

# MAINE STATE LEGISLATURE

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# 126th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2013

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Legislative Document

No. 1310

S.P. 453

In Senate, April 2, 2013

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### **An Act To Improve Access to Dental Care through the Establishment of the Maine Board of Oral Health**

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

A handwritten signature in black ink, appearing to read 'D M Grant'.

DAREK M. GRANT  
Secretary of the Senate

Presented by Senator PATRICK of Oxford.

Cosponsored by Senators: BURNS of Washington, CRAVEN of Androscoggin, HASKELL of Cumberland, HILL of York, JACKSON of Aroostook, JOHNSON of Lincoln, LACHOWICZ of Kennebec, Representatives: BEAUDOIN of Biddeford, BEAVERS of South Berwick, BERRY of Bowdoinham, BOLAND of Sanford, CAMPBELL of Newfield, DICKERSON of Rockland, EVANGELOS of Friendship, GILBERT of Jay, GOODE of Bangor, HERBIG of Belfast, KRUGER of Thomaston, KUSIAK of Fairfield, LAJOIE of Lewiston, LOCKMAN of Amherst, LONGSTAFF of Waterville, MASON of Topsham, MASTRACCIO of Sanford, MORRISON of South Portland, NEWENDYKE of Litchfield, RANKIN of Hiram, RUSSELL of Portland, SANBORN of Gorham, SHAW of Standish, STUCKEY of Portland, VILLA of Harrison, WELSH of Rockport, WINCHENBACH of Waldoboro.



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

2 **Sec. 1. 3 MRSA §959, sub-§1, ¶C**, as amended by PL 2005, c. 155, §1 and c.  
3 294, §1, is further amended to read:

4 C. The joint standing committee of the Legislature having jurisdiction over business,  
5 research and economic development matters shall use the following list as a guideline  
6 for scheduling reviews:

7 (1) Maine Development Foundation in 2005;

8 (5) Department of Professional and Financial Regulation, in conjunction with the  
9 joint standing committee of the Legislature having jurisdiction over banking and  
10 insurance matters, in 2007;

11 (19) Department of Economic and Community Development in 2005;

12 (23) Maine State Housing Authority in 2007;

13 (32) Finance Authority of Maine in 2009;

14 ~~(36) Board of Dental Examiners in 2011;~~

15 (37) Board of Osteopathic Licensure in 2011;

16 (38) Board of Licensure in Medicine in 2011;

17 (41) State Board of Nursing in 2011;

18 (42) State Board of Optometry in 2011;

19 (45) State Board of Registration for Professional Engineers in 2011; ~~and~~

20 (50) Maine Science and Technology Foundation in 2007-; and

21 (51) Maine Board of Oral Health in 2021.

22 **Sec. 2. 5 MRSA §5301, sub-§2, ¶E**, as amended by PL 2011, c. 286, Pt. O, §1, is  
23 further amended to read:

24 E. Convictions for which incarceration for less than one year may be imposed and  
25 that involve sexual misconduct by an applicant for massage therapy licensure or a  
26 licensed massage therapist or an applicant or licensee of the Board of Licensure in  
27 Medicine, the Board of Osteopathic Licensure, the ~~Maine Board of Dental Examiners~~  
28 Oral Health, the State Board of Examiners of Psychologists, the State Board of Social  
29 Worker Licensure, the Board of Chiropractic Licensure, the State Board of  
30 Examiners in Physical Therapy, the State Board of Alcohol and Drug Counselors, the  
31 Board of Respiratory Care Practitioners, the Board of Counseling Professionals  
32 Licensure, the Board of Occupational Therapy Practice, the Board of Speech,  
33 Audiology and Hearing, the Radiologic Technology Board of Examiners, the Nursing  
34 Home Administrators Licensing Board, the Board of Licensure of Podiatric  
35 Medicine, the Board of Complementary Health Care Providers, the Maine Board of  
36 Pharmacy, the Board of Trustees of the Maine Criminal Justice Academy, the State  
37 Board of Nursing and the Emergency Medical Services' Board.



1           **Sec. 9. 22 MRSA §256-B, sub-§1, ¶¶N and O**, as enacted by PL 2005, c. 327,  
2           §2, are amended to read:

3           N. State Board of Alcohol and Drug Counselors; ~~and~~

4           O. State Board of Examiners of Psychologists; and

5           **Sec. 10. 22 MRSA §256-B, sub-§1, ¶P** is enacted to read:

6           P. Maine Board of Oral Health.

7           **Sec. 11. 24 MRSA §2502, sub-§1**, as amended by PL 1997, c. 107, §1, is further  
8           amended to read:

9           **1. Board.** "Board" means the Board of Licensure in Medicine, the Maine Board of  
10          ~~Dental Examiners~~ Oral Health or the Board of Osteopathic Licensure.

11          **Sec. 12. 32 MRSA §1071, first ¶**, as amended by PL 2003, c. 669, §1, is repealed  
12          and the following enacted in its place:

13          The Maine Board of Oral Health, established by Title 5, section 12004-A, subsection  
14          28-A and in this chapter called "the board," consists of 9 members, appointed by the  
15          Governor as follows: 2 members of the dental profession, from a list of nominees  
16          provided by the Maine Dental Association; 2 dental hygienists, from a list of nominees  
17          provided by the Maine Dental Hygienists' Association; 2 denturists, from a list of  
18          nominees provided by the Maine Licensed Denturist Association; and 3 representatives of  
19          the public.

20          **Sec. 13. 32 MRSA §1071, sub-§3-A**, as enacted by PL 2001, c. 260, Pt. B, §2, is  
21          amended to read:

22          **3-A. Denturists.** The ~~denturist~~ denturists must be qualified pursuant to subchapter  
23          VI 6, must be a legal ~~resident~~ residents of the State and ~~for appointments made after~~  
24          ~~January 1, 2006, the denturist~~ must have practiced in the State for at least 6 years  
25          immediately preceding appointment. The denturist ~~member~~ members of the board ~~is a~~  
26          ~~full voting member~~ are full voting members of the board. The term of ~~the~~ a denturist is 5  
27          years. A denturist is not eligible to serve as a member of the board while employed by a  
28          dentist who is a member of the board.

29          **Sec. 14. 32 MRSA §1071, sub-§4**, as amended by PL 1993, c. 600, Pt. A, §56, is  
30          further amended to read:

31          **4. Public members.** The public ~~member is~~ members are appointed to a 5-year ~~term~~  
32          terms.

33          **Sec. 15. 32 MRSA §1072, first ¶**, as repealed and replaced by PL 1993, c. 600,  
34          Pt. A, §57, is amended to read:

35          At its annual meeting, the board shall elect from among its members a president, a  
36          vice-president and a secretary-treasurer. Five members constitute a quorum. The board  
37          shall have a common seal. At a time and place to be fixed by the board, the board shall

1 hold at least one regular meeting each year and special meetings as necessary. The board,  
2 through its subcommittees, may recognize nationally or regionally administered  
3 examinations with respect to each of the 3 professions represented on the board given at  
4 least annually for applicants to practice dentistry in the State. The board may make rules,  
5 not contrary to law, necessary for the performance of its duties. On or before August 1st,  
6 the board shall annually make a report of its proceedings to the Commissioner of  
7 Professional and Financial Regulation. The secretary-treasurer of the board shall keep  
8 records of all proceedings of the board and be the custodian of these records. Records  
9 that constitute and are recognized as the official records of the board must be open for  
10 public inspection at reasonable times.

11 **Sec. 16. 32 MRSA §1073, sub-§2**, as amended by PL 1997, c. 107, §4, is further  
12 amended to read:

13 **2. Rules.** ~~Adopt~~ Through its subcommittees, adopt rules in accordance with the  
14 Maine Administrative Procedure Act that are necessary for the implementation of this  
15 chapter. The rules may include, but need not be limited to, requirements for licensure,  
16 interviews for licensing and renewal, continuing education, inactive licensure status, use  
17 of general anesthesia and fees for providing a list of addresses of licensed professionals  
18 upon request;

19 **Sec. 17. 32 MRSA §1073, sub-§3**, as amended by PL 1997, c. 107, §5, is further  
20 amended to read:

21 **3. False advertising.** ~~Establish~~ Through its subcommittees, adopt rules relating to  
22 false, deceptive or misleading advertising, except that ~~no~~ rules may not be inconsistent  
23 with any rule ~~promulgated~~ adopted pursuant to Title 5, section 207, subsection 2; and

24 **Sec. 18. 32 MRSA §1073, sub-§4**, as enacted by PL 1997, c. 107, §6, is amended  
25 to read:

26 **4. Protocols for professional review committee.** ~~Establish~~ Through its  
27 subcommittees, establish protocols for the operation of a professional review committee  
28 as defined in Title 24, section 2502, subsection 4-A. The protocols must include the  
29 committee reporting information the board ~~considers~~ and subcommittees consider  
30 appropriate regarding reports received, contracts or investigations made and the  
31 disposition of each report, ~~provided that~~ as long as the committee is not required to  
32 disclose any personally identifiable information. The protocols may not prohibit an  
33 impaired ~~dentist~~ dental professional from seeking alternative forms of treatment.

34 **Sec. 19. 32 MRSA §1077**, as amended by PL 2011, c. 581, §1, is further amended  
35 to read:

36 **§1077. Disciplinary actions**

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

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

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

15 If the ~~board~~ subcommittee finds that the factual basis of the complaint is true and is of  
16 sufficient gravity to warrant further action, it may take any of the following actions it  
17 considers appropriate:

18 A. With the consent of the licensee, enter into a consent agreement that takes any  
19 action authorized by Title 10, section 8003, subsection 5 or Title 10, section 8003-D.  
20 A consent agreement may be used to terminate a complaint investigation, if entered  
21 into by the ~~board~~ and subcommittee, the licensee and the Attorney General's office;

22 B. In consideration for acceptance of a voluntary surrender of the license, if a  
23 consent agreement is signed by the ~~board~~ through the subcommittee, the licensee and  
24 the Attorney General's office, negotiate stipulations, including terms and conditions  
25 for reinstatement, that ensure protection of the public health and safety and that serve  
26 to rehabilitate or educate the licensee;

27 C. If the ~~board~~ subcommittee concludes that denial of initial licensure or  
28 modification or nonrenewal of an existing license is in order, the ~~board~~ and  
29 subcommittee may refer the complaint to a dental adjudicatory panel, convened  
30 pursuant to section 1080, for the purpose of holding an adjudicatory hearing in  
31 accordance with the provisions of the Maine Administrative Procedure Act, Title 5,  
32 chapter 375, subchapter 4; or

33 D. If the ~~board~~ subcommittee concludes that suspension or revocation of the license  
34 is in order, the board may file a complaint in the District Court in accordance with  
35 Title 4, chapter 5.

36 Notwithstanding any other provision of law, a dental adjudicatory panel convened  
37 pursuant to section 1080 has the sole authority to hold an adjudicatory hearing  
38 conforming to the requirements of Title 5, chapter 375, subchapter 4 and take any action  
39 authorized by Title 10, section 8003, subsection 5 or Title 10, section 8003-D following  
40 an adjudicatory hearing.

41 Notwithstanding Title 10, section 8003, subsection 5, any nonconsensual revocation of a  
42 license by a dental adjudicatory panel pursuant to Title 10, section 8003 may be imposed  
43 only after a hearing conforming to the requirements of Title 5, section 375, subchapter 4  
44 and is subject to judicial review exclusively in the Superior Court in accordance with



1 Title 5, chapter 375, subchapter 7. The ~~board~~ subcommittee retains the authority to take  
2 any other action pursuant to this section and Title 10, section 8003 regarding the  
3 disposition of any complaint that does not involve an adjudicatory hearing.

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

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

10 B. Habitual substance abuse that has resulted or is foreseeably likely to result in the  
11 licensee performing services in a manner that endangers the health or safety of  
12 patients;

13 C. A professional diagnosis of a mental or physical condition that has resulted or  
14 may result in the licensee performing services in a manner that endangers the health  
15 or safety of patients;

16 D. Aiding or abetting the practice of a dental profession by an individual who is not  
17 licensed under this chapter and who claims to be legally licensed;

18 E. Incompetence in the practice for which the licensee is licensed. A licensee is  
19 considered incompetent in the practice if the licensee has:

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

22 (2) Engaged in conduct that evidences a lack of knowledge or inability to apply  
23 principles or skills to carry out the practice for which the licensee is licensed;

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

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

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

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

34 **Sec. 20. 32 MRSA §1078**, as corrected by RR 2007, c. 2, §19, is amended to read:

35 **§1078. Subcommittee on Denturists**

36 The Subcommittee on Denturists, referred to in this section as "the subcommittee," is  
37 established as follows.

38 **1. Membership.** The subcommittee consists of ~~5~~ 3 members as follows:

1 A. ~~The One~~ One dentist who is a member of the board, appointed by the Governor from  
2 a list of nominees provided by the Maine Licensed Denturist Association;

3 B. ~~Two denturists~~ One dentist, appointed by the Governor from a list of nominees  
4 provided by the Maine Licensed Denturist Association, who ~~are~~ is qualified pursuant  
5 to subchapter 6, ~~are~~ is a legal residents resident of the State and, ~~for appointments~~  
6 ~~made after January 1, 2006,~~ has practiced in the State for at least 6 years  
7 immediately preceding appointment; and

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

10 D. One public member, appointed by the president of the board.

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

12 **2. Terms.** ~~Each of the 3 members~~ The dentist of the subcommittee who also ~~are~~  
13 ~~members~~ is a member of the board ~~shall serve~~ serves on the subcommittee for the  
14 duration of ~~that~~ the member's term on the board. The term of a member of the  
15 subcommittee who is not a member of the board is 5 years.

16 **3. Duties.** The subcommittee ~~shall:~~

17 A. ~~Perform~~ Shall perform an initial review of all complaints initiated pursuant to  
18 section 1077 involving denturists. Upon completion of its review of a complaint, the  
19 secretary of the subcommittee shall report to the board the subcommittee's  
20 recommended disposition of the complaint in accordance with those dispositions  
21 authorized by section 1077. ~~Notwithstanding the provisions of section 1077, the~~ The  
22 board shall adopt the subcommittee's recommended disposition of a complaint unless  
23 ~~no fewer than 2/3 of the board members who are present and voting vote to reject that~~  
24 ~~recommended disposition; and~~ the board makes a specific finding that a  
25 recommendation:

26 (1) Is beyond the jurisdiction of the subcommittee;

27 (2) Places an undue financial burden upon the board; or

28 (3) Is not supported by the record.

29 The board shall provide funds for the necessary expenditures incurred by the  
30 subcommittee and the board in implementing and executing recommendations;

31 B. ~~Perform~~ Shall perform an initial review of all applications for licensure as a  
32 dentist pursuant to section 1100-D and all submissions relating to continuing  
33 education of denturists pursuant to section 1100-E-1. Upon completion of its review  
34 of an application or submission, the secretary of the subcommittee shall report to the  
35 board the subcommittee's recommended disposition of the application or submission,  
36 including issuance, renewal, denial or nonrenewal of a dentist license.  
37 Notwithstanding the provisions of section 1100-E, the board shall adopt the  
38 subcommittee's recommended disposition of an application or submission unless ~~no~~  
39 ~~fewer than 2/3 of the board members who are present and voting vote to reject that~~  
40 ~~recommended disposition.~~ the board makes a specific finding that a recommendation:

41 (1) Is beyond the jurisdiction of the subcommittee;

- 1                   (2) Places an undue financial burden upon the board; or
- 2                   (3) Is not supported by the record.

3                   The board shall provide funds for the necessary expenditures incurred by the  
4                   subcommittee and the board in implementing and executing recommendations;

5                   C. Has rule-making authority with respect to licensees under its jurisdiction. The  
6                   subcommittee shall report its recommendations for rules to the board. The board  
7                   shall ratify a recommendation of the subcommittee at the first meeting of the board  
8                   following the subcommittee's report to the board unless the board makes a specific  
9                   finding that the recommendation:

- 10                   (1) Is beyond the jurisdiction of the subcommittee;
- 11                   (2) Places an undue financial burden upon the board; or
- 12                   (3) Is not supported by the record.

13                   The board shall provide funds for the necessary expenditures incurred by the  
14                   subcommittee and the board in implementing and executing recommendations;

15                   D. Shall submit a yearly budget, ensuring that operations of the subcommittee are  
16                   supported entirely by licensees of the subcommittee; and

17                   E. Shall hold at least 2 annual meetings and other meetings as necessary.

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

21                   **Sec. 21. 32 MRSA §1079**, as amended by PL 2007, c. 620, Pt. A, §2, is further  
22 amended to read:

23                   **§1079. Subcommittee on Dental Hygienists**

24                   The Subcommittee on Dental Hygienists, referred to in this section as "the  
25 subcommittee," is established.

26                   **1. Membership.** The subcommittee consists of ~~5~~ 4 members:

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

28                   ~~B. Two~~ Three dental hygienists, one of whom must be a licensed dental hygienist,  
29                   one of whom must be an independent practice dental hygienist and one of whom  
30                   must be a dental hygienist with public health supervision status, as defined by board  
31                   rule, appointed by the Governor from a list of nominees provided by the Maine  
32                   Dental Hygienists' Association, who are qualified pursuant to subchapter ~~6~~ 4, are  
33                   legal residents of the State and have practiced in the State for at least 6 years  
34                   immediately preceding appointment. One of the dental hygienists must be a member  
35                   of the board; and

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

1           D. One public member, appointed by the president of the board.

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

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

7           **3. Duties.** The subcommittee ~~shall~~:

8           A. ~~Perform~~ Shall perform an initial review of all complaints initiated pursuant to  
9 section 1077 involving dental hygienists, independent practice dental hygienists,  
10 dental hygienists with public health supervision status, as defined by board rule, and  
11 other dental hygiene-related professions. Upon completion of its review of a  
12 complaint, the secretary of the subcommittee shall report to the board the  
13 subcommittee's recommended disposition of the complaint in accordance with those  
14 dispositions authorized by section 1077. ~~Notwithstanding the provisions of section~~  
15 ~~1077, the~~ The board shall adopt the subcommittee's recommended disposition of a  
16 complaint unless ~~no fewer than 2/3 of the board members who are present and voting~~  
17 ~~vote to reject that recommended disposition; and~~ makes a specific finding that the  
18 recommendation:

19                 (1) Is beyond the jurisdiction of the subcommittee;

20                 (2) Places an undue financial burden upon the board; or

21                 (3) Is not supported by the record.

22           The board shall provide funds for the necessary expenditures incurred by the  
23 subcommittee and the board in implementing and executing recommendations;

24           B. ~~Perform~~ Shall perform an initial review of all applications for licensure as a dental  
25 hygienist pursuant to section 1097, all submissions relating to continuing education  
26 of dental hygienists pursuant to sections 1098-B and 1099 ~~and~~, all submissions  
27 relating to public health supervision status of dental hygienists as defined by board  
28 rule and all submissions relating to independent practice dental hygienists and other  
29 dental hygiene-related professions. Upon completion of its review of an application  
30 or submission, the secretary of the subcommittee shall report to the board the  
31 subcommittee's recommended disposition of the application or submission, including  
32 issuance, renewal, denial or nonrenewal of a dental hygienist license.  
33 Notwithstanding the provisions of section 1098, the board shall adopt the  
34 subcommittee's recommended disposition of an application or submission unless ~~no~~  
35 ~~fewer than 2/3 of the board members who are present and voting vote to reject that~~  
36 ~~recommended disposition.~~ the board makes a specific finding that a recommendation:

37                 (1) Is beyond the jurisdiction of the subcommittee;

38                 (2) Places an undue financial burden upon the board; or

39                 (3) Is not supported by the record.

40           The board shall provide funds for the necessary expenditures incurred by the  
41 subcommittee and the board in implementing and executing recommendations;

1           C. Has rule-making authority with respect to licensees under its jurisdiction. The  
2           subcommittee shall report its recommendations for rules to the board. The board  
3           shall ratify a recommendation of the subcommittee at the first meeting of the board  
4           following the subcommittee's report to the board unless the board makes a specific  
5           finding that the recommendation:

6                 (1) Is beyond the jurisdiction of the subcommittee;

7                 (2) Places an undue financial burden upon the board; or

8                 (3) Is not supported by the record.

9           The board shall provide funds for the necessary expenditures incurred by the  
10           subcommittee and the board in implementing and executing recommendations;

11           D. Shall submit a yearly budget, ensuring that operations of the subcommittee are  
12           supported entirely by licensees of the subcommittee; and

13           E. Shall hold at least 2 annual meetings and other meetings as necessary.

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

17           **Sec. 22. 32 MRSA §1079-A** is enacted to read:

18           **§1079-A. Subcommittee on Dentists**

19           The Subcommittee on Dentists, referred to in this section as "the subcommittee," is  
20           established.

21           **1. Membership.** The subcommittee consists of 3 members as follows:

22                 A. Two dentists, appointed by the Governor from a list of nominees provided by the  
23                 Maine Dental Association, who are qualified pursuant to subchapter 3, who are legal  
24                 residents of the State and who have practiced in the State for at least 10 years  
25                 immediately preceding appointment. One of the dentists must be a member of the  
26                 board; and

27                 B. One public member, appointed by the president of the board.

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

29           **2. Terms.** The member of the subcommittee who is a member of the board serves  
30           on the subcommittee for the duration of the member's term on the board. The term of a  
31           member of the subcommittee who is not a member of the board is 5 years.

32           **3. Duties.** The subcommittee:

33                 A. Shall perform an initial review of all complaints initiated pursuant to section 1077  
34                 involving dentists. Upon completion of its review of a complaint, the secretary of the  
35                 subcommittee shall report to the board the subcommittee's recommended disposition  
36                 of the complaint in accordance with those dispositions authorized by section 1077.

1 The board shall adopt the subcommittee's recommended disposition of a complaint  
2 unless the board makes a specific finding that the recommendation:

- 3 (1) Is beyond the jurisdiction of the subcommittee;  
4 (2) Places an undue financial burden upon the board; or  
5 (3) Is not supported by the record.

6 The board shall provide funds for the necessary expenditures incurred by the  
7 subcommittee and the board in implementing and executing recommendations:

8 B. Shall perform an initial review of all applications for licensure as a dentist  
9 pursuant to section 1083 and all submissions relating to continuing education of  
10 dentists pursuant to section 1084-A. Upon completion of its review of an application  
11 or submission, the secretary of the subcommittee shall report to the board the  
12 subcommittee's recommended disposition of the application or submission, including  
13 issuance, renewal, denial or nonrenewal of a dentist license. Notwithstanding the  
14 provisions of section 1084, the board shall adopt the subcommittee's recommended  
15 disposition of an application or submission unless the board makes a specific finding  
16 that the recommendation:

- 17 (1) Is beyond the jurisdiction of the subcommittee;  
18 (2) Places an undue financial burden upon the board; or  
19 (3) Is not supported by the record.

20 The board shall provide funds for the necessary expenditures incurred by the  
21 subcommittee and the board in implementing and executing recommendations:

22 C. Has rule-making authority with respect to licensees under its jurisdiction. The  
23 subcommittee shall report its recommendations for rules to the board. The board  
24 shall ratify a recommendation of the subcommittee at the first meeting of the board  
25 following the subcommittee's report to the board unless the board makes a specific  
26 finding that the recommendation:

- 27 (1) Is beyond the jurisdiction of the subcommittee;  
28 (2) Places an undue financial burden upon the board; or  
29 (3) Is not supported by the record.

30 The board shall provide funds for the necessary expenditures incurred by the  
31 subcommittee and the board in implementing and executing recommendations:

32 D. Shall submit a yearly budget, ensuring that operations of the subcommittee are  
33 supported entirely by licensees of the subcommittee; and

34 E. Shall hold at least 2 annual meetings and other meetings as necessary.

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

1           **Sec. 23. 32 MRSA §1080, sub-§2**, as enacted by PL 2011, c. 581, §2, is amended  
2 to read:

3           **2. Establishment of a pool of panel members.** The board shall establish a pool of  
4 potential panel members. The board may not select a person for the pool who has been  
5 found in violation of the dental practices laws or rules within the preceding 10 years.  
6 ~~After selection by the board, each member of the pool is subject to review and~~  
7 ~~appointment by the Governor.~~ The pool must be composed of at least 5 dentists, 5  
8 denturists and 5 dental hygienists licensed under this chapter and 5 public members, but if  
9 the board finds that it is beneficial to the administration of the pool, the pool may be  
10 composed of no fewer than 3 from each category. A pool member may not be a member  
11 of the board.

12           **Sec. 24. 32 MRSA §1095**, as amended by PL 1993, c. 600, Pt. A, §79, is further  
13 amended to read:

14           **§1095. Definition**

15           The dental hygienist who practices under the supervision of a dentist of record may  
16 perform duties as defined and set forth in the rules of the Maine Board of Dental  
17 ~~Examiners~~ Oral Health, except that nothing in this subchapter may be construed to affect  
18 the practice of medicine or dentistry or to prevent students of a dental college, university  
19 or school of dental hygiene from practicing dental hygiene under the supervision of their  
20 instructors.

21           **Sec. 25. 32 MRSA §1097**, as amended by PL 2003, c. 669, §7, is further amended  
22 to read:

23           **§1097. Application; fee**

24           An eligible person desiring to practice dental hygiene must make written application  
25 to the Maine Board of Dental Examiners Oral Health to take the examination. The  
26 application must be accompanied by a fee to be determined by the board not to exceed  
27 \$175. Applicants for licensure must pay a fee set by the board for the examination. The  
28 board may recognize a nationally or regionally administered examination for applicants  
29 to practice dental hygiene in the State.

30           **Sec. 26. 32 MRSA §1098-E**, as enacted by PL 2005, c. 198, §1, is amended to  
31 read:

32           **§1098-E. Temporary filling procedures**

33           A dental hygienist with public health supervision status, as defined by rules adopted  
34 by the Maine Board of Dental Examiners Oral Health, may perform temporary filling  
35 procedures without a dentist present under protocols developed by the Maine Board of  
36 ~~Dental Examiners~~ Oral Health. Rules adopted pursuant to this section are routine  
37 technical rules as defined in Title 5, chapter 375, subchapter 2-A.

1 **Sec. 27. 32 MRSA §1100-A**, as amended by PL 2007, c. 620, Pt. C, §10, is  
2 further amended to read:

3 **§1100-A. Definition**

4 Duties of dental auxiliaries other than dental hygienists and expanded function dental  
5 assistants must be defined and governed by the rules of the Maine Board of Dental  
6 Examiners Oral Health, except that duties of independent practice dental hygienists set  
7 forth in section 1094-Q, subsection 1 may not be restricted or expanded by the board.  
8 Dental auxiliaries include, but are not limited to, dental hygienists, independent practice  
9 dental hygienists, dental assistants, expanded function dental assistants, dental laboratory  
10 technicians and denturists.

11 **Sec. 28. 32 MRSA §1100-B, sub-§1**, as enacted by PL 1977, c. 484, §2, is  
12 amended to read:

13 **1. Board.** "Board" means the Maine Board of Dental Examiners Oral Health.

14 **Sec. 29. 32 MRSA §9854, sub-§3, ¶B**, as enacted by PL 1983, c. 524, is  
15 amended to read:

16 B. A dental assistant holding a valid license or certificate issued by the Maine State  
17 Board of Dental Examiners Oral Health as a dental radiographer;

18 **Sec. 30. Maine Revised Statutes headnote amended; revision clause.** In  
19 the Maine Revised Statutes, Title 32, chapter 16, subchapter 2, in the subchapter  
20 headnote, the words "board of dental examiners" are amended to read "maine board of  
21 oral health" and the Revisor of Statutes shall implement this revision when updating,  
22 publishing or republishing the statutes.

23 **Sec. 31. Transition provision.** Members of the Board of Dental Examiners as set  
24 out in the Maine Revised Statutes, Title 32, section 1071, first paragraph serving on the  
25 effective date of this Act continue to serve on the board for the remainder of their terms.  
26 When the term of a member expires, that member's successor must be appointed in  
27 accordance with this Act.

28 **SUMMARY**

29 This bill amends the laws governing the Board of Dental Examiners.

30 1. It renames the board the Maine Board of Oral Health, and it reassigns the  
31 membership of the board to give equitable representation to the regulated dental  
32 professions and adds additional public members. As changed, the board has 9 members: 2  
33 dentists, 2 dental hygienists, 2 denturists and 3 public members.

34 2. It changes the duties, functions and responsibilities of the board. The board's  
35 major roles are to perform administrative duties as a coordinating body for the board's  
36 subcommittees and to advise the subcommittees and ratify and carry out the



1 recommendations of the subcommittees including with respect to rules recommended by  
2 the subcommittees.

3 3. It amends the laws governing the board's subcommittees on denturists and dental  
4 hygienists and establishes a new subcommittee on dentists. It defines the membership for  
5 each subcommittee and its duties, functions and responsibilities.