

MAINE STATE LEGISLATURE

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125th MAINE LEGISLATURE

FIRST REGULAR SESSION-2011

Legislative Document

No. 555

H.P. 438

House of Representatives, February 15, 2011

An Act To Utilize a Dental Complaint Review Panel

Reference to the Committee on Labor, Commerce, Research and Economic Development suggested and ordered printed.

A handwritten signature in cursive script that reads "Heather J.R. Priest".

HEATHER J.R. PRIEST
Clerk

Presented by Representative PRESCOTT of Topsham.
Cosponsored by Senator MARTIN of Kennebec and
Representatives: DOW of Waldoboro, HAMPER of Oxford, HUNT of Buxton,
NEWENDYKE of Litchfield, TUTTLE of Sanford, WINTLE of Garland, Senators: RECTOR
of Knox, SNOWE-MELLO of Androscoggin.

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

2 **Sec. 1. 32 MRSA §1077, sub-§1**, as corrected by RR 2009, c. 2, §87, is amended
3 to read:

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

7 As the first step in investigating a complaint, the chair of the board shall assign the
8 complaint to a review panel consisting of the following 3 members of the board: a dentist,
9 a member who holds a license in the same category as the license of the person who is the
10 subject of the complaint and the public member of the board.

11 The review panel shall conduct an informal preliminary investigation of the complaint
12 prior to notification of the licensee of the complaint. If all members of the review panel
13 find that the complaint is without merit or does not state a complaint within the
14 jurisdiction of the board, the review panel shall dismiss the complaint without further
15 action. If one or more members of the review panel find that the complaint has sufficient
16 merit to warrant further action, the review panel shall refer the complaint to the full
17 board.

18 The Upon referral of a complaint from the review panel, the board shall notify the
19 licensee of the content of ~~a~~ the complaint filed against the licensee as soon as possible,
20 but no later than 60 days from receipt of this information. The licensee shall respond
21 within 30 days. If the licensee's response to the complaint satisfies the board that the
22 complaint does not merit further investigation or action, the matter may be dismissed,
23 with notice of the dismissal to the complainant, if any.

24 If, in the opinion of the board, the factual basis of the complaint is or may be true, and the
25 complaint is of sufficient gravity to warrant further action, the board may request an
26 informal conference with the licensee. The board shall provide the licensee with adequate
27 notice of the conference and of the issues to be discussed. The conference must be
28 conducted in executive session of the board, pursuant to Title 1, section 405, unless
29 otherwise requested by the licensee. Statements made at the conference may not be
30 introduced at a subsequent formal hearing unless all parties consent.

31 If the board finds that the factual basis of the complaint is true and is of sufficient gravity
32 to warrant further action, it may take any of the following actions it considers
33 appropriate:

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

39 B. In consideration for acceptance of a voluntary surrender of the license, if a
40 consent agreement is signed by the board, the licensee and the Attorney General's
41 office, negotiate stipulations, including terms and conditions for reinstatement, that

1 ensure protection of the public health and safety and that serve to rehabilitate or
2 educate the licensee;

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

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

9

SUMMARY

10 This bill provides for a preliminary review of all complaints filed with the Board of
11 Dental Examiners by a review panel of 3 members of the board. The review panel has
12 the power, by a unanimous vote, to dismiss complaints it believes are without merit or do
13 not state complaints within the jurisdiction of the board. All other complaints must be
14 forwarded to the full board for further action.