

MAINE STATE LEGISLATURE

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125th MAINE LEGISLATURE

FIRST REGULAR SESSION-2011

Legislative Document

No. 767

H.P. 574

House of Representatives, March 1, 2011

An Act To Amend and Clarify Certain Portions of the Dental Practice Laws

Submitted by the Department of Professional and Financial Regulation pursuant to Joint Rule 204.

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 HUNT of Buxton.
Cosponsored by Senator RECTOR of Knox and
Representatives: DRISCOLL of Westbrook, GILBERT of Jay, Senator: MARTIN of
Kennebec.

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

2 **Sec. 1. 32 MRSA §1062-A, sub-§1**, as amended by PL 2007, c. 620, Pt. C, §1, is
3 further amended to read:

4 **1. Penalties.** A person who practices or falsely claims legal authority to practice
5 dentistry, dental hygiene, independent practice dental hygiene, denturism or dental
6 radiography in this State without first obtaining a license as required by this chapter, or
7 after the license has expired, has been suspended or revoked or has been temporarily
8 suspended or revoked, commits a Class E crime. Violation of this subsection is a strict
9 liability crime as defined in Title 17-A, section 34, subsection 4-A.

10 **Sec. 2. 32 MRSA §1074**, as amended by PL 2005, c. 45, §1, is further amended to
11 read:

12 **§1074. Affiliation with American Association of Dental Boards**

13 The board may affiliate with the American Association of Dental ~~Examiners~~ Boards
14 or its successor as an active member and pay regular dues to that association and may
15 send one or more delegates to the meetings of the American Association of Dental
16 ~~Examiners~~ Boards or its successor. These delegates are entitled to receive compensation
17 provided for in section 1071.

18 **Sec. 3. 32 MRSA §1081, sub-§1**, as amended by PL 1993, c. 600, Pt. A, §63, is
19 further amended to read:

20 **1. Practicing dentistry.** A person is considered to be practicing dentistry when that
21 person performs, or attempts or professes to perform, a dental operation or oral surgery or
22 dental service of any kind, gratuitously or for a salary, fee, money or other remuneration
23 paid, or to be paid, directly or indirectly to the person or to any other person or agency
24 who is a proprietor of a place where dental operations, oral surgery or dental services are
25 performed. A person who directly or indirectly, by any means or method, takes
26 impressions of a human tooth, teeth, jaws or performs a phase of an operation incident to
27 the replacement of a part of a tooth; or supplies artificial substitutes for the natural teeth,
28 or who furnishes, supplies, constructs, reproduces or repairs a prosthetic denture, bridge,
29 appliance or any other structure to be worn in the human mouth, except on the written
30 prescription of a duly licensed dentist; or who places dental appliances or structures in the
31 human mouth, or adjusts or attempts or professes to adjust the same, or delivers the same
32 to a person other than the dentist upon whose prescription the work was performed; or
33 who professes to the public by any method to furnish, supply, construct, reproduce or
34 repair a prosthetic denture, bridge, appliance or other structure to be worn in the human
35 mouth, or who diagnoses or professes to diagnose, prescribes for or professes to prescribe
36 for, treats or professes to treat, disease, pain, deformity, deficiency, injury or physical
37 condition of the human teeth or jaws or adjacent structure, or who extracts or attempts to
38 extract human teeth, or corrects or attempts to correct malformations of teeth or of the
39 jaws is also considered to be practicing dentistry. A person who repairs or fills cavities
40 in the human teeth; or who diagnoses, makes and adjusts appliances to artificial casts or
41 malposed teeth for treatment of the malposed teeth in the human mouth, with or without

1 instruction; or who uses an x-ray machine for the purpose of taking dental x rays, or who
2 gives or professes to give interpretations or readings of dental x rays; or who administers
3 an ~~anaesthetic~~ anesthetic of any nature in connection with a dental operation; or who uses
4 the words dentist, dental surgeon, oral surgeon or the letters D.D.S., D.M.D. or any other
5 words, letters, title or descriptive matter that in any way represents that person as being
6 able to diagnose, treat, prescribe or operate for a disease, pain, deformity, deficiency,
7 injury or physical condition of the teeth or jaws or adjacent structures; or who states, or
8 professes or permits to be stated or professed by any means or method whatsoever that
9 the person can perform or will attempt to perform dental operations or render a diagnosis
10 connected with dental operations is also considered to be practicing dentistry.

11 **Sec. 4. 32 MRSA §1092, sub-§1**, as amended by PL 2007, c. 620, Pt. C, §§7 and
12 8, is further amended to read:

- 13 **1. Unlawful practice.** A person may not:
- 14 A. Practice dentistry without obtaining a license;
 - 15 B. Practice dentistry under a false or assumed name;
 - 16 C. Practice dentistry under the license of another person of the same name;
 - 17 D. Practice dentistry under the name of a corporation, company, association, parlor
18 or trade name;
 - 19 E. While manager, proprietor, operator or conductor of a place for performing
20 dental operations, employ a person who is not a lawful practitioner of dentistry in this
21 State to perform dental practices as described in section 1081;
 - 22 F. While manager, proprietor, operator or conductor of a place for performing
23 dental operations, permit a person to practice dentistry under a false name;
 - 24 G. Assume a title or append or prefix to that person's name the letters that falsely
25 represent the person as having a degree from a dental college;
 - 26 H. Impersonate another at an examination held by the board;
 - 27 I. Knowingly make a false application or false representation in connection with an
28 examination held by the board;
 - 29 J. Practice as a dental hygienist or independent practice dental hygienist without
30 having a license to do so; ~~or~~
 - 31 K. Employ a person as a dental hygienist or independent practice dental hygienist
32 who is not licensed to practice;
 - 33 L. Practice as a denturist without having a license to do so;
 - 34 M. Practice as a dental radiographer without having a license to do so;
 - 35 N. Employ a person as a denturist who is not licensed to practice; or
 - 36 O. Employ a person as a dental radiographer who is not licensed to practice.

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SUMMARY

This bill clarifies that dental practice, such as dentistry and dental hygiene, without a license, including while a license is suspended, is a strict liability crime. In addition, this bill amends the law regarding unlicensed practice by including 2 categories of licensure, denturists and dental radiographers, that were inadvertently omitted and makes other minor corrections.