. 32 MRSA §1098-B**, as amended by PL 1993, c. 600, Pt.  
A, §84, is further amended to read:

40           **§1098-B. Continuing education**

42           As a condition of renewal of a license to practice, a dental  
44           hygienist must submit evidence of successful completion of ~~20~~ 30  
hours of continuing education consisting of board-approved  
46           courses in the 2 years preceding the application for renewal.  
The board and the dental hygienist shall follow and are bound by  
48           the provisions of section 1084-A in the implementation of this  
section.

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Sec. 10. 32 MRSA §§1098-C and 1098-D are enacted to read:

**§1098-C. Mental or physical examination**

For the purposes of this section, by application for and acceptance of a license to practice, a licensed dental hygienist is considered to have given consent to a mental or physical examination when directed by the board. The board may direct a dental hygienist to submit to an examination whenever the board determines the dental hygienist may be suffering from a mental illness that may be interfering with the competent practice of dental hygiene or from the use of intoxicants or drugs to an extent that they are preventing the dental hygienist from practicing dental hygiene competently and with safety to patients. A dental hygienist examined pursuant to an order of the board may not prevent the testimony of the examining individual or prevent the acceptance into evidence of the report of an examining individual. Failure to comply with an order of the board to submit to a mental or physical examination results in the immediate suspension of the license of the dental hygienist by order of the District Court until the dental hygienist submits to the examination.

**§1098-D. Licensure requirements for graduates of accredited programs**

In order to be licensed as a dental hygienist under this chapter, a person who is a graduate of a dental hygiene program approved by the American Dental Association Commission on Dental Accreditation or its successor organization must meet one of the following 2 sets of requirements:

1. Standard licensure. For standard licensure, the applicant must:

A. Have received, at least, an associate degree from a dental hygiene program accredited by the American Dental Association Commission on Dental Accreditation or its successor organization and have provided a notarized statement from the dean of the school affirming that the applicant has met all applicable degree requirements;

B. Have completed with a passing grade the National Board Dental Hygiene Examination or the successor to that examination;

C. Have completed with a passing grade the Northeast Regional Board Dental Hygiene Examination or the successor to that examination;



2 D. Have completed with a passing grade the jurisprudence  
3 examination given by the board; and

4 E. For any applicant who has completed the Northeast  
5 Regional Board Dental Hygiene Examination or the successor  
6 to that examination more than one year prior to application  
7 for licensure in the State, have successfully completed a  
8 personal interview before the board; and

10 2. Licensure by endorsement. For licensure by endorsement,  
11 the applicant must:

12 A. Have graduated from an accredited dental hygiene program;

13 B. If the candidate graduated subsequent to 1964, have  
14 completed with a passing grade the National Board Dental  
15 Hygiene Examination, or the successor to that examination,  
16 if such examination was required;

17 C. Have furnished proof, satisfactory to the board, that  
18 the candidate has been duly licensed to practice dental  
19 hygiene in another state after full compliance with its laws;

20 D. If the candidate graduated subsequent to 1970, have  
21 completed with a passing grade the Northeast Regional Board  
22 Dental Hygiene Examination, or the successor to that  
23 examination, if such examination was required, except that  
24 the board may at its discretion waive the Northeast Regional  
25 Board Dental Hygiene Examination, or the successor to that  
26 examination, if all other requirements of this subsection  
27 have been met;

28 E. Have engaged in active clinical practice for a minimum  
29 of 5 years prior to application;

30 F. Have completed with a passing grade the jurisprudence  
31 examination given by the board; and

32 G. Have successfully completed a personal interview before  
33 the board.

34 The board may at its discretion waive the Northeast Regional  
35 Board Dental Examination, or the successor to that examination,  
36 if all other requirements have been met.

37 **Sec. 11. 32 MRSA §1099**, as amended by PL 2003, c. 557, §2, is  
38 further amended to read:

39 **§1099. Endorsement**

2 The board may at its discretion, without examination, issue  
4 a license to an applicant to practice dental hygiene who  
6 furnishes proof satisfactory to the board that the dental  
8 hygienist has been duly licensed to practice in another state or  
10 a Canadian province after full compliance with the requirements  
12 of its dental laws, except that the professional education may  
14 not be less than is required in this State. The board may  
require letters of reference as to ability. Applicants for  
licensure by endorsement who meet the requirements of this  
section must be interviewed in person by the board or members of  
the board prior to being issued a license. Every license so  
given must state upon its face that it was granted on the basis  
of endorsement. The fee for that license must be determined by  
the board, but may not be more than ~~\$100~~ \$175.

16 **Sec. 12. 32 MRSA §1100-D, sub-§3**, as amended by PL 1995, c.  
18 590, §6, is further amended to read:

20 **3. Application for examination; fee.** An eligible person  
22 desiring to take an examination in order to become licensed as a  
denturist shall must make a written application to the board to  
24 take the examination. This application must be accompanied by an  
application fee, to be determined by the board, but not to exceed  
26 ~~\$100~~ \$175 and an examination fee to be determined by the board  
that may not exceed the actual cost of the examination. The  
28 application fee includes the fee for the initial license and is  
nonrefundable.

30 **Sec. 13. 32 MRSA §1100-E, sub-§3**, as amended by PL 1995, c.  
590, §7, is further amended to read:

32 **3. Renewal; renewal fee.** After a license has been issued  
34 under subsection 2, and on or before January 1st of odd-numbered  
years, a denturist must pay to the board a license renewal fee of  
36 not more than ~~\$100~~ \$175 to be determined by the board in order to  
renew the license and to continue to be authorized to practice as  
38 a denturist in the State or 1/2 the biennial licensure fee if  
application is made in an even-numbered year.

40 After the requirements for a license renewal, including any  
42 necessary continuing education, have been met, a renewal card of  
the denturist's license must be issued, which the denturist shall  
44 place beside or attach to the denturist's initial license.  
Denturists who have not paid as provided by January 1st must be  
46 reinstated upon payment of a fee, to be determined by the board,  
of not more than \$50 if paid by February 1st. A license to  
48 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 ~~\$100~~ \$175.

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2           **Sec. 14. 32 MRSA §1100-E, sub-§4**, as amended by PL 2001, c.  
260, Pt. B, §4, is further amended to read:

4           **4. Endorsement.** The board, at its discretion, without  
6 examination, may issue a license to an applicant to practice as a  
denturist who furnishes proof satisfactory to the board that the  
8 denturist has been licensed to practice and has actively  
practiced for a period of 3 years in another state or Canadian  
10 province after full compliance with the requirements of its  
dental laws, if the licensure requirements are, in all  
12 essentials, at least equivalent to those of this State. The board  
may require letters of reference about the denturist. Applicants  
14 for licensure by endorsement who meet the requirements of this  
section must be interviewed in person by the board, or members of  
the board, prior to being issued a license. Every license so  
16 given must state upon its face that it was granted on the basis  
of endorsement. The fee for the license may not exceed ~~\$100~~ \$175.

18           **Sec. 15. 32 MRSA §1100-N**, as amended by PL 1993, c. 600, Pt.  
20 A, §99, is further amended to read:

22           **§1100-N. Application**

24           To apply for a license to practice dental radiography, an  
applicant ~~shall~~ must submit a written application with supporting  
26 documents to the board, on forms provided by the board, and ~~shall~~  
must pay an application fee, which may not exceed ~~\$50~~ \$125.

28           **Sec. 16. 32 MRSA §1100-O, sub-§1**, as amended by PL 1993, c.  
30 600, Pt. A, §99, is further amended to read:

32           **1. Term of license; renewal.** All licenses to practice  
dental radiography issued by the board are valid for 5 years from  
34 the date of issuance and may be renewed upon application to the  
board and payment of a renewal fee, which may not exceed ~~\$50~~ \$125.

36           **Sec. 17. 32 MRSA §1100-S** is enacted to read:

38           **§1100-S. Mental or physical examination**

40           For the purposes of this section, by application for and  
42 acceptance of a license to practice, a licensed dental  
radiographer is considered to have given consent to a mental or  
44 physical examination when directed by the board. The board may  
direct a dental radiographer to submit to an examination whenever  
46 the board determines the dental radiographer may be suffering  
from a mental illness that may be interfering with the competent  
48 practice of dental radiography or from the use of intoxicants or  
drugs to an extent that they are preventing the dental  
50 radiographer from practicing dental radiography competently and

2 with safety to patients. A dental radiographer examined pursuant  
4 to an order of the board may not prevent the testimony of the  
6 examining individual or prevent the acceptance into evidence of  
8 the report of an examining individual. Failure to comply with an  
order of the board to submit to a mental or physical examination  
results in the immediate suspension of the license of the dental  
radiographer by order of the District Court until the dental  
radiographer submits to the examination.

10 **Sec. 18. Existing members.** The dentist members of the Board  
12 of Dental Examiners holding office on the effective date of this  
14 Act hold office as members of the board for the terms for which  
16 they were appointed. The first dentist board member position  
18 that expires after the effective date of this Act is terminated  
upon expiration. Upon termination of the dentist board member  
position, the dental hygienist board member position created  
pursuant to this Act is established.

20 **Sec. 19. Denturist scope of practice and sunrise review.** The  
22 Commissioner of Professional and Financial Regulation shall,  
24 pursuant to the Maine Revised Statutes, Title 32, chapter 1-A,  
26 subchapter 2, conduct an independent assessment concerning  
28 expansion of the scope of practice of denturists under Title 32,  
30 section 1100-B to include fabrication and insertion of partial  
32 dentures and dentures over implants. The commissioner shall  
submit a report to the joint standing committee of the  
Legislature having jurisdiction over business, research and  
economic development issues no later than January 15, 2005. That  
joint standing committee is authorized to introduce a bill to the  
First Regular Session of the 122nd Legislature expanding the  
scope of practice of denturists to include partial dentures and  
dentures over implants.

34 **Sec. 20. Appropriations and allocations.** The following  
36 appropriations and allocations are made.

38 **PROFESSIONAL AND FINANCIAL REGULATION, DEPARTMENT OF**

40 **Board of Dental Examiners**

42 Initiative: Provides funds for one Clerk Typist III position,  
44 per diem and all other costs associated with the operation of the  
newly formed Subcommittee on Denturist Discipline and the  
Subcommittee on Dental Hygienist Submissions.

46 <b>Other Special Revenue Funds</b>	<b>2003-04</b>	<b>2004-05</b>
48 Positions - Legislative Count	(0.000)	(1.000)
Personal Services	\$0	\$51,250
All Other	0	41,835

Other Special Revenue Funds Total                    \$0                    \$93,085

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**SUMMARY**

This bill implements the recommendations of the Joint Standing Committee on Business, Research and Economic Development pursuant to its review of the Board of Dental Examiners under the State Government Evaluation Act. This bill does the following:

1. It eliminates one dentist member position from the Board of Dental Examiners and adds one dental hygienist member position;

2. It creates the Subcommittee on Denturist Discipline and the Subcommittee on Dental Hygienist Submissions, each with the authority to issue recommendations on matters within the subcommittee's scope that are binding unless overturned by a 2/3 supermajority of the board;

3. It authorizes the board to order mental or physical examinations of dentist, dental hygienist and dental radiographer licensees, identical to the board's existing authority to order examinations for denturist licensees;

4. It increases required hours of continuing education for dental hygienists from 20 to 30 every 2 years;

5. It codifies in statute the current rules of the board concerning the requirements for licensure of dental hygienists who are graduates of accredited programs;

6. It directs the Commissioner of Professional and Financial Regulation to perform a sunrise review concerning the expansion of the scope of practice of licensed denturists to include fabrication and insertion of partial dentures and dentures over implants and authorizes the joint standing committee of the Legislature having jurisdiction over business, research and economic development matters to introduce a bill in the First Regular Session of the 122nd Legislature to expand that scope of practice accordingly; and

7. It increases the fee caps for licensees as follows: for dentists, from \$400 to \$550; for dental hygienists, from \$100 to \$175; for denturists, from \$100 to \$175; and for dental radiographers, from \$50 to \$125.

**FISCAL NOTE REQUIRED**  
**(See attached)**

**121st Maine Legislature  
Office of Fiscal and Program Review**



**LD (not known)**

**An Act to Implement the Recommendations of the Joint Standing  
Committee on Business, Research and Economic Development  
Regarding the Board of Dental Examiners Pursuant to Reviews  
Conducted under the State Government Evaluation Act**

**LR 2835(01)**

**Fiscal Note for Original Bill**

**Committee: Business, Research and Economic Development**

**Fiscal Note Required: Yes**

**Fiscal Note**

	<b>2003-04</b>	<b>2004-05</b>	<b>Projections 2005-06</b>	<b>Projections 2006-07</b>
<b>Appropriations/Allocations</b>				
Other Special Revenue Funds	\$0	\$93,085	\$88,685	\$93,119
<b>Revenue</b>				
Other Special Revenue Funds	\$0	\$93,085	\$88,685	\$93,119

**Fiscal Detail and Notes**

This bill includes an Other Special Revenue Funds allocation of \$93,085 in fiscal year 2004-05 for the Board of Dental Examiners, affiliated with the Department of Professional and Financial Regulation, for one Clerk Typist III position, per diem for two subcommittees with five members each and the associated all other costs to support the operation of both subcommittees. This bill also increases the cap for licensing fees that may be collected by the Board of Dental Examiners. Increasing the licensing fees will result in an increase of dedicated revenue to the Board beginning in fiscal year 2004-05.