

# MAINE STATE LEGISLATURE

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# 127th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2015

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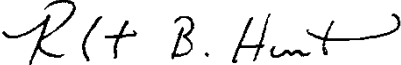
H.P. 364

House of Representatives, February 26, 2015

**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.

  
ROBERT B. HUNT  
Clerk

Presented by Representative SHAW of Standish.

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 2013, c. 588, Pt. E, §1 and  
3 affected by §2, 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 2021;

8 (5) Department of Professional and Financial Regulation, in conjunction with the  
9 joint standing committee of the Legislature having jurisdiction over insurance  
10 and financial services matters, in 2015;

11 (19) Department of Economic and Community Development in 2021;

12 (23) Maine State Housing Authority in 2015;

13 (32) Finance Authority of Maine in 2017;

14 ~~(36) Board of Dental Examiners in 2019;~~

15 (37) Board of Osteopathic Licensure in 2019;

16 (38) Board of Licensure in Medicine in 2019;

17 (41) State Board of Nursing in 2019;

18 (42) State Board of Optometry in 2019; ~~and~~

19 (45) State Board of Registration for Professional Engineers in 2019; ~~and~~

20 (46) Maine Board of Oral Health in 2021.

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

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

37 **Sec. 3. 5 MRSA §5303, sub-§2**, as amended by PL 2007, c. 369, Pt. A, §2 and  
38 affected by Pt. C, §5, is further amended to read:

1           **2. Ten-year limits.** For applicants to and licensees and registrants of the Board of  
2 Licensure in Medicine, the Board of Osteopathic Licensure, the Maine Board of Dental  
3 Examiners Oral Health, the State Board of Examiners of Psychologists, the State Board  
4 of Social Worker Licensure, the State Board of Nursing, the Board of Chiropractic  
5 Licensure, the Board of Trustees of the Maine Criminal Justice Academy, the State Board  
6 of Examiners in Physical Therapy, the State Board of Alcohol and Drug Counselors, the  
7 Board of Respiratory Care Practitioners, the Board of Counseling Professionals  
8 Licensure, the Board of Occupational Therapy Practice, the Board on Speech-language  
9 Pathology, Audiology and Hearing Aid Dealing and Fitting, the Radiologic Technology  
10 Board of Examiners, the Nursing Home Administrators Licensing Board, the Board of  
11 Licensure of Podiatric Medicine, the Board of Complementary Health Care Providers, the  
12 Maine Board of Pharmacy, and the Emergency Medical Services' Board and applicants  
13 for massage therapy licensure or licensed massage therapists, the following apply.

14           A. The procedures outlined in sections 5301 and 5302 for the consideration of prior  
15 criminal conviction as an element of fitness to practice a licensed profession, trade or  
16 occupation apply within 10 years of the applicant's or licensee's final discharge, if  
17 any, from the correctional system.

18           B. Beyond the 10-year period, ex-offender applicants or licensees with no additional  
19 convictions must be considered in the same manner as applicants or licensees  
20 possessing no prior criminal record for the purposes of licensing decisions.

21           C. There is no time limitation for consideration of a registrant's, an applicant's or  
22 licensee's conduct that gave rise to the criminal conviction if that conduct is otherwise  
23 a ground for disciplinary action.

24           **Sec. 4. 5 MRSA §12004-A, sub-§10**, as amended by PL 1999, c. 687, Pt. B, §1,  
25 is repealed.

26           **Sec. 5. 5 MRSA §12004-A, sub-§28-A** is enacted to read:

27           **28-A.**

28 <u>Maine Board of Oral Health</u>	28 <u>Legislative Per Diem</u>	28 <u>32 MRSA §1071</u>
29	29 <u>secretary-treasurer, as</u>	
30	30 <u>determined by board</u>	

31           **Sec. 6. 10 MRSA §8001-A, sub-§3**, as enacted by PL 1989, c. 450, §5, is  
32 repealed.

33           **Sec. 7. 10 MRSA §8001-A, sub-§6-A** is enacted to read:

34           **6-A. Maine Board of Oral Health.** Oral Health, Maine Board of;

35           **Sec. 8. 22 MRSA §256-B, sub-§1, ¶M**, as enacted by PL 2005, c. 327, §2, is  
36 repealed.

37           **Sec. 9. 22 MRSA §256-B, sub-§1, ¶¶N and O**, as enacted by PL 2005, c. 327,  
38 §2, are amended to read:

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

2 O. State Board of Examiners of Psychologists; ~~and~~

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

4 P. Maine Board of Oral Health.

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

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

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

11 The Maine Board of Oral Health, established by Title 5, section 12004-A, subsection  
12 28-A and referred to in this chapter as "the board," consists of 9 members, appointed by  
13 the Governor as follows: 2 members of the dental profession, from a list of nominees  
14 provided by a statewide association of dentists; 2 dental hygienists, from a list of  
15 nominees provided by a statewide association of hygienists; 2 denturists, from a list of  
16 nominees provided by a statewide association of denturists; and 3 representatives of the  
17 public.

18 **Sec. 13. 32 MRSA §1071, sub-§2**, as amended by PL 1993, c. 600, Pt. A, §56, is  
19 further amended to read:

20 **2. Dentists.** The Governor may accept nominations from ~~the Maine Dental~~  
21 ~~Association~~ a statewide association of dentists and from other organizations and  
22 individuals.

23 Members of the dental profession must hold a valid dental license and must have been in  
24 the actual practice of dentistry in this State for at least 10 years immediately preceding  
25 the appointment. The term for a member who is a dentist is 5 years. A dentist is not  
26 eligible to serve as a member of the board while employing a dental hygienist who is a  
27 member of the board.

28 **Sec. 14. 32 MRSA §1071, sub-§3-A**, as enacted by PL 2001, c. 260, Pt. B, §2, is  
29 amended to read:

30 **3-A. Denturist.** The Governor may accept nominations from a statewide association  
31 of denturists and from other organizations and individuals. ~~The denturist~~ denturists must  
32 be qualified pursuant to subchapter ~~VI~~ 6, must be a legal ~~resident~~ residents of the State  
33 and ~~for appointments made after January 1, 2006, the denturist~~ must have practiced in the  
34 State for at least 6 years immediately preceding appointment. The denturist ~~member~~  
35 members of the board ~~is a full voting member~~ are full voting members of the board. The  
36 term of the denturist is 5 years. A denturist is not eligible to serve as a member of the  
37 board while employed by a dentist who is a member of the board.

1           **Sec. 15. 32 MRSA §1071, sub-§4**, as amended by PL 1993, c. 600, Pt. A, §56, is  
2 further amended to read:

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

5           **Sec. 16. 32 MRSA §1072, first ¶**, as repealed and replaced by PL 1993, c. 600,  
6 Pt. A, §57, is amended to read:

7           At its annual meeting, the board shall elect from among its members a president, a  
8 vice-president and a secretary-treasurer. Five members constitute a quorum. The board  
9 shall have a common seal. At a time and place to be fixed by the board, the board shall  
10 hold at least one regular meeting each year and special meetings as necessary. The board,  
11 through its subcommittees, may recognize nationally or regionally administered  
12 examinations with respect to each of the 3 professions represented on the board given at  
13 least annually for applicants to practice dentistry in the State. The board may make rules,  
14 not contrary to law, necessary for the performance of its duties. On or before August 1st,  
15 the board shall annually make a report of its proceedings to the Commissioner of  
16 Professional and Financial Regulation. The secretary-treasurer of the board shall keep  
17 records of all proceedings of the board and be the custodian of these records. Records  
18 that constitute and are recognized as the official records of the board must be open for  
19 public inspection at reasonable times.

20           **Sec. 17. 32 MRSA §1073, sub-§2**, as amended by PL 1997, c. 107, §4, is further  
21 amended to read:

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

28           **Sec. 18. 32 MRSA §1073, sub-§3**, as amended by PL 1997, c. 107, §5, is further  
29 amended to read:

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

33           **Sec. 19. 32 MRSA §1073, sub-§4**, as enacted by PL 1997, c. 107, §6, is amended  
34 to read:

35           **4. Protocols for professional review committee.** ~~Establish~~ Through its  
36 subcommittees, establish protocols for the operation of a professional review committee  
37 as defined in Title 24, section 2502, subsection 4-A. The protocols must include the  
38 committee reporting information the board ~~considers~~ and subcommittees consider  
39 appropriate regarding reports received, contracts or investigations made and the  
40 disposition of each report, ~~provided that~~ as long as the committee is not required to

1 disclose any personally identifiable information. The protocols may not prohibit an  
2 impaired ~~dentist~~ dental professional from seeking alternative forms of treatment.

3 **Sec. 20. 32 MRSA §1076**, as amended by PL 1993, c. 659, Pt. B, §5, is further  
4 amended to read:

5 **§1076. Budget**

6 The board shall submit to the Commissioner of Professional and Financial Regulation  
7 its budgetary requirements in the same manner as is provided in Title 5, section 1665, and  
8 the commissioner shall in turn transmit these requirements to the Bureau of the Budget  
9 without any revision, alteration or change, unless alterations are mutually agreed upon by  
10 the department and the board or the board's designee. The budget submitted by the board  
11 to the commissioner must be sufficient to enable the board to comply with this  
12 subchapter. The Subcommittee on Denturists established in section 1078 shall submit its  
13 budgetary requirements to the board, which must be fully funded from revenue generated  
14 from denturist licensing fees. The board shall compensate the subcommittee for any  
15 necessary expenditures incurred by the subcommittee in performing its duties under this  
16 chapter.

17 **Sec. 21. 32 MRSA §1077**, as amended by PL 2013, c. 105, §4, is further amended  
18 to read:

19 **§1077. Disciplinary actions**

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

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

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

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

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

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

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

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

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

24 Notwithstanding Title 10, section 8003, subsection 5, any nonconsensual revocation of a  
25 license by a dental adjudicatory panel pursuant to Title 10, section 8003 may be imposed  
26 only after a hearing conforming to the requirements of Title 5, section 375, subchapter 4  
27 and is subject to judicial review exclusively in the Superior Court in accordance with  
28 Title 5, chapter 375, subchapter 7. The ~~board~~ subcommittee retains the authority to take  
29 any other action pursuant to this section and Title 10, section 8003 regarding the  
30 disposition of any complaint that does not involve an adjudicatory hearing.

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

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

37 B. Misuse of alcohol, drugs or other substances that has resulted or may result in the  
38 licensee performing services in a manner that endangers the health or safety of  
39 patients;

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



- 1 D. Aiding or abetting the practice of a dental profession by an individual who is not
- 2 licensed under this chapter and who claims to be legally licensed;
- 3 E. Incompetence in the practice for which the licensee is licensed. A licensee is
- 4 considered incompetent in the practice if the licensee has:
  - 5 (1) Engaged in conduct that evidences a lack of ability or fitness to perform the
  - 6 duties owed by the licensee to a client or patient or the general public; or
  - 7 (2) Engaged in conduct that evidences a lack of knowledge or inability to apply
  - 8 principles or skills to carry out the practice for which the licensee is licensed;
- 9 F. Unprofessional conduct. A licensee is considered to have engaged in
- 10 unprofessional conduct if the licensee violates a standard of professional behavior
- 11 that has been established in the practice for which the licensee is licensed;
- 12 G. Subject to the limitations of Title 5, chapter 341, conviction of a crime that
- 13 involves dishonesty or false statement or that relates directly to the practice for which
- 14 the licensee is licensed, or conviction of a crime for which incarceration for one year
- 15 or more may be imposed;
- 16 H. A violation of this chapter or a rule adopted by the board and the subcommittee;
- 17 or
- 18 I. Engaging in false, misleading or deceptive advertising.

19 **Sec. 22. 32 MRSA §1078**, as corrected by RR 2007, c. 2, §19, is amended to read:

20 **§1078. Subcommittee on Denturists**

21 The Subcommittee on Denturists, referred to in this section as "the subcommittee," is

22 established as follows.

- 23 **1. Membership.** The subcommittee consists of ~~5~~ 4 members as follows:
  - 24 A. The ~~denturist~~ 2 denturists who ~~is a member~~ are members of the board;
  - 25 ~~B. Two denturists, appointed by the Governor, who are qualified pursuant to~~
  - 26 ~~subchapter 6, are legal residents of the State and, for appointments made after~~
  - 27 ~~January 1, 2006, have practiced in the State for at least 6 years immediately~~
  - 28 ~~preceding appointment; and~~
  - 29 C. ~~Two dentists~~ One dentist who ~~are members~~ is a member of the board, appointed
  - 30 by the president of the board; and
  - 31 D. A public representative who is a member of the board.

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

- 33 **2. Terms.** ~~Each of the 3~~ The 4 members of the subcommittee ~~who also are members~~
- 34 ~~of the board shall~~ serve on the subcommittee for the duration of ~~that member's term~~ their
- 35 terms on the board. ~~The term of a member of the subcommittee who is not a member of~~
- 36 ~~the board is 5 years.~~

- 37 **3. Duties.** The subcommittee shall:

1 A. Perform an initial review of all complaints initiated pursuant to section 1077  
2 involving denturists. Upon completion of its review of a complaint, the secretary of  
3 the subcommittee shall report to the board the subcommittee's recommended  
4 disposition of the complaint in accordance with those dispositions authorized by  
5 section 1077. Notwithstanding the provisions of section 1077, the board shall adopt  
6 the subcommittee's recommended disposition of a complaint unless ~~no fewer~~ more  
7 than 2/3 of the board members who are present and voting vote to reject that  
8 recommended disposition; and the board makes a specific finding that a  
9 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; and

13 B. Perform an initial review of all applications for licensure as a denturist pursuant to  
14 section 1100-D and all submissions relating to continuing education of denturists  
15 pursuant to section 1100-E-1. Upon completion of its review of an application or  
16 submission, the secretary of the subcommittee shall report to the board the  
17 subcommittee's recommended disposition of the application or submission, including  
18 issuance, renewal, denial or nonrenewal of a denturist license. Notwithstanding the  
19 provisions of section 1100-E, the board shall adopt the subcommittee's recommended  
20 disposition of an application or submission unless ~~no fewer~~ more than 2/3 of the  
21 board members who are present and voting vote to reject that recommended  
22 disposition; and the board makes a specific finding that a recommendation:

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

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

25 (3) Is not supported by the record.

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

29 **5. Rulemaking; proposals originate with subcommittee.** Beginning September 1,  
30 2014, any rule involving denturist licensure, including interviews for licensing and  
31 renewal, continuing education, discipline and inactive licensure status, may not be  
32 adopted by the board pursuant to section 1073, subsection 2 or section 1100-C unless it  
33 originates from a recommendation by the subcommittee to the board. The secretary of  
34 the subcommittee shall report to the board the proposed rule, and the board shall take  
35 action on it at the first meeting of the board following the subcommittee's report to the  
36 board. The board shall either vote to proceed with the rule-making process in accordance  
37 with the Maine Administrative Procedure Act using the subcommittee's proposed rule or,  
38 by a vote of more than 2/3 of the board members present and voting, to submit a revision  
39 of the proposed rule to the subcommittee for its consideration. The subcommittee shall  
40 either accept or reject the board's revision to the rule, and the secretary shall report the  
41 subcommittee's final decision to the board. The board shall vote to accept the final  
42 recommendation of the subcommittee and proceed with the rule-making process in  
43 accordance with the Maine Administrative Procedure Act using the subcommittee's final

1 recommendation for the proposed rule or to reject the recommendation proposed by the  
2 subcommittee. A vote to reject the recommendation proposed by the subcommittee  
3 requires a vote of more than 2/3 of the board members present and voting, as well as a  
4 specific finding that the final recommendation of the subcommittee:

5 A. Is beyond the jurisdiction of the subcommittee;

6 B. Places an undue financial burden upon the board; or

7 C. Is not supported by the record.

8 Once a proposal for rulemaking has been submitted by the subcommittee and accepted by  
9 the board, nothing in this section may be construed to restrict the board from conducting  
10 its duties for rulemaking in accordance with the Maine Administrative Procedure Act.

11 **6. Meetings.** The subcommittee shall hold at least 2 meetings each year.

12 **Sec. 23. 32 MRSA §1079**, as amended by PL 2007, c. 620, Pt. A, §2, is further  
13 amended to read:

14 **§1079. Subcommittee on Dental Hygienists**

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

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

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

19 ~~B. Two~~ Three dental hygienists, one of whom must be a licensed dental hygienist,  
20 one of whom must be an independent practice dental hygienist and one of whom  
21 must be a dental hygienist with public health supervision status, as defined by board  
22 rule, appointed by the Governor from a list of nominees provided by a statewide  
23 association of dental hygienists, who are qualified pursuant to subchapter 6 4, are  
24 legal residents of the State and have practiced in the State for at least 6 years  
25 immediately preceding appointment. One of the dental hygienists must be a member  
26 of the board; and

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

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

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

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

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

36 ~~Perform~~ Shall perform an initial review of all complaints initiated pursuant to  
37 section 1077 involving dental hygienists, independent practice dental hygienists,

1 dental hygienists with public health supervision status, as defined by board rule, and  
2 other dental hygiene-related professions. Upon completion of its review of a  
3 complaint, the secretary of the subcommittee shall report to the board the  
4 subcommittee's recommended disposition of the complaint in accordance with those  
5 dispositions authorized by section 1077. ~~Notwithstanding the provisions of section~~  
6 ~~1077, the~~ The board shall adopt the subcommittee's recommended disposition of a  
7 complaint unless no fewer than 2/3 of the board members who are present and voting  
8 vote to reject that recommended disposition; and makes a specific finding that the  
9 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 ~~B. Perform~~ Shall perform an initial review of all applications for licensure as a dental  
16 hygienist pursuant to section 1097, all submissions relating to continuing education  
17 of dental hygienists pursuant to sections 1098-B and 1099 ~~and~~, all submissions  
18 relating to public health supervision status of dental hygienists as defined by board  
19 rule and all submissions relating to independent practice dental hygienists and other  
20 dental hygiene-related professions. Upon completion of its review of an application  
21 or submission, the secretary of the subcommittee shall report to the board the  
22 subcommittee's recommended disposition of the application or submission, including  
23 issuance, renewal, denial or nonrenewal of a dental hygienist license.  
24 Notwithstanding the provisions of section 1098, the board shall adopt the  
25 subcommittee's recommended disposition of an application or submission unless ~~no~~  
26 ~~fewer than 2/3 of the board members who are present and voting vote to reject that~~  
27 ~~recommended disposition.~~ the board makes a specific finding that a recommendation:

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

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

33 C. Has rule-making authority with respect to licensees under its jurisdiction. The  
34 subcommittee shall report its recommendations for rules to the board. The board  
35 shall ratify a recommendation of the subcommittee at the first meeting of the board  
36 following the subcommittee's report to the board unless the board makes a specific  
37 finding that the recommendation:

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

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

3           D. Shall submit to the board a yearly budget, ensuring that operations of the  
4           subcommittee are supported entirely by licensees of the subcommittee; and

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

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

9           **Sec. 24. 32 MRSA §1079-A** is enacted to read:

10           **§1079-A. Subcommittee on Dentists**

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

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

14           A. Two dentists, appointed by the Governor from a list of nominees provided by a  
15           statewide association of dentists, who are qualified pursuant to subchapter 3, who are  
16           legal residents of the State and who have practiced in the State for at least 10 years  
17           immediately preceding appointment. One of the dentists must be a member of the  
18           board; and

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

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

21           **2. Terms.** The member of the subcommittee who is a member of the board serves  
22           on the subcommittee for the duration of the member's term on the board. The term of a  
23           member of the subcommittee who is not a member of the board is 5 years.

24           **3. Duties.** The subcommittee:

25           A. Shall perform an initial review of all complaints initiated pursuant to section 1077  
26           involving dentists. Upon completion of its review of a complaint, the secretary of the  
27           subcommittee shall report to the board the subcommittee's recommended disposition  
28           of the complaint in accordance with those dispositions authorized by section 1077.  
29           The board shall adopt the subcommittee's recommended disposition of a complaint  
30           unless the board makes a specific finding that the recommendation:

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

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

33                   (3) Is not supported by the record.

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

36           B. Shall perform an initial review of all applications for licensure as a dentist  
37           pursuant to section 1083 and all submissions relating to continuing education of

1 dentists pursuant to section 1084-A. Upon completion of its review of an application  
2 or submission, the secretary of the subcommittee shall report to the board the  
3 subcommittee's recommended disposition of the application or submission, including  
4 issuance, renewal, denial or nonrenewal of a dentist license. Notwithstanding the  
5 provisions of section 1084, the board shall adopt the subcommittee's recommended  
6 disposition of an application or submission unless the board makes a specific finding  
7 that the recommendation:

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

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

13 C. Has rule-making authority with respect to licensees under its jurisdiction. The  
14 subcommittee shall report its recommendations for rules to the board. The board  
15 shall ratify a recommendation of the subcommittee at the first meeting of the board  
16 following the subcommittee's report to the board unless the board makes a specific  
17 finding that the recommendation:

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

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

23 D. Shall submit to the board a yearly budget, ensuring that operations of the  
24 subcommittee are supported entirely by licensees of the subcommittee; and

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

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

29 **Sec. 25. 32 MRSA §1080, sub-§2,** as enacted by PL 2011, c. 581, §2, is amended  
30 to read:

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

1           **Sec. 26. 32 MRSA §1095**, as amended by PL 1993, c. 600, Pt. A, §79, is further  
2 amended to read:

3           **§1095. Definition**

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

10           **Sec. 27. 32 MRSA §1097**, as amended by PL 2003, c. 669, §7, is further amended  
11 to read:

12           **§1097. Application; fee**

13           An eligible person desiring to practice dental hygiene must make written application  
14 to the Maine Board of ~~Dental Examiners~~ Oral Health to take the examination. The  
15 application must be accompanied by a fee to be determined by the board not to exceed  
16 \$175. Applicants for licensure must pay a fee set by the board for the examination. The  
17 board may recognize a nationally or regionally administered examination for applicants  
18 to practice dental hygiene in the State.

19           **Sec. 28. 32 MRSA §1098-E**, as enacted by PL 2005, c. 198, §1, is amended to  
20 read:

21           **§1098-E. Temporary filling procedures**

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

27           **Sec. 29. 32 MRSA §1100-A**, as amended by PL 2007, c. 620, Pt. C, §10, is  
28 further amended to read:

29           **§1100-A. Definition**

30           Duties of dental auxiliaries other than dental hygienists and expanded function dental  
31 assistants must be defined and governed by the rules of the Maine Board of ~~Dental~~  
32 Examiners Oral Health, except that duties of independent practice dental hygienists set  
33 forth in section 1094-Q, subsection 1 may not be restricted or expanded by the board.  
34 Dental auxiliaries include, but are not limited to, dental hygienists, independent practice  
35 dental hygienists, dental assistants, expanded function dental assistants, dental laboratory  
36 technicians and denturists.

37           **Sec. 30. 32 MRSA §1100-B, sub-§1**, as enacted by PL 1977, c. 484, §2, is  
38 amended to read:

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

2           **Sec. 31. 32 MRSA §9854, sub-§3, ¶B,** as enacted by PL 1983, c. 524, is  
3 amended to read:

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

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

11           **Sec. 33. Transition provision.** Notwithstanding the Maine Revised Statutes,  
12 Title 32, section 1071, members of the Board of Dental Examiners serving immediately  
13 prior to the effective date of this Act continue to serve on the Maine Board of Oral Health  
14 for the remainder of their terms. When the term of a member expires, that member's  
15 successor must be appointed in accordance with this Act. When the term of a member  
16 who is a dentist expires, the first vacancy to occur must be filled by a dentist, and the  
17 2nd and 3rd vacancies must be filled by members of the public.

18   **SUMMARY**

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

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

24           2. It changes the duties, functions and responsibilities of the board. The board's  
25 major roles are to perform administrative duties as a coordinating body for the board's  
26 subcommittees and to advise the subcommittees and ratify and carry out the  
27 recommendations of the subcommittees including with respect to rules recommended by  
28 the subcommittees.

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