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L.D. 1596

Date: 3/30/16

(Filing No. H-621)

LABOR, COMMERCE, RESEARCH AND ECONOMIC DEVELOPMENT

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**STATE OF MAINE
HOUSE OF REPRESENTATIVES
127TH LEGISLATURE
SECOND REGULAR SESSION**

COMMITTEE AMENDMENT "A" to H.P. 1086, L.D. 1596, Bill, "An Act To Revise the Laws Regarding Dental Practices"

Amend the bill by striking out everything after the enacting clause and inserting the following:

Sec. 1. 5 MRSA §12004-A, sub-§10, as amended by PL 1999, c. 687, Pt. B, §1, is repealed and the following enacted in its place:

<u>10.</u>	<u>Board of Dental Practice</u>	<u>Legislative per diem board and subcommittee members</u>	<u>32 MRSA §18321</u>
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Sec. 2. 13 MRSA §732, sub-§4, as amended by PL 2007, c. 620, Pt. D, §1, is further amended to read:

4. Dentists, denturists and independent practice dental hygienists. For the purposes of this chapter, a denturist or independent practice dental hygienist licensed under Title 32, chapter ~~46~~ 143 may organize with a dentist who is licensed under Title 32, chapter ~~46~~ 143 and may become a shareholder of a dental practice incorporated under the corporation laws. At no time may one or more denturists or independent practice dental hygienists in sum have an equal or greater ownership interest in a dental practice than the dentist or dentists have in that practice.

Sec. 3. 13 MRSA §732, sub-§5, as enacted by PL 2007, c. 210, §1, is further amended to read:

5. Legal guardian or personal representative of deceased or incapacitated dentist. For the purposes of this chapter, the legal guardian or personal representative of a dentist licensed under Title 32, chapter ~~46~~ 143 may contract with another dentist to continue the operations of the practice of the deceased or incapacitated dentist for a period of up to 24 months after the death or incapacitation of the dentist or until the

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1 practice is sold, whichever occurs first. For purposes of this subsection, "personal
2 representative" has the same meaning as in Title 18-A, section 1-201, subsection 30.

3 **Sec. 4. 22 MRSA §3174-RR, sub-§1**, as reallocated by RR 2011, c. 1, §32, is
4 amended to read:

5 **1. Reimbursement.** By October 1, 2012, the department shall provide for the
6 reimbursement under the MaineCare program of independent practice dental hygienists
7 practicing as authorized under Title 32, section ~~1094-I~~ 18375 for the following
8 procedures:

- 9 A. Prophylaxis performed on a person who is 21 years of age or younger;
- 10 B. Topical application of fluoride performed on a person who is 21 years of age or
11 younger;
- 12 C. Provision of oral hygiene instructions;
- 13 D. The application of sealants;
- 14 E. Temporary fillings; and
- 15 F. X-rays.

16 Reimbursement must be provided to independent practice dental hygienists directly or to
17 a federally qualified health center pursuant to section 3174-V when an independent
18 practice dental hygienist is employed as a core provider at the center.

19 **Sec. 5. 22 MRSA §3174-XX, sub-§1**, as enacted by PL 2013, c. 575, §1 and
20 affected by §10, is amended to read:

21 **1. Reimbursement.** By October 1, 2015, the department shall provide for the
22 reimbursement under the MaineCare program of dental hygiene therapists practicing as
23 authorized under Title 32, ~~chapter 16, subchapter 3-C~~ section 18377 for the procedures
24 identified in their scope of practice. Reimbursement must be provided to dental hygiene
25 therapists directly or to a federally qualified health center pursuant to section 3174-V
26 when a dental hygiene therapist is employed as a core provider at the center.

27 **Sec. 6. 22 MRSA §3480-A, first ¶**, as enacted by PL 2003, c. 653, §16, is
28 amended to read:

29 The confidential quality of communications under section 1711-C, Title 24-A,
30 section 4224 and Title 32, sections ~~1092-A and 7005 and 18393~~ is abrogated to the extent
31 allowable under federal law in relation to required reporting or cooperating with the
32 department in an investigation or other protective activity under this chapter. Information
33 released to the department pursuant to this section must be kept confidential and may not
34 be disclosed by the department except as provided in section 3474.

35 **Sec. 7. 22 MRSA §4015, first ¶**, as amended by PL 2001, c. 696, §22, is further
36 amended to read:

37 The husband-wife and physician and psychotherapist-patient privileges under the
38 Maine Rules of Evidence and the confidential quality of communication under Title 16,
39 section 53-B; Title 20-A, sections 4008 and 6001, to the extent allowed by applicable
40 federal law; Title 24-A, section 4224; Title 32, sections ~~1092-A and 7005 and 18393~~; and

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1 Title 34-B, section 1207, are abrogated in relation to required reporting, cooperating with
2 the department or a guardian ad litem in an investigation or other child protective activity
3 or giving evidence in a child protection proceeding. Information released to the
4 department pursuant to this section must be kept confidential and may not be disclosed by
5 the department except as provided in section 4008.

6 **Sec. 8. 24 MRSA §2505, 2nd ¶**, as amended by PL 2013, c. 355, §2, is further
7 amended to read:

8 Except for specific protocols developed by a board pursuant to Title 32, section ~~1073,~~
9 ~~2596-A or~~ 3298 or 18323, a physician or physician assistant, dentist or committee is not
10 responsible for reporting misuse of alcohol, drugs or other substances or professional
11 incompetence or malpractice as a result of physical or mental infirmity or by the misuse
12 of alcohol, drugs or other substances discovered by the physician, physician assistant,
13 dentist or committee as a result of participation or membership in a professional review
14 committee or with respect to any information acquired concerning misuse of alcohol,
15 drugs or other substances or professional incompetence or malpractice as a result of
16 physical or mental infirmity or by the misuse of alcohol, drugs or other substances, as
17 long as that information is reported to the professional review committee. This section
18 does not prohibit an impaired physician, physician assistant or dentist from seeking
19 alternative forms of treatment.

20 **Sec. 9. 24 MRSA §2904, sub-§3, ¶A**, as repealed and replaced by PL 2003, c.
21 438, §2, is amended to read:

22 A. "Dentist" means a person who practices dentistry according to the provisions of
23 Title 32, section ~~1081~~ 18371.

24 **Sec. 10. 24-A MRSA §2437, first ¶**, as enacted by PL 1975, c. 345, §2, is
25 amended to read:

26 Whenever the terms "physician" or "doctor" are used in any policy of health or
27 accident insurance issued in this State, these terms ~~shall~~ include within their meaning
28 those persons licensed under and in accordance with the laws relating to the practice of
29 dentistry, Title 32, chapter ~~16~~ 143, in respect to any care, services, procedures or benefits
30 covered by that policy of insurance ~~which~~ that those persons are licensed to perform, any
31 provisions in any such policy of insurance to the contrary notwithstanding.

32 **Sec. 11. 24-A MRSA §2765, sub-§1**, as enacted by PL 2009, c. 307, §2 and
33 affected by §6, is amended to read:

34 **1. Services provided by independent practice dental hygienist.** An insurer that
35 issues individual dental insurance or health insurance that includes coverage for dental
36 services shall provide coverage for dental services performed by an independent practice
37 dental hygienist licensed under Title 32, chapter ~~16, subchapter 3-B~~ 143 when those
38 services are covered services under the contract and when they are within the lawful
39 scope of practice of the independent practice dental hygienist.

40 **Sec. 12. 24-A MRSA §2765-A, sub-§1**, as enacted by PL 2013, c. 575, §5 and
41 affected by §10, is amended to read:

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1 **1. Services provided by dental hygiene therapist.** An insurer that issues individual
2 dental insurance or health insurance that includes coverage for dental services shall
3 provide coverage for dental services performed by a dental hygiene therapist licensed
4 under Title 32, chapter ~~16, subchapter 3-C~~ 143 when those services are covered services
5 under the contract and when they are within the lawful scope of practice of the dental
6 hygiene therapist.

7 **Sec. 13. 24-A MRSA §2847-Q, sub-§1,** as enacted by PL 2009, c. 307, §3 and
8 affected by §6, is amended to read:

9 **1. Services provided by independent practice dental hygienist.** An insurer that
10 issues group dental insurance or health insurance that includes coverage for dental
11 services shall provide coverage for dental services performed by an independent practice
12 dental hygienist licensed under Title 32, chapter ~~16, subchapter 3-B~~ 143 when those
13 services are covered services under the contract and when they are within the lawful
14 scope of practice of the independent practice dental hygienist.

15 **Sec. 14. 24-A MRSA §2847-U, sub-§1,** as enacted by PL 2013, c. 575, §6 and
16 affected by §10, is amended to read:

17 **1. Services provided by dental hygiene therapist.** An insurer that issues group
18 dental insurance or health insurance that includes coverage for dental services shall
19 provide coverage for dental services performed by a dental hygiene therapist licensed
20 under Title 32, chapter ~~16, subchapter 3-C~~ 143 when those services are covered services
21 under the contract and when they are within the lawful scope of practice of the dental
22 hygiene therapist.

23 **Sec. 15. 24-A MRSA §4257, sub-§1,** as enacted by PL 2009, c. 307, §4 and
24 affected by §6, is amended to read:

25 **1. Services provided by independent practice dental hygienist.** All individual and
26 group health maintenance organization contracts that include coverage for dental services
27 shall provide coverage for dental services performed by an independent practice dental
28 hygienist licensed under Title 32, chapter ~~16, subchapter 3-B~~ 143 when those services are
29 covered services under the contract and when they are within the lawful scope of practice
30 of the independent practice dental hygienist.

31 **Sec. 16. 29-A MRSA §2405, sub-§3,** as enacted by PL 1993, c. 683, Pt. A, §2
32 and affected by Pt. B, §5, is amended to read:

33 **3. Privileged or confidential communications.** The physician-patient privileges
34 under the Maine Rules of Evidence and the confidential quality of communication under
35 Title 24-A, section 4224 and Title 32, section ~~1092-A~~ 18393 are abrogated in relation to
36 required reporting or other proceeding.

37 **Sec. 17. 32 MRSA c. 16,** as amended, is repealed.

38 **Sec. 18. 32 MRSA §9852, sub-§2,** as enacted by PL 1983, c. 524, is amended to
39 read:

40 **2. Dental radiographer.** "Dental radiographer" means a person, other than a
41 licensed practitioner, whose duties include radiography of the maxilla, mandible and
42 adjacent structures for diagnostic purposes and who is licensed under chapter ~~16~~ 143.

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1 **Sec. 19.** 32 MRSA §9854, sub-§3, ¶A, as enacted by PL 1983, c. 524, is
2 amended to read:

3 A. A dentist, dental hygienist or dental radiographer licensed under chapter ~~16,~~
4 subchapter IV 143;

5 **Sec. 20.** 32 MRSA §9854, sub-§3, ¶B, as enacted by PL 1983, c. 524, is
6 repealed.

7 **Sec. 21.** 32 MRSA c. 143 is enacted to read:

8 **CHAPTER 143**

9 **DENTAL PROFESSIONS**

10 **SUBCHAPTER 1**

11 **GENERAL PROVISIONS**

12 **§18301. Short title**

13 This chapter may be known and cited as "the Dental Practice Act."

14 **§18302. Definitions**

15 As used in this chapter, unless the context otherwise indicates, the following terms
16 have the following meanings.

17 **1. Board.** "Board" means the Board of Dental Practice established in Title 5, section
18 12004-A, subsection 10.

19 **2. Charitable dentist license.** "Charitable dentist license" means the authority
20 granted to an individual to provide free dental care as requested by a charitable or social
21 organization within the State when resident dental services are not available.

22 **3. Clinical dentist educator license.** "Clinical dentist educator license" means the
23 authority granted to an individual who is licensed as a dentist in another state or
24 jurisdiction to participate in clinical education for individuals licensed under this chapter.

25 **4. Commissioner.** "Commissioner" means the Commissioner of Professional and
26 Financial Regulation.

27 **5. Dental auxiliary.** "Dental auxiliary" means a dental radiographer, expanded
28 function dental assistant, dental hygienist, independent practice dental hygienist, public
29 health dental hygienist, dental hygiene therapist or denturist.

30 **6. Dental hygiene.** "Dental hygiene" means the delivery of preventative,
31 educational and clinical services supporting total health for the control of oral disease and
32 the promotion of oral health provided by a dental hygienist in accordance with this
33 chapter.

34 **7. Dental hygiene therapist.** "Dental hygiene therapist" means a person who holds
35 a valid license as a dental hygienist issued by the board and is authorized to practice
36 dental hygiene therapy under this chapter.

1 **8. Dental hygiene therapy.** "Dental hygiene therapy" means the delivery of dental
2 hygiene services, including performance of certain dental procedures in accordance with
3 this chapter.

4 **9. Dental hygienist.** "Dental hygienist" means a person who holds a valid license as
5 a dental hygienist issued by the board.

6 **10. Dental radiographer.** "Dental radiographer" means a person who holds a valid
7 license as a dental radiographer issued by the board.

8 **11. Dental radiography.** "Dental radiography" means the use of ionizing radiation
9 on the maxilla, mandible and adjacent structures of human beings for diagnostic purposes
10 while under the general supervision of a dentist in accordance with this chapter.

11 **12. Dentist.** "Dentist" means a person who holds a valid dentist license issued by the
12 board.

13 **13. Dentistry.** "Dentistry" means the scope of practice for a dentist as described in
14 section 18371.

15 **14. Denture.** "Denture" means any removable full or partial upper or lower
16 prosthetic dental appliance to be worn in the human mouth to replace any missing natural
17 teeth.

18 **15. Denturism.** "Denturism" means the process of taking denture impressions and
19 bite registrations for the purpose of making, producing, reproducing, constructing,
20 finishing, supplying, altering or repairing of a denture to be fitted to an edentulous or
21 partially edentulous arch or arches and the fitting of a denture to an edentulous or
22 partially edentulous arch or arches, including the making, producing, reproducing,
23 constructing, finishing, supplying, altering and repairing of dentures, without performing
24 alteration to natural or reconstructed tooth structure, in accordance with this chapter.

25 **16. Denturist.** "Denturist" means a person who holds a valid denturist license issued
26 by the board.

27 **17. Department.** "Department" means the Department of Professional and Financial
28 Regulation.

29 **18. Direct supervision.** "Direct supervision" means the supervision required by the
30 board by rule of those tasks and procedures requiring the physical presence of the
31 supervisor in the practice setting at the time such tasks or procedures are being
32 performed. In order to provide direct supervision of patient treatment, the supervisor must
33 at least diagnose the condition to be treated, authorize the treatment procedure prior to
34 implementation and examine the condition after treatment and prior to the patient's
35 discharge.

36 **19. Expanded function dental assistant.** "Expanded function dental assistant"
37 means a person who holds a valid expanded function dental assistant license issued by the
38 board.

39 **20. Expanded function dental assisting.** "Expanded function dental assisting"
40 means performing certain dental procedures under the supervision of a dentist in
41 accordance with this chapter.

1 **21. Faculty.** "Faculty" means, when used in conjunction with a license issued under
2 this chapter, the authority granted to an individual who is authorized to practice only
3 within the school setting, including any satellite locations approved by the board, and
4 who teaches dentistry, dental hygiene or denturism as part of a clinical and didactic
5 program.

6 **22. General supervision.** "General supervision" means the supervision required by
7 the board by rule of those tasks and procedures when the physical presence of the
8 supervisor is not required in the practice setting while procedures are being performed.

9 **23. Independent practice dental hygienist.** "Independent practice dental hygienist"
10 means a person who holds a valid license as a dental hygienist issued by the board and
11 who is authorized to practice independent dental hygiene.

12 **24. License.** "License" means a license or permit issued by the board granting
13 authority to an individual authorized under this chapter to perform certain services.

14 **25. Limited dentist.** "Limited dentist" means a dentist who has retired from the
15 regular practice of dentistry and who holds a valid license issued by the board to practice
16 only in a nonprofit clinic without compensation for work performed at the clinic. Services
17 provided by a limited dentist must be in accordance with this chapter.

18 **26. Local anesthesia.** "Local anesthesia" means a drug, element or other material
19 that results in a state of insensibility of a circumscribed area or the loss of sensation in
20 some definite, localized area without inhibition of conscious processes.

21 **27. Nitrous oxide analgesia.** "Nitrous oxide analgesia" means a gas containing
22 nitrous oxide used to induce a controlled state of relative analgesia with the goal of
23 controlling anxiety.

24 **28. Practice setting.** "Practice setting" means the physical location where services
25 authorized under this chapter are provided to the public.

26 **29. Provisional dental hygiene therapist.** "Provisional dental hygiene therapist"
27 means a person who holds a valid license as a dental hygienist issued by the board and
28 who is authorized to practice dental hygiene therapy under the supervision of a dentist in
29 accordance with this chapter.

30 **30. Public health dental hygiene.** "Public health dental hygiene" means the
31 delivery of certain dental hygiene services under a written supervision agreement with a
32 dentist for the purpose of providing services in a public health setting in accordance with
33 this chapter.

34 **31. Public health dental hygienist.** "Public health dental hygienist" means a person
35 who holds a valid license as a dental hygienist issued by the board and who is authorized
36 to practice public health dental hygiene in accordance with this chapter.

37 **32. Public health setting.** "Public health setting" means a place where the practice
38 of public health dental hygiene occurs, and includes, but is not limited to, public and
39 private schools, medical facilities, nursing homes, residential care facilities, mobile units,
40 nonprofit organizations and community health centers.

41 **33. Resident dentist license.** "Resident dentist license" means the authority granted
42 to an individual who is a graduate of an approved dental school or college, who is not

1 licensed to practice dentistry in this State and is authorized to practice under the direct or
2 general supervision and direction of a dentist in a board-approved setting in accordance
3 with this chapter.

4 **34. Reversible intraoral procedures.** "Reversible intraoral procedures" means
5 placing and removing rubber dams and matrices; placing and contouring amalgam,
6 composite and other restorative materials; applying sealants; supragingival polishing; and
7 other reversible procedures.

8 **§18303. Individual license**

9 Only an individual may be licensed under this chapter and only a licensed individual
10 may provide services for which a license is required under this chapter.

11 **§18304. License required**

12 **1. Unlicensed practice.** Except as provided in section 18305 and section 18371,
13 subsections 3 and 6, a person may not practice or profess to be authorized to practice the
14 activities described in this chapter without a license or during any period when that
15 person's license has expired or has been suspended or revoked.

16 **2. Unlawful practice.** A person may not:

17 **A. Practice dentistry under a false or assumed name;**

18 **B. Practice dentistry under the name of a corporation, company, association, parlor**
19 **or trade name;**

20 **C. While manager, proprietor, operator or conductor of a place for performing dental**
21 **operations, employ a person who is not a lawful practitioner of dentistry in this State**
22 **to perform dental practices as described in section 18371;**

23 **D. While manager, proprietor, operator or conductor of a place for performing dental**
24 **operations, permit a person to practice dentistry under a false name;**

25 **E. Assume a title or append a prefix or letters following that person's name that**
26 **falsely represent the person as having a degree from a dental college;**

27 **F. Impersonate another at an examination held by the board;**

28 **G. Knowingly make a false application or false representation in connection with an**
29 **examination held by the board; or**

30 **H. Employ a person as a dental hygienist, independent practice dental hygienist,**
31 **denturist or dental radiographer who is not licensed to practice.**

32 **3. Penalties.** A person who violates this section commits a Class E crime. Violation
33 of this section is a strict liability crime as defined in Title 17-A, section 34, subsection
34 4-A.

35 **4. Injunction.** The Attorney General may bring an action in Superior Court
36 pursuant to Title 10, section 8003-C, subsection 5 to enjoin a person from violating this
37 chapter.

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§18305. Persons and practices not affected; exemptions

1. Persons and practices not affected. Nothing in this chapter may be construed to limit, enlarge or affect the practice of persons licensed to practice medicine, osteopathy or dentistry in this State. Nothing in this chapter may be construed to prohibit a duly qualified dental surgeon or dental hygienist from performing work or services performed by a denturist licensed under this chapter to the extent those persons are authorized to perform the same services under other state law.

2. Exemptions. The requirement of a license under this chapter does not apply to:

A. A resident physician or a student enrolled in and attending a school or college of medicine or osteopathy;

B. A licensed physician or surgeon who practices under the laws of this State, unless that person practices dentistry as a specialty;

C. A qualified anesthetist or nurse anesthetist who provides an anesthetic for a dental operation; a certified registered nurse under the direct supervision of either a licensed dentist who holds a valid sedation or general anesthesia permit or a licensed physician who provides an anesthetic for a dental operation; a certified registered nurse under the direct supervision of a licensed dentist or physician who removes sutures, dresses wounds or applies dressings and bandages; and a certified registered nurse under the direct supervision of a licensed dentist or physician who injects drugs subcutaneously or intravenously;

D. A person serving in the United States Armed Forces or the United States Department of Health and Human Services, Public Health Service or employed by the United States Department of Veterans Affairs or other federal agency while performing official duties, if the duties are limited to that service or employment;

E. A graduate dentist or dental surgeon in the United States Army, Navy or Air Force; the United States Department of Health and Human Services, Public Health Service; the United States Coast Guard; or United States Department of Veterans Affairs who practices dentistry in the discharge of official duties;

F. A person having a current license to perform radiologic technology pursuant to section 9854 and who is practicing dental radiography under the general supervision of a dentist or physician;

G. A dentist licensed in another state or country at meetings of the Maine Dental Association or its affiliates or other like dental organizations approved by the board, while appearing as a clinician;

H. Any person, association, corporation or other entity who fills a prescription from a dentist for the construction, reproduction or repair of prosthetic dentures, bridges, plates or appliances to be used or worn as substitutes for natural teeth;

I. A dental laboratory technician constructing, altering, repairing or duplicating a denture, plate, partial plate, bridge, splint, orthodontic or prosthetic appliance with a prescription as set forth in section 18371, subsection 6;

J. A student enrolled in a board-approved dental program, dental hygiene program, dental therapy program, expanded function dental assisting program or a denturism

1 program practicing under the direct or general supervision of that student's
2 instructors;

3 K. A student participating in a board-approved externship program who is registered
4 and practicing under direct or general supervision as set forth in section 18348,
5 subsection 1; and

6 L. An individual licensed under this chapter who is registered and practicing under
7 the direct supervision of a dentist as set forth in section 18348, subsection 2 or 3 for
8 the purpose of obtaining clinical experience needed for meeting the requirements to
9 administer sedation, local anesthesia or general anesthesia.

10 **§18306. Fraudulent sale or alteration of diplomas or licenses**

11 **1. Fraudulent or altered diploma or license; bribery.** A person may not:

12 A. Sell or offer to sell a diploma conferring a dental degree or license granted
13 pursuant to the laws of this State;

14 B. Procure a license or diploma with intent that it be used as evidence of the right to
15 practice dentistry by a person other than the one upon whom the diploma or license
16 was conferred;

17 C. With fraudulent intent alter a diploma or license to practice dentistry;

18 D. Use or attempt to use an altered diploma or license; or

19 E. Attempt to bribe a member of the board by the offer or use of money or other
20 pecuniary reward or by other undue influence.

21 **2. Penalty.** A person who violates this section commits a Class E crime. Except as
22 otherwise specifically provided, violation of this section is a strict liability crime as
23 defined in Title 17-A, section 34, subsection 4-A.

24 **§18307. Review committee immunity**

25 A dentist who is a member of a peer review committee of a state or local association
26 or society composed of doctors of dentistry, a staff member of such an association or
27 society assisting a peer review committee and a witness or consultant appearing before or
28 presenting information to the peer review committee are immune from civil liability for,
29 without malice, undertaking or failing to undertake any act within the scope of the
30 function of the committee.

31 **SUBCHAPTER 2**

32 **BOARD OF DENTAL PRACTICE**

33 **§18321. Board creation; declaration of policy; compensation**

34 **1. Board creation; declaration of policy.** The Board of Dental Practice, as
35 established in Title 5, section 12004-A, subsection 10, is created within this subchapter,
36 its sole purpose being to protect the public health and welfare. The board carries out this
37 purpose by ensuring that the public is served by competent and honest practitioners and
38 by establishing minimum standards of proficiency in the professions regulated by the

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1 board by testing, licensing, regulating and disciplining practitioners of those regulated
2 professions.

3 **2. Compensation.** Members of the board, the Subcommittee on Denturists under
4 section 18326 and the Subcommittee on Dental Hygienists under section 18327 are
5 entitled to compensation according to the provisions of Title 5, chapter 379.

6 **§18322. Board membership**

7 **1. Membership; terms; removal.** The board consists of 9 members appointed by
8 the Governor as follows:

9 A. Five dentists. Each dentist member must hold a valid dental license under this
10 chapter and must have been in the actual practice of dentistry in this State for at least
11 10 years immediately preceding appointment. A dentist is not eligible to serve as a
12 member of the board while employing a dental hygienist or a denturist who is a
13 member of the board;

14 B. Two dental hygienists. Each dental hygienist member must hold a valid dental
15 hygiene license under this chapter and must have practiced in the State for at least 6
16 years immediately preceding appointment. A dental hygienist is not eligible to serve
17 as a member of the board while employed by a dentist who is a member of the board;

18 C. One denturist. The denturist member must hold a valid denturist license under this
19 chapter and must have practiced in the State for at least 6 years immediately
20 preceding appointment. A denturist is not eligible to serve as a member of the board
21 while employed by a dentist who is a member of the board; and

22 D. One public member. The public member must be a person who has no financial
23 interest in the dental profession and has never been licensed, certified or given a
24 permit in this or any other state for the dental profession.

25 The Governor may accept nominations from professional associations and from other
26 organizations and individuals. A member of the board must be a legal resident of the
27 State. A person who has been convicted of a violation of the provisions of this Act or any
28 prior dental practice act, or who has been convicted of a crime punishable by more than
29 one year's imprisonment, is not eligible for appointment to the board. Appointments of
30 members must comply with Title 10, section 8009.

31 **2. Terms.** Terms of the members of the board are for 5 years. A person who has
32 served 10 years or more on a dental examining board in this State is not eligible for
33 appointment to the board. A member may be removed by the Governor for cause.

34 **3. Quorum; chair; vice-chair.** Notwithstanding any provision of law to the
35 contrary, a majority of the members serving on the board constitutes a quorum. The board
36 shall elect its chair and vice-chair annually.

37 **§18323. Powers and duties of the board**

38 The board has the following powers and duties in addition to all other powers and
39 duties imposed by this chapter:

40 **1. Hearings and procedures.** The power to hold hearings and take evidence in all
41 matters relating to the exercise and performance of the powers and duties vested in the

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1 board and the authority to subpoena witnesses, books, records and documents in hearings
2 before the board;

3 2. Complaints. The duty to investigate complaints in a timely fashion on its own
4 motion and those lodged with the board or its representatives regarding the violation of a
5 provision of this chapter or of rules adopted by the board;

6 3. Fees. The authority to adopt by rule fees for purposes authorized under this
7 chapter in amounts that are reasonable and necessary for their respective purposes, except
8 that the fee for any one purpose may not exceed \$550;

9 4. Budget. The duty to submit to the commissioner its budgetary requirements in the
10 same manner as is provided in Title 5, section 1665. The commissioner shall in turn
11 transmit these requirements to the Department of Administrative and Financial Services,
12 Bureau of the Budget without revision, alteration or change, unless alterations are
13 mutually agreed upon by the department and the board or the board's designee. The
14 budget submitted by the board to the commissioner must be sufficient to enable the board
15 to comply with this chapter;

16 5. Adequacy of budget, fees and staffing. The duty to ensure that the budget
17 submitted by the board to the commissioner pursuant to subsection 4 is sufficient, if
18 approved, to provide for adequate legal and investigative personnel on the board's staff
19 and that of the Attorney General to ensure that complaints pursuant to this chapter can be
20 resolved in a timely fashion;

21 6. Executive director; duties. The power to appoint an executive director who
22 serves at the pleasure of the board and who shall assist the board in carrying out its duties
23 and responsibilities under this chapter. The executive director is responsible for the
24 management of the board's affairs, including the authority to employ and prescribe the
25 duties of personnel within the guidelines, policies and rules established by the board;

26 7. Authority to delegate. The power to delegate to staff the authority to review and
27 approve applications for licensure pursuant to procedures and criteria established by rule;

28 8. Protocols for professional review committee. The authority to establish
29 protocols for the operation of a professional review committee as defined in Title 24,
30 section 2502, subsection 4-A. The protocols must include the committee reporting
31 information the board considers appropriate regarding reports received, contracts or
32 investigations made and the disposition of each report, as long as the committee is not
33 required to disclose any personally identifiable information. The protocols may not
34 prohibit an impaired licensee under this chapter from seeking alternative forms of
35 treatment; and

36 9. Authority to order a mental or physical examination. The authority to direct a
37 licensee, who by virtue of an application for and acceptance of a license to practice under
38 this chapter is considered to have given consent, to submit to an examination whenever
39 the board determines the licensee may be suffering from a mental illness or physical
40 illness that may be interfering with competent practice under this chapter or from the use
41 of intoxicants or drugs to an extent that prevents the licensee from practicing competently
42 and with safety to patients. A licensee examined pursuant to an order of the board may
43 not prevent the testimony of the examining individual or prevent the acceptance into
44 evidence of the report of an examining individual. The board may petition the District

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1 Court for immediate suspension of a license if the licensee fails to comply with an order
2 of the board to submit to a mental or physical examination pursuant to this subsection.

3 **§18324. Rules**

4 The board shall adopt rules that are necessary for the implementation of this chapter.
5 The rules may include, but need not be limited to, requirements for licensure, license
6 renewal and license reinstatement as well as practice setting standards that apply to
7 individuals licensed under this chapter relating to recordkeeping, infection control,
8 supervision and administering sedation and anesthesia. Rules adopted pursuant to this
9 section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

10 **§18325. Disciplinary action; judicial review**

11 **1. Disciplinary action.** The board may suspend, revoke, refuse to issue or renew a
12 license pursuant to Title 5, section 10004. The following are grounds for an action to
13 refuse to issue, modify, suspend, revoke or refuse to renew the license of a person
14 licensed under this chapter:

15 A. The practice of fraud, deceit or misrepresentation in obtaining a license or
16 authority from the board or in connection with services within the scope of the
17 license or authority;

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

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

24 D. Incompetence in the practice for which the licensee is licensed or authorized by
25 the board. A licensee is considered incompetent in the practice if the licensee has:

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

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

30 E. Unprofessional conduct. A licensee is considered to have engaged in
31 unprofessional conduct if the licensee violates a standard of professional behavior
32 that has been established in the practice for which the licensee is licensed or
33 authorized by the board;

34 F. Subject to the limitations of Title 5, chapter 341, conviction of a crime that
35 involves dishonesty or false statement or that relates directly to the practice for which
36 the licensee is licensed or authorized by the board, or conviction of a crime for which
37 incarceration for one year or more may be imposed;

38 G. Engaging in false, misleading or deceptive advertising;

39 H. Aiding or abetting unlicensed practice by a person who is not licensed or
40 authorized as required under this chapter;

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- 1 I. Failure to provide supervision as required under this chapter or a rule adopted by
2 the board;
- 3 J. Engaging in any activity requiring a license or authority under this chapter or rule
4 adopted by the board that is beyond the scope of acts authorized by the license or
5 authority held;
- 6 K. Continuing to act in a capacity requiring a license or authority under this chapter
7 or a rule adopted by the board after expiration, suspension or revocation of that
8 license or authority;
- 9 L. Noncompliance with an order of or consent agreement executed by the board;
- 10 M. Failure to produce any requested documents in the licensee's possession or under
11 the licensee's control relevant to a pending complaint, proceeding or matter under
12 investigation by the board;
- 13 N. Any violation of a requirement imposed pursuant to section 18352; and
- 14 O. A violation of this chapter or a rule adopted by the board.

15 2. **Judicial review.** Notwithstanding Title 10, section 8003, subsection 5, any
16 nonconsensual revocation pursuant to Title 10, section 8003, subsection 5 of a license or
17 authority issued by the board may be imposed only after a hearing conforming to the
18 requirements of Title 5, chapter 375, subchapter 4 and is subject to judicial review
19 exclusively in the Superior Court in accordance with Title 5, chapter 375, subchapter 7.

20 **§18326. 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 members as follows:

- 24 A. The denturist who is a member of the board;
- 25 B. Two denturists, appointed by the Governor, who are legal residents of the State
26 and have practiced in the State for at least 6 years immediately preceding
27 appointment; and
- 28 C. Two dentists who are members of the board, appointed by the chair of the board.

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

33 **3. Duties.** The subcommittee shall:

- 34 A. Perform an initial review of all complaints involving denturists. Upon completion
35 of its review of a complaint, the secretary of the subcommittee shall report to the
36 board the subcommittee's recommended disposition of the complaint. The board shall
37 adopt the subcommittee's recommended disposition of a complaint unless no fewer
38 than 2/3 of the board members who are present and voting vote to reject that
39 recommended disposition; and

1 B. Perform an initial review of all applications for licensure as a denturist and all
 2 submissions relating to continuing education of denturists. Upon completion of its
 3 review of an application or submission, the secretary of the subcommittee shall report
 4 to the board the subcommittee's recommended disposition of the application or
 5 submission, including issuance, renewal, denial or nonrenewal of a denturist license.
 6 The board shall adopt the subcommittee's recommended disposition of an application
 7 or submission unless no fewer than 2/3 of the board members who are present and
 8 voting vote to reject that recommended disposition.

9 4. Quorum; chair; secretary. Notwithstanding any provision of law to the
 10 contrary, a majority of the members serving on the subcommittee constitutes a quorum.
 11 The subcommittee shall annually elect its chair and secretary.

12 §18327. Subcommittee on Dental Hygienists

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

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

- 16 A. A dental hygienist who is a member of the board;
- 17 B. Two dental hygienists, appointed by the Governor, who are legal residents of the
 18 State and have practiced in the State for at least 6 years immediately preceding
 19 appointment; and
- 20 C. Two dentists who are members of the board, appointed by the chair of the board.

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

25 3. Duties. The subcommittee shall:

- 26 A. Perform an initial review of all complaints involving dental hygienists and dental
 27 hygienists with additional authority pursuant to section 18345, subsection 2. Upon
 28 completion of its review of a complaint, the secretary of the subcommittee shall
 29 report to the board the subcommittee's recommended disposition of the complaint.
 30 The board shall adopt the subcommittee's recommended disposition of a complaint
 31 unless no fewer than 2/3 of the board members who are present and voting vote to
 32 reject that recommended disposition; and
- 33 B. Perform an initial review of all applications for licensure as a dental hygienist or a
 34 dental hygienist with additional authority pursuant to section 18345, subsection 2 and
 35 all submissions relating to continuing education of dental hygienists. Upon
 36 completion of its review of an application or submission, the secretary of the
 37 subcommittee shall report to the board the subcommittee's recommended disposition
 38 of the application or submission, including issuance, renewal, denial or nonrenewal
 39 of a dental hygienist license. The board shall adopt the subcommittee's recommended
 40 disposition of an application or submission unless no fewer than 2/3 of the board
 41 members who are present and voting vote to reject that recommended disposition.

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1 4. Quorum; chair; secretary. Notwithstanding any provision of law to the
2 contrary, a majority of the members serving on the subcommittee constitutes a quorum.
3 The subcommittee shall annually elect its chair and secretary.

4 SUBCHAPTER 3

5 LICENSING QUALIFICATIONS

6 §18341. Application; fees; general qualifications

7 1. Application. An applicant seeking an initial or a renewed license must submit an
8 application with the fee established under section 18323 and any other materials required
9 by the board.

10 2. Age. An applicant must be 18 years of age or older.

11 3. Time limit. An applicant has 90 days after being notified of the materials needed
12 to complete the application to submit those materials to the board. Failure to complete the
13 application within that 90-day period may result in a denial of the application.

14 §18342. Dentist

15 1. Dentist license. Except as provided in section 18347, an applicant for licensure as
16 a dentist must comply with the provisions of section 18341 and must provide:

17 A. Verification of a doctoral degree in dentistry from a dental school accredited as
18 required by board rule; and

19 B. Verification of passing all examinations required by the board.

20 2. Faculty dentist license. An applicant for a faculty dentist license must comply
21 with section 18341 and must provide:

22 A. Verification of an active dental license in good standing issued under the laws of
23 another state or a Canadian province; and

24 B. Credentials, satisfactory to the board, including a letter from the employing
25 school of dentistry, dental hygiene or denturism indicating that the applicant satisfies
26 the credentialing standards of the school and that the applicant will teach:

27 (1) Dentistry, dental hygiene or denturism in this State as part of a clinical and
28 didactic program for professional education for dental students and dental
29 residents accredited by the American Dental Association Commission on Dental
30 Accreditation or a successor organization approved by the board;

31 (2) Dental hygiene in this State as part of a clinical and didactic program for
32 professional education for dental hygiene students and dental hygiene residents
33 accredited by the American Dental Association Commission on Dental
34 Accreditation or a successor organization approved by the board; or

35 (3) Denturism in this State as part of a board-approved clinical and didactic
36 program for professional education for denturism students.

37 3. Limited dentist license. An applicant for a limited dentist license must comply
38 with section 18341 and must provide:

1 A. Verification of a doctoral degree in dentistry from a dental school accredited as
2 required by board rule;

3 B. Verification that the applicant has been licensed as a dentist in good standing
4 issued under the laws of this State or has an active dental license in good standing
5 issued under the laws of another state or a Canadian province;

6 C. Verification of passing all examinations required by board rule; and

7 D. Verification that the applicant will be practicing dentistry in a nonprofit dental
8 clinic without compensation for work performed at the clinic.

9 **4. Clinical dentist educator license.** An applicant for a clinical dentist educator
10 license must comply with section 18341 and must provide:

11 A. Verification of an active dental license in good standing issued under the laws of
12 another state or a Canadian province; and

13 B. An outline of the clinical education program to be offered to practitioners in this
14 State.

15 **5. Charitable dentist license.** An applicant for a charitable dentist license must
16 comply with section 18341 and must provide:

17 A. Verification of a doctoral degree in dentistry from a dental school accredited as
18 required by board rule;

19 B. Verification that the applicant has been licensed as a dentist in good standing
20 under the laws of this State or has an active dental license in good standing issued
21 under the laws of another state or a Canadian province;

22 C. Verification of passing all examinations required by board rule; and

23 D. Verification that the purpose of the license is to offer free dental care in
24 conjunction with a charitable or social organization.

25 **6. Resident dentist license.** An applicant for a resident dentist license must comply
26 with section 18341 and must provide:

27 A. Verification of a doctoral degree in dentistry from a dental school accredited as
28 required by board rule;

29 B. Verification of passing all examinations required by board rule;

30 C. Verification that the applicant will be practicing dentistry in a board-approved
31 practice setting within the State; and

32 D. A statement from the sponsoring dentist that demonstrates that the level of
33 supervision and control of the services to be performed by the applicant are adequate
34 and that the performance of these services are within the applicant's dental knowledge
35 and skill.

36 **§18343. Dental radiographer**

37 **1. Dental radiographer license.** Except as provided in section 18347, an applicant
38 for a dental radiographer license must comply with section 18341 and must provide:

1 A. Verification of a high school diploma or its equivalent as determined by the
2 board; and

3 B. Verification of passing an examination in dental radiologic technique and safety
4 required by board rule.

5 **§18344. Expanded function dental assistant**

6 **1. Expanded function dental assistant license.** Except as provided in section
7 18347, an applicant for an expanded function dental assistant license must comply with
8 section 18341 and must provide:

9 A. Verification of a high school diploma or its equivalent as determined by the
10 board;

11 B. Verification of one of the following:

12 (1) A current certificate as a certified dental assistant from a board-approved
13 certificate program;

14 (2) An active dental hygiene license in good standing issued under the laws of
15 this State; or

16 (3) An active dental hygiene license in good standing issued under the laws of
17 another state or a Canadian province; and

18 C. Verification of having successfully completed training in a school or program
19 required by board rule; and

20 D. Verification of passing all examinations required by board rule.

21 **§18345. Dental hygienist**

22 **1. Dental hygienist license.** Except as provided in section 18347, an applicant for a
23 dental hygienist license must comply with section 18341 and must provide:

24 A. Verification of having successfully passed all examinations required by board rule
25 and one of the following:

26 (1) Verification of an associate degree or higher in dental hygiene from a school
27 accredited by the American Dental Association Commission on Dental
28 Accreditation, or its successor organization; or

29 (2) Verification of having completed at least 1/2 of the prescribed course of
30 study in an accredited dental college as a dental student.

31 **2. Additional authority.** A dental hygienist licensed under this section or section
32 18347 who applies for additional authority must comply with section 18341 and must
33 provide:

34 A. For independent practice dental hygienist authority:

35 (1) If the applicant has a bachelor's degree or higher in dental hygiene from a
36 dental hygiene program accredited by the American Dental Association
37 Commission on Dental Accreditation or its successor organization, verification of

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1 2,000 work hours of clinical practice during the 4 years preceding the
2 application; or

3 (2) If the applicant has an associate degree in dental hygiene from a dental
4 hygiene program accredited by the American Dental Association Commission on
5 Dental Accreditation or its successor organization, verification of 5,000 work
6 hours of clinical practice during the 6 years preceding the application.

7 For purposes of meeting the clinical practice requirements of this paragraph, the
8 applicant's hours in a private dental practice or nonprofit setting under the
9 supervision of a dentist may be included as well as the applicant's hours as a public
10 health dental hygienist or, prior to the effective date of this Act, as a dental hygienist
11 with public health supervision status;

12 B. For public health dental hygienist authority:

13 (1) A copy of the written agreement between the applicant and a supervising
14 dentist that outlines the roles and responsibilities of the parties, which must
15 include, but is not limited to, the level of supervision provided by the dentist, the
16 practice settings, the standing orders and the coordination and collaboration that
17 each party must undertake if additional patient care is needed; and

18 (2) Verification that the services will be offered in a public health setting;

19 C. For dental hygiene therapist authority:

20 (1) Verification of having successfully completed a dental hygiene therapy
21 program that:

22 (a) Is accredited by the American Dental Association Commission on Dental
23 Accreditation or a successor organization;

24 (b) Is a minimum of 4 semesters;

25 (c) Is consistent with the model curriculum for educating dental hygiene
26 therapists adopted by the American Association of Public Health Dentistry or
27 a successor organization;

28 (d) Is consistent with existing dental hygiene therapy programs in other
29 states approved by the board; and

30 (e) Meets the requirements for dental hygiene therapy education programs
31 adopted by board rule;

32 (2) Verification of a bachelor's degree or higher in dental hygiene, dental
33 hygiene therapy or dental therapy from a school accredited by the American
34 Dental Association Commission on Dental Accreditation or a successor
35 organization;

36 (3) Verification of passing a clinical examination and all other examinations
37 required by board rule. The clinical examination must be a comprehensive,
38 competency-based clinical examination approved by the board and administered
39 independently of an institution providing dental hygiene therapy education;

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1 (4) Verification of having engaged in 2,000 hours of supervised clinical practice
2 under the supervision of a dentist and in conformity with rules adopted by the
3 board, during which supervised clinical practice the applicant is authorized to
4 practice pursuant to paragraph F.

5 For purposes of meeting the clinical requirements of this subparagraph, an
6 applicant's hours of supervised clinical experience while enrolled in the dental
7 hygiene therapy program under subparagraph (1) may be included as well as
8 hours completed under the supervision of a dentist licensed in another state or a
9 Canadian province, provided that the applicant was operating lawfully under the
10 laws and rules of that state or province; and

11 (5) A copy of the written practice agreement and standing orders required by
12 section 18377, subsection 3;

13 D. For local anesthesia authority:

14 (1) Verification of having successfully completed a course of study required by
15 board rule; and

16 (2) Verification of passing all examinations required by board rule;

17 E. For nitrous oxide analgesia authority:

18 (1) Verification of having successfully completed a course of study required by
19 board rule; and

20 (2) Verification of passing all examinations required by board rule; and

21 F. For provisional dental hygiene therapist authority:

22 (1) Verification of meeting the requirements of paragraph C, subparagraphs (1)
23 to (3); and

24 (2) A copy of the written agreement between the applicant and a dentist who will
25 provide levels of supervision consistent with the scope of practice outlined in
26 section 18377 and in conformity with rules adopted by the board.

27 During the period of provisional authority the applicant may be compensated for
28 services performed as a dental hygiene therapist. The period of provisional authority
29 may not exceed 3 years.

30 3. Faculty dental hygiene license. An applicant for a faculty dental hygienist
31 license must comply with section 18341 and must provide:

32 A. Verification of an active dental hygiene license in good standing issued under the
33 laws of another state or a Canadian province; and

34 B. Credentials, satisfactory to the board, including a letter from the employing
35 school of dentistry, dental hygiene or denturism indicating that the applicant satisfies
36 the credentialing standards of the school and that the applicant will teach:

37 (1) Dental hygiene or denturism in this State as part of a clinical and didactic
38 program for professional education for dental students and dental residents

1 accredited by the American Dental Association Commission on Dental
2 Accreditation or a successor organization approved by the board;

3 (2) Dental hygiene in this State as part of a clinical and didactic program for
4 professional education for dental hygiene students and dental hygiene residents
5 accredited by the American Dental Association Commission on Dental
6 Accreditation or a successor organization approved by the board; or

7 (3) Denturism in this State as part of a board-approved clinical and didactic
8 program for professional education for denturism students.

9 **§18346. Denturist**

10 **1. Denturist license.** Except as provided in section 18347, an applicant for a
11 denturist license must comply with section 18341 and must provide:

12 A. Verification of a high school diploma or its equivalent as determined by the
13 board;

14 B. Verification of a diploma from a board-approved denturism postsecondary
15 institution; and

16 C. Verification of passing all examinations required by board rule. The content of
17 one examination must have a clinical component and a written component
18 concerning, but not limited to, dental materials, denture technology, United States
19 Department of Health and Human Services, Centers for Disease Control and
20 Prevention guidelines, basic anatomy and basic pathology.

21 **2. Faculty denturist license.** An applicant for a faculty denturist license must
22 comply with section 18341 and must provide:

23 A. Verification of an active denturist license in good standing issued under the laws
24 of another state or a Canadian province; and

25 B. Credentials, satisfactory to the board, including a letter from the employing
26 school of dentistry, dental hygiene or denturism indicating that the applicant satisfies
27 the credentialing standards of the school.

28 **§18347. Endorsement; applicants authorized to practice in another jurisdiction**

29 The board is authorized, at its discretion, to waive the examination requirements and
30 issue a license or grant an authority to an applicant who is licensed under the laws of
31 another state or a Canadian province who furnishes proof, satisfactory to the board, that
32 the requirements for licensure under this chapter have been met. Applicants must comply
33 with the provisions set forth in section 18341.

34 **1. Applicants licensed in another jurisdiction.** An applicant for licensure or
35 seeking authority under this chapter who is licensed under the laws of another jurisdiction
36 is governed by this subsection.

37 A. An applicant who is licensed in good standing at the time of application to the
38 board under the laws of another state or a Canadian province may qualify for
39 licensure by submitting evidence to the board that the applicant has held a
40 substantially equivalent, valid license for at least 3 consecutive years immediately

1 preceding the application to the board at the level of licensure applied for in this
2 State.

3 B. An applicant who does not meet the requirements of paragraph A but is licensed
4 in good standing at the time of application to the board under the laws of another
5 state or a Canadian province may qualify for licensure by submitting evidence
6 satisfactory to the board that the applicant's qualifications for licensure are
7 substantially similar to the requirements in this chapter for the relevant license.

8 **§18348. Registration requirements**

9 **1. Dentist externship registration.** A dentist may register under that dentist's
10 license a student for the purpose of providing clinical supervision outside of the academic
11 setting. A registration under this section expires one year from the date the registration is
12 granted. An applicant must comply with section 18341 and must provide:

13 A. Verification that the student has an academic affiliation and good academic
14 standing as a dental student in a school approved by the board;

15 B. Verification from the dental school that the student has completed satisfactory
16 training and is ready to perform limited dental services outside of the school setting
17 under the supervision of a dentist; and

18 C. A statement from the supervising dentist that outlines the level of supervision that
19 the dentist will provide and that attests that the performance of these services by the
20 student will add to the student's knowledge and skill in dentistry.

21 **2. Sedation and general anesthesia registration.** A dentist who holds a permit to
22 administer sedation pursuant to section 18379 may register another dentist under that
23 dentist's license for the purpose of providing clinical supervision in administering
24 sedation or general anesthesia under direct supervision. A registration under this
25 subsection expires one year from the date the registration is granted. Applicants must
26 comply with section 18341 and must submit a letter from the supervising dentist
27 describing the practice settings in which supervision will occur as well as attesting that
28 these arrangements are commensurate with the registrant's education, training and
29 competency.

30 **3. Local anesthesia/nitrous oxide analgesia registration.** A dentist may register a
31 dentist or dental hygienist under that dentist's license for the purpose of providing clinical
32 supervision in administering local anesthesia or nitrous oxide analgesia under direct
33 supervision. A registration under this section expires one year from the date the
34 registration is granted. Applicants must comply with section 18341 and must submit a
35 letter from the supervising dentist describing the practice settings in which supervision
36 will occur as well as attesting that these arrangements are commensurate with the
37 registrant's education, training and competency.

38 **4. Denturist externship registration.** A denturist or dentist may register under that
39 dentist's or denturist's license a student for the purpose of providing clinical supervision
40 outside of the academic setting. A registration under this section expires one year from
41 the date the registration is granted, but may be renewed for an additional year. An
42 applicant must comply with section 18341 and must provide:

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1 A. Verification that the student has an academic affiliation and good academic
2 standing as a denturist student in a denturist program approved by the board;

3 B. Verification from the denturist program that the student has completed
4 satisfactory training and is ready to perform limited denturist services outside of the
5 school setting under the supervision of a denturist or a dentist; and

6 C. A letter from the supervising denturist or dentist that describes the level of
7 supervision that the dentist will provide and that attests that the performance of these
8 services by the student will add to the student's knowledge and skill in denturism.

9 **§18349. License renewal; reinstatement**

10 1. Renewal. Licenses under this chapter expire at such times as the commissioner
11 may designate. In the absence of any reason or condition that might warrant the refusal of
12 granting a license, the board shall issue a renewal license to each applicant who meets the
13 requirements of sections 18341 and 18350.

14 2. Late renewals. Licenses may be renewed up to 90 days after the date of
15 expiration if the applicant meets the requirements of subsection 1 and pays a late fee
16 established by the board pursuant to section 18323, subsection 3.

17 3. Reinstatement. A person who submits an application for reinstatement more than
18 90 days after the license expiration date is subject to all requirements governing new
19 applicants under this chapter, except that the board may, giving due consideration to the
20 protection of the public, waive examination if that renewal application is received,
21 together with the penalty fee established by the board pursuant to section 18323,
22 subsection 3, within 2 years from the date of the license expiration.

23 **§18350. Continuing education**

24 As a condition of renewal of a license to practice, an applicant must have a current
25 cardiopulmonary resuscitation certification and complete continuing education during the
26 licensing cycle prior to application for renewal. The board may prescribe by rule the
27 content and types of continuing education activities that meet the requirements of this
28 section.

29 **§18351. Inactive status**

30 A licensee who wants to retain licensure while not practicing may apply for an
31 inactive status license. The fee for inactive status licensure is set under section 18323,
32 subsection 3. During inactive status, the licensee must renew the license and pay the
33 renewal fee set under section 18323, subsection 3, but is not required to meet the
34 continuing education requirements under section 18350. The board shall adopt rules by
35 which an inactive status license may be reinstated.

36 An individual who practices under a clinical dentist educator license, a charitable
37 dentist license or a resident dentist license or as a provisional dental hygiene therapist
38 may not apply for inactive status.

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§18352. Duty to require certain information from applicants and licensees

1. Report in writing. A licensee and an applicant for licensure shall report in writing to the board no later than 10 days after any of the following changes or events:

A. Change of name or address;

B. Criminal conviction;

C. Revocation, suspension or other disciplinary action taken in this State or any other jurisdiction against any occupational or professional license held by the licensee or applicant; or

D. Any material change in the conditions or qualifications set forth in the original application for licensure submitted to the board.

SUBCHAPTER 4

SCOPE OF PRACTICE; SUPERVISION; PRACTICE REQUIREMENTS

§18371. Dentist

1. Scope of practice. A dentist, charitable dentist, clinical dentist educator, faculty dentist, limited dentist or resident dentist may:

A. Perform a dental operation or oral surgery or dental service of any kind, gratuitously or for a salary, fee, money or other compensation paid, or to be paid, directly or indirectly to the person or to any other person or agency who is a proprietor of a place where dental operations, oral surgery or dental services are performed;

B. Take impressions of a human tooth, teeth or jaws and perform a phase of an operation incident to the replacement of a part of a tooth;

C. Supply artificial substitutes for the natural teeth and furnish, supply, construct, reproduce or repair a prosthetic denture, bridge, appliance or any other structure to be worn in the human mouth;

D. Place dental appliances or structures in the human mouth and adjust or attempt or profess to adjust the same;

E. Furnish, supply, construct, reproduce or repair or profess to the public to furnish, supply, construct, reproduce or repair a prosthetic denture, bridge, appliance or other structure to be worn in the human mouth;

F. Diagnose or profess to diagnose, prescribe for and treat or profess to prescribe for and treat disease, pain, deformity, deficiency, injury or physical condition of the human teeth or jaws or adjacent structure;

G. Extract or attempt to extract human teeth;

H. Correct or attempt to correct malformations of teeth and jaws;

I. Repair or fill cavities in the human teeth;

1 J. Diagnose malposed teeth and make and adjust appliances or artificial casts for
 2 treatment of the malposed teeth in the human mouth with or without instruction;

3 K. Use an x-ray machine for the purpose of taking dental x-rays and interpret or read
 4 or profess to interpret or read dental x-rays;

5 L. Use the words dentist, dental surgeon or oral surgeon and the letters D.D.S. or
 6 D.M.D. and any other words, letters, title or descriptive matter that represents that
 7 person as being able to diagnose, treat, prescribe or operate for a disease, pain,
 8 deformity, deficiency, injury or physical condition of the human teeth or jaws or
 9 adjacent structures and state, profess or permit to be stated or professed by any means
 10 or method whatsoever that the person can perform or will attempt to perform dental
 11 operations or render a diagnosis connected with dental operations;

12 M. Prescribe drugs or medicine and administer local anesthesia, analgesia including
 13 nitrous oxide and oxygen inhalation and, with the appropriate permit issued by the
 14 board, administer sedation and general anesthesia necessary for proper dental
 15 treatment; and

16 N. Take case histories and perform physical examinations to the extent the activities
 17 are necessary in the exercise of due care in conjunction with the provision of dental
 18 treatment or the administration of anesthesia. A dentist is not permitted to perform
 19 physical examinations within a hospital licensed by the Department of Health and
 20 Human Services unless this activity is permitted by the hospital.

21 **2. Limitations. Individuals practicing dentistry as described in this section who**
 22 **possess one of the following licenses shall adhere to the restrictions in this subsection.**

23 A. An individual with a charitable dentist license may provide dental services only in
 24 conjunction with the charitable or social organization for which the license was
 25 issued by the board and may not accept remuneration for those services. Authority to
 26 practice as a charitable dentist may not exceed one year.

27 B. An individual with a clinical dentist educator license may provide dental services
 28 only as part of the clinical education program under which the license was issued by
 29 the board. Authority to practice as a clinical dentist educator may not exceed 7 days
 30 in any calendar year.

31 C. An individual with a faculty dentist license may provide dental services only as
 32 part of the education program for which the license was issued by the board.

33 D. An individual with a limited dentist license may provide dental services only in
 34 the nonprofit dental clinic for which the license was issued by the board and may not
 35 accept remuneration for those services.

36 E. An individual with a resident dentist license may provide dental services only
 37 under the supervision of the sponsoring dentist and in accordance with the level of
 38 supervision and control for which the license was issued by the board.

39 **3. Delegation authorized. A dentist may delegate to an unlicensed person the**
 40 **activities listed in this subsection. A dentist who delegates activities as described is**
 41 **legally liable for the activities of that unlicensed person and the unlicensed person in this**
 42 **relationship is considered the dentist's agent.**

- 1 A. A dentist may delegate the following activities to an unlicensed person as long as
2 these activities are conducted under the general supervision of the delegating dentist:
- 3 (1) Changing or replacing dry socket packets after diagnosis and treatment
4 planned by a dentist;
- 5 (2) For instruction purposes, demonstrating to a patient how the patient should
6 place and remove removable prostheses, appliances or retainers;
- 7 (3) For the purpose of eliminating pain or discomfort, removing loose, broken or
8 irritating orthodontic appliances;
- 9 (4) Giving oral health instructions;
- 10 (5) Irrigating and aspirating the oral cavity;
- 11 (6) Performing dietary analyses for dental disease control;
- 12 (7) Placing and recementing with temporary cement an existing crown that has
13 fallen out as long as the dental assistant promptly notifies the dentist this
14 procedure was performed so that appropriate follow-up can occur;
- 15 (8) Placing and removing periodontal dressing;
- 16 (9) Pouring and trimming dental models;
- 17 (10) Removing sutures and scheduling a follow-up appointment with the dentist
18 within 7 to 10 days of suture removal;
- 19 (11) Retracting lips, cheek, tongue and other tissue parts;
- 20 (12) Taking and pouring impressions for study casts;
- 21 (13) Taking and recording the vital signs of blood pressure, pulse and
22 temperature;
- 23 (14) Taking dental plaque smears for microscopic inspection and patient
24 education; and
- 25 (15) Taking intraoral photographs.
- 26 B. If the unlicensed person has successfully passed a certification examination
27 administered by a national dental assisting board, the dentist may delegate to that
28 unlicensed person the following additional activities, as long as these activities are
29 conducted under the general supervision of the dentist:
- 30 (1) Placing temporary fillings on an emergency basis as long as the patient is
31 informed of the temporary nature of the fillings; and
- 32 (2) Removing excess cement from the supragingival surfaces of teeth.
- 33 C. A dentist may delegate to an unlicensed person the following intraoral activities,
34 which must be conducted under the direct supervision of the delegating dentist:
- 35 (1) Applying cavity varnish;

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- 1 (2) Applying liquids, pastes and gel topical anesthetics;
- 2 (3) Assisting a dentist who provides orthodontic services in preparation of teeth
3 for attaching, bonding and cementing fixed appliances in a manner appropriate
4 and according to manufacturer's directions;
- 5 (4) Delivering, but not condensing or packing, amalgam or composite restoration
6 material;
- 7 (5) Fabricating temporary crowns and bridges, limiting handpiece rotary
8 instrumentation used in the fabrication to extraoral use only, as long as the dentist
9 checks the occlusion and fit prior to releasing the patient;
- 10 (6) Irrigating and drying root canals;
- 11 (7) Isolating the operative field;
- 12 (8) Performing cold vitality testing with confirmation by the dentist;
- 13 (9) Performing electronic vitality scanning with confirmation by the dentist;
- 14 (10) Performing preliminary selection and fitting of orthodontic bands, with final
15 placement and cementing in the patient's mouth by the dentist;
- 16 (11) Placing and cementing temporary crowns with temporary cement;
- 17 (12) Placing and removing matrix bands, rubber dams and wedges;
- 18 (13) Placing elastics and instructing in their use;
- 19 (14) Placing, holding or removing celluloid and other plastic strips prior to or
20 subsequent to the placement of a filling by the dentist;
- 21 (15) Placing or removing temporary separating devices;
- 22 (16) Placing wires, pins and elastic ligatures to tie in orthodontic arch wires that
23 have been fitted and approved by the dentist at the time of insertion;
- 24 (17) Preparing tooth sites and surfaces with a rubber cup and pumice for banding
25 or bonding of orthodontic brackets. This procedure may not be intended or
26 interpreted as an oral prophylaxis, which is a procedure specifically reserved to
27 be performed by dental hygienists or dentists. This procedure also may not be
28 intended or interpreted as a preparation for restorative material. A dentist or
29 dental hygienist shall check and approve the procedure;
- 30 (18) Reapplying, on an emergency basis only, orthodontic brackets;
- 31 (19) Recording readings with a digital caries detector and reporting them to the
32 dentist for interpretation and evaluation;
- 33 (20) Removing composite material using slow-speed instrumentation for
34 debonding brackets, as long as the dentist conducts a final check prior to release
35 of the patient;
- 36 (21) Removing excess cement from the supragingival surfaces of teeth;

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- 1 (22) Removing gingival retraction cord;
- 2 (23) Removing orthodontic arch wires and tension devices and any loose bands
- 3 or bonds, but only as directed by the dentist;
- 4 (24) Selecting and trying in stainless steel or other preformed crowns for
- 5 insertion by the dentist;
- 6 (25) Taking impressions for opposing models and retainers;
- 7 (26) Taking impressions for single-arch athletic mouth guards, bleaching trays,
- 8 custom trays and fluoride trays; and
- 9 (27) Taking intraoral measurements and making preliminary selection of arch
- 10 wires and intraoral and extraoral appliances, including head gear.
- 11 **4. Delegation not authorized. A dentist may not delegate any dental activity not**
- 12 **listed in subsections 3 or 6 to an unlicensed person.**
- 13 **5. Supervision of dental hygiene therapists. A dentist, referred to in this section as**
- 14 **the "supervising dentist," who employs a dental hygiene therapist shall comply with this**
- 15 **subsection.**
- 16 A. A supervising dentist shall arrange for another dentist or specialist to provide any
- 17 services needed by a patient of a dental hygiene therapist supervised by that dentist
- 18 that are beyond the scope of practice of the dental hygiene therapist and that the
- 19 supervising dentist is unable to provide.
- 20 B. The supervising dentist is responsible for all authorized services and procedures
- 21 performed by the dental hygiene therapist pursuant to a written practice agreement
- 22 executed by the dentist pursuant to section 18377.
- 23 C. Revisions to a written practice agreement must be documented in a new written
- 24 practice agreement signed by the supervising dentist and the dental hygiene therapist.
- 25 D. A supervising dentist who signs a written practice agreement shall file a copy of
- 26 the agreement with the board, keep a copy for the dentist's own records and make a
- 27 copy available to patients of the dental hygiene therapist upon request.
- 28 **6. Prescription for laboratory services. A dentist who uses the services of a person**
- 29 **not licensed to practice dentistry in this State to construct, alter, repair or duplicate a**
- 30 **denture, plate, partial plate, bridge, splint, orthodontic or prosthetic appliance shall first**
- 31 **furnish the unlicensed person with a written prescription, which must contain:**
- 32 A. The name and address of the unlicensed person;
- 33 B. The patient's name or number. In the event the number is used, the name of the
- 34 patient must be written upon the duplicate copy of the prescription retained by the
- 35 dentist;
- 36 C. The date on which the prescription was written;
- 37 D. A description of the work to be done, with diagrams if necessary;
- 38 E. A specification of the type and quality of materials to be used; and

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1 F. The signature of the dentist and the number of the dentist's state license.
2 The dentist shall retain for 2 years a duplicate copy of all prescriptions issued pursuant to
3 this subsection for inspection by the board.

4 **§18372. Dental radiographer**

5 1. Scope of practice. A licensed dental radiographer may practice dental
6 radiography under the general supervision of a dentist.

7 **§18373. Expanded function dental assistant**

8 1. Scope of practice; direct supervision. An expanded function dental assistant
9 may perform the following reversible intraoral procedures authorized under the direct
10 supervision of a dentist:

- 11 A. Apply cavity liners and bases as long as the dentist:
 - 12 (1) Has ordered the cavity liner or base;
 - 13 (2) Has checked the cavity liner or base prior to the placement of the restoration;
14 and
 - 15 (3) Has checked the final restoration prior to patient dismissal;
- 16 B. Apply pit and fissure sealants after an evaluation of the teeth by the dentist at the
17 time of sealant placement;
- 18 C. Apply supragingival desensitizing agents to an exposed root surface or dentinal
19 surface of teeth;
- 20 D. Apply topical fluorides recognized for the prevention of dental caries;
- 21 E. Cement provisional or temporary crowns and bridges and remove excess cement;
- 22 F. Perform tooth vitality tests;
- 23 G. Place and contour amalgam, composite and other restorative materials prior to the
24 final setting or curing of the material;
- 25 H. Place and remove periodontal dressing;
- 26 I. Place and remove retraction cord;
- 27 J. Record readings with a digital caries detector and report them to the dentist for
28 interpretation and evaluation;
- 29 K. Size, place and cement or bond orthodontic bands and brackets with final
30 inspection by the dentist;
- 31 L. Supragingival polishing. A dentist or a dental hygienist must first determine that
32 the teeth to be polished are free of calculus or other extraneous material prior to
33 polishing. Dentists may permit an expanded function dental assistant to use only a
34 slow-speed rotary instrument and rubber cup. Dentists may allow an expanded
35 function dental assistant to use high-speed, power-driven handpieces or instruments
36 to contour or finish newly placed composite materials;

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- 1 M. Take and pour impressions for bleaching trays, athletic mouth guards, provisional
2 or temporary crowns, bridges, custom trays and fluoride trays;
- 3 N. Apply cavity varnish;
- 4 O. Apply liquids, pastes and gel topical anesthetics;
- 5 P. Assist a dentist who provides orthodontic services in preparation of teeth for
6 attaching, bonding and cementing fixed appliances in a manner appropriate and
7 according to the manufacturer's directions;
- 8 Q. Fabricate temporary crowns and bridges, limiting handpiece rotary
9 instrumentation used in the fabrication to extraoral use only, as long as the dentist
10 checks the occlusion and fit prior to releasing the patient;
- 11 R. Irrigate and dry root canals;
- 12 S. Isolate the operative field;
- 13 T. Perform cold vitality testing with confirmation by the dentist;
- 14 U. Perform electronic vitality scanning with confirmation by the dentist;
- 15 V. Place and remove matrix bands, rubber dams and wedges;
- 16 W. Place elastics and instruct in their use;
- 17 X. Place, hold or remove celluloid and other plastic strips prior to or subsequent to
18 the placement of a filling by the dentist;
- 19 Y. Place or remove temporary separating devices;
- 20 Z. Place wires, pins and elastic ligatures to tie in orthodontic arch wires that have
21 been fitted and approved by the dentist at the time of insertion;
- 22 AA. Prepare tooth sites and surfaces with a rubber cup and pumice for banding or
23 bonding of orthodontic brackets. This procedure may not be intended or interpreted
24 as an oral prophylaxis, which is a procedure specifically reserved to be performed by
25 dental hygienists or dentists. This procedure also may not be intended or interpreted
26 as a preparation for restorative material. A dentist or dental hygienist shall check and
27 approve the procedure;
- 28 BB. Reapply, on an emergency basis only, orthodontic brackets;
- 29 CC. Remove composite material using slow-speed instrumentation for debonding
30 brackets, as long as the dentist conducts a final check prior to release of the patient;
- 31 DD. Remove orthodontic arch wires and tension devices and any loose bands or
32 bonds, but only as directed by the dentist;
- 33 EE. Select and try in stainless steel or other preformed crowns for insertion by the
34 dentist;
- 35 FF. Take impressions for opposing models and retainers; and
- 36 GG. Take intraoral measurements and make preliminary selection of arch wires and
37 intraoral and extraoral appliances, including head gear.

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- 1 **2. Scope of practice; general supervision. An expanded function dental assistant**
- 2 **may perform the following procedures under the general supervision of a dentist:**
- 3 **A. Place temporary fillings on an emergency basis as long as the patient is informed**
- 4 **of the temporary nature of the fillings;**
- 5 **B. Remove excess cement from the supragingival surfaces of teeth;**
- 6 **C. Change or replace dry socket packets after diagnosis and treatment planned by a**
- 7 **dentist;**
- 8 **D. For instruction purposes, demonstrate to a patient how the patient should place**
- 9 **and remove removable prostheses, appliances or retainers;**
- 10 **E. For the purpose of eliminating pain or discomfort, remove loose, broken or**
- 11 **irritating orthodontic appliances;**
- 12 **F. Give oral health instructions;**
- 13 **G. Irrigate and aspirate the oral cavity;**
- 14 **H. Perform dietary analyses for dental disease control;**
- 15 **I. Place and recement with temporary cement an existing crown that has fallen out as**
- 16 **long the dental assistant promptly notifies the dentist this procedure was performed**
- 17 **so that appropriate follow-up can occur;**
- 18 **J. Place and remove periodontal dressing;**
- 19 **K. Pour and trim dental models;**
- 20 **L. Remove sutures and schedule a follow-up appointment with the dentist within 7 to**
- 21 **10 days of suture removal;**
- 22 **M. Retract lips, cheek, tongue and other tissue parts;**
- 23 **N. Take and pour impressions for study casts;**
- 24 **O. Take and record the vital signs of blood pressure, pulse and temperature;**
- 25 **P. Take dental plaque smears for microscopic inspection and patient education; and**
- 26 **Q. Take intraoral photographs.**
- 27 **3. Procedures not authorized. An expanded function dental assistant may not**
- 28 **engage in the following activities:**
- 29 **A. Complete or limited examination, diagnosis or treatment planning;**
- 30 **B. Surgical or cutting procedures of hard or soft tissue;**
- 31 **C. Prescribing drugs, medicaments or work authorizations;**
- 32 **D. Pulp capping, pulpotomy or other endodontic procedures;**
- 33 **E. Placement and intraoral adjustments of fixed or removable prosthetic appliances;**
- 34 **or**
- 35 **F. Administration of local anesthesia, parenteral or inhalation sedation or general**
- 36 **anesthesia.**

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§18374. Dental hygienist

1. Scope of practice; direct supervision. A dental hygienist and faculty dental hygienist may perform the following procedures under the direct supervision of a dentist:

- A. Administer local anesthesia or nitrous oxide analgesia, as long as the dental hygienist or faculty dental hygienist has authority to administer the relevant medication pursuant to section 18345, subsection 2, paragraph D or E;
- B. Irrigate and dry root canals;
- C. Record readings with a digital caries detector and report them to the dentist for interpretation and evaluation;
- D. Remove socket dressings;
- E. Take cytological smears as requested by the dentist; and
- F. Take impressions for nightguards and occlusal splints as long as the dentist takes all measurements and bite registrations.

2. Scope of practice; general supervision. A dental hygienist and faculty dental hygienist may perform the following procedures under the general supervision of a dentist:

- A. Prescribe, dispense or administer anticavity toothpastes or topical gels with 1.1% or less sodium fluoride and oral rinses with 0.05%, 0.2%, 0.44% or 0.5% sodium fluoride, as well as chlorhexidine gluconate oral rinse;
- B. Apply cavity varnish;
- C. Apply desensitizing agents to teeth;
- D. Apply fluoride to control caries;
- E. Apply liquids, pastes or gel topical anesthetics;
- F. Apply sealants, as long as a licensed dentist first makes the determination and diagnosis as to the surfaces on which the sealants are applied;
- G. Cement pontics and facings outside the mouth;
- H. Change or replace dry socket packets after diagnosis and treatment planned by a dentist;
- I. Deliver, but not condense or pack, amalgam or composite restoration material;
- J. Expose and process radiographs;
- K. Fabricate temporary crowns and bridges, limiting handpiece rotary instrumentation used in the fabrication to extraoral use only, as long as the dentist checks the occlusion and fit prior to releasing the patient;
- L. For instruction purposes, demonstrate to a patient how the patient should place and remove removable prostheses, appliances or retainers;
- M. For the purpose of eliminating pain or discomfort, remove loose, broken or irritating orthodontic appliances;

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- 1 N. Give oral health instruction;
- 2 O. Interview patients and record complete medical and dental histories;
- 3 P. Irrigate and aspirate the oral cavity;
- 4 Q. Isolate operative fields;
- 5 R. Obtain bacterial sampling when treatment is planned by the dentist;
- 6 S. Perform all procedures necessary for a complete prophylaxis, including root
7 planing;
- 8 T. Perform cold vitality testing with confirmation by the dentist;
- 9 U. Perform complete periodontal and dental restorative charting;
- 10 V. Perform dietary analyses for dental disease control;
- 11 W. Perform electronic vitality scanning with confirmation by the dentist;
- 12 X. Perform oral inspections, recording all conditions that should be called to the
13 attention of the dentist;
- 14 Y. Perform postoperative irrigation of surgical sites;
- 15 Z. Perform preliminary selection and fitting of orthodontic bands, as long as final
16 placement and cementing in the patient's mouth are done by the dentist;
- 17 AA. Place and recement temporary crowns with temporary cement;
- 18 BB. Place and recement with temporary cement an existing crown that has fallen out;
- 19 CC. Place and remove gingival retraction cord without vasoconstrictor;
- 20 DD. Place and remove matrix bands, periodontal dressing, rubber dams and wedges;
- 21 EE. Place elastics or instruct in their use;
- 22 FF. Place, hold or remove celluloid and other plastic strips prior to or subsequent to
23 the placement of a filling by the dentist;
- 24 GG. Place localized delivery of chemotherapeutic agents when treatment is planned
25 by the dentist;
- 26 HH. Place or remove temporary separating devices;
- 27 II. Place wires, pins and elastic ligatures to tie in orthodontic arch wires that have
28 been fitted and approved by the dentist at the time of insertion;
- 29 JJ. Place temporary restorations as an emergency procedure, as long as the patient is
30 informed of the temporary nature of the restoration;
- 31 KK. Pour and trim dental models;
- 32 LL. Prepare tooth sites and surfaces with a rubber cup and pumice for banding or
33 bonding of orthodontic brackets. This procedure may not be interpreted as a
34 preparation for restorative material;
- 35 MM. Reapply, on an emergency basis only, orthodontic brackets;

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- 1 NN. Remove composite material using slow-speed instrumentation for debonding
 2 brackets, as long as the dentist conducts a final check prior to release of the patient;
 3 OO. Remove excess cement from the supragingival surfaces of teeth;
 4 PP. Remove orthodontic arch wires and tension devices and any loose bands or
 5 bonds, but only as directed by the dentist;
 6 QQ. Remove sutures;
 7 RR. Retract lips, cheek, tongue and other tissue parts;
 8 SS. Select and try in stainless steel or other preformed crowns for insertion by the
 9 dentist;
 10 TT. Smooth and polish amalgam restorations;
 11 UU. Take and record the vital signs of blood pressure, pulse and temperature;
 12 VV. Take and pour impressions for study casts, athletic mouth guards, custom trays,
 13 bleaching trays, fluoride trays, opposing models, retainers and stents;
 14 WW. Take dental plaque smears for microscopic inspection and patient education;
 15 XX. Take intraoral measurements and make preliminary selection of arch wires and
 16 intraoral and extraoral appliances, including head gear; and
 17 YY. Take intraoral photographs.

18 **3. Limitation.** An individual with a faculty dental hygienist license may provide the
 19 services described in this section only as part of the education program for which the
 20 license was issued by the board.

21 **§18375. Independent practice dental hygienist**

22 **1. Scope of practice.** An independent practice dental hygienist may perform only the
 23 following duties without supervision by a dentist:

- 24 A. Interview patients and record complete medical and dental histories;
 25 B. Take and record the vital signs of blood pressure, pulse and temperature;
 26 C. Perform oral inspections, recording all conditions that should be called to the
 27 attention of a dentist;
 28 D. Perform complete periodontal and dental restorative charting;
 29 E. Perform all procedures necessary for a complete prophylaxis, including root
 30 planing;
 31 F. Apply fluoride to control caries;
 32 G. Apply desensitizing agents to teeth;
 33 H. Apply topical anesthetics;
 34 I. Apply sealants;
 35 J. Smooth and polish amalgam restorations, limited to slow-speed application only;

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- 1 K. Cement pontics and facings outside of the mouth;
- 2 L. Take impressions for athletic mouth guards and custom fluoride trays;
- 3 M. Place and remove rubber dams;
- 4 N. Place temporary restorations in compliance with the protocol adopted by the
5 board;
- 6 O. Apply topical antimicrobials, including fluoride but excluding antibiotics, for the
7 purposes of bacterial reduction, caries control and desensitization in the oral cavity.
8 The independent practice dental hygienist shall follow current manufacturer's
9 instructions in the use of these medicaments;
- 10 P. Expose and process radiographs, including but not limited to vertical and
11 horizontal bitewing films, periapical films, panoramic images and full-mouth series,
12 under protocols developed by the board as long as the independent practice dental
13 hygienist has a written agreement with a licensed dentist that provides that the dentist
14 is available to interpret all dental radiographs within 21 days from the date the
15 radiograph is taken and that the dentist will sign a radiographic review and findings
16 form; and
- 17 Q. Prescribe, dispense or administer anticavity toothpastes or topical gels with 1.1%
18 or less sodium fluoride and oral rinses with 0.05%, 0.2%, 0.44% or 0.5% sodium
19 fluoride, as well as chlorhexidine gluconate oral rinse. For the purposes of this
20 paragraph, "topical" includes superficial and intraoral application.
- 21 **2. Practice standards. An independent practice dental hygienist has the duties and**
22 **responsibilities set out in this subsection with respect to each patient seen in an**
23 **independent capacity.**
- 24 A. Prior to an initial patient visit, an independent practice dental hygienist shall
25 obtain from the patient or the parent or guardian of a minor patient written
26 acknowledgment of the patient's or parent's or guardian's understanding that the
27 independent practice dental hygienist is not a dentist and that the service to be
28 rendered does not constitute restorative care or treatment.
- 29 B. An independent practice dental hygienist shall provide to a patient or the parent or
30 guardian of a minor patient a written plan for referral to a dentist for any necessary
31 dental care. The referral plan must identify all conditions that should be called to the
32 attention of the dentist.
- 33 **§18376. Public health dental hygienist**
- 34 **1. Scope of practice. A public health dental hygienist may perform the following**
35 **procedures in a public health setting under a supervision agreement with a dentist that**
36 **outlines the roles and responsibilities of the collaboration:**
- 37 A. Prescribe, dispense or administer anticavity toothpastes or topical gels with 1.1%
38 or less sodium fluoride and oral rinses with 0.05%, 0.2%, 0.44% or 0.5% sodium
39 fluoride, as well as chlorhexidine gluconate oral rinse;
- 40 B. Apply cavity varnish;
- 41 C. Apply desensitizing agents to teeth;

- 1 D. Apply fluoride to control caries;
- 2 E. Apply liquids, pastes or gel topical anesthetics;
- 3 F. Apply sealants;
- 4 G. Apply topical antimicrobials, including fluoride but excluding antibiotics, for the
5 purposes of bacterial reduction, caries control and desensitization in the oral cavity.
6 The public health dental hygienist shall follow current manufacturer's instructions in
7 the use of these medicaments. For the purposes of this paragraph, "topical" includes
8 superficial and intramuscular application;
- 9 H. Cement pontics and facings outside the mouth;
- 10 I. Expose and process radiographs upon written standing prescription orders from a
11 dentist who is available to interpret all dental radiographs within 21 days and who
12 will complete and sign a radiographic review and findings form;
- 13 J. For instruction purposes, demonstrate to a patient how the patient should place and
14 remove removable prostheses, appliances or retainers;
- 15 K. For the purposes of eliminating pain or discomfort, remove loose, broken or
16 irritating orthodontic appliances;
- 17 L. Give oral health instruction;
- 18 M. Interview patients and record complete medical and dental histories;
- 19 N. Irrigate and aspirate the oral cavity;
- 20 O. Isolate operative fields;
- 21 P. Perform all procedures necessary for a complete prophylaxis, including root
22 planing;
- 23 Q. Perform complete periodontal and dental restorative charting;
- 24 R. Perform dietary analyses for dental disease control;
- 25 S. Perform temporary filling procedures without a dentist present under protocols
26 adopted by board rule;
- 27 T. Perform oral inspections, recording all conditions that should be called to the
28 attention of the dentist;
- 29 U. Perform pulp tests pursuant to the direction of a dentist;
- 30 V. Place and remove gingival retraction cord without vasoconstrictor;
- 31 W. Place and remove matrix bands for purposes of fabricating or placing temporary
32 restorations;
- 33 X. Place and remove rubber dams;
- 34 Y. Place and remove wedges for purposes of fabricating or placing temporary
35 restorations;
- 36 Z. Place temporary restorations in compliance with the protocol adopted by board
37 rule;

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- 1 AA. Remove excess cement from the supragingival surfaces of teeth;
- 2 BB. Retract lips, cheek, tongue and other tissue parts;
- 3 CC. Smooth and polish restorations, limited to slow-speed application only;
- 4 DD. Take and record the vital signs of blood pressure, pulse and temperature;
- 5 EE. Take dental plaque smears for microscopic inspection and patient education;
- 6 FF. Take impressions for and deliver athletic mouth guards and custom fluoride
- 7 trays; and
- 8 GG. Take intraoral photographs.

9 **§18377. Dental hygiene therapist**

10 **1. Scope of practice.** A dental hygiene therapist may perform the following
11 procedures in limited practice settings, if authorized by a written practice agreement with
12 a dentist licensed in this State pursuant to subsection 3.

13 A. To the extent permitted in a written practice agreement, a dental hygiene therapist
14 may provide the care and services listed in this paragraph only under the direct
15 supervision of the supervising dentist:

- 16 (1) Perform oral health assessments, pulpal disease assessments for primary and
17 young teeth, simple cavity preparations and restorations and simple extractions;
- 18 (2) Prepare and place stainless steel crowns and aesthetic anterior crowns for
19 primary incisors and prepare, place and remove space maintainers;
- 20 (3) Provide referrals;
- 21 (4) Administer local anesthesia and nitrous oxide analgesia;
- 22 (5) Perform preventive services;
- 23 (6) Conduct urgent management of dental trauma, perform suturing, extract
24 primary teeth and perform nonsurgical extractions of periodontally diseased
25 permanent teeth if authorized in advance by the supervising dentist;
- 26 (7) Provide, dispense and administer anti-inflammatories, nonprescription
27 analgesics, antimicrobials, antibiotics and anticaries materials;
- 28 (8) Administer radiographs; and
- 29 (9) Perform other related services and functions authorized by the supervising
30 dentist and for which the dental hygiene therapist is trained.

31 B. To the extent permitted in a written practice agreement, a dental hygiene therapist
32 may provide the care and services listed in section 18374, subsections 1 and 2 under
33 the general supervision of the supervising dentist.

34 **2. Supervision responsibilities.** A dental hygiene therapist may be delegated a
35 dentist's responsibility to supervise up to 2 dental hygienists and 3 unlicensed persons in
36 any one practice setting through a written practice agreement pursuant to subsection 3.

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3. Practice requirements. A dental hygiene therapist must comply with the following practice limitations.

A. A dental hygiene therapist may provide services only in a hospital; a public school, as defined in Title 20-A, section 1, subsection 24; a nursing facility licensed under Title 22, chapter 405; a residential care facility licensed under Title 22, chapter 1663; a clinic; a health center reimbursed as a federally qualified health center as defined in 42 United States Code, Section 1395x(aa)(4) (1993) or that has been determined by the federal Department of Health and Human Services, Centers for Medicare and Medicaid Services to meet the requirements for funding under Section 330 of the Public Health Service Act, 42 United States Code, Section 254(b); a federally qualified health center licensed in this State; a public health setting that serves underserved populations as recognized by the federal Department of Health and Human Services; or a private dental practice in which at least 50% of the patients who are provided services by that dental hygiene therapist are covered by the MaineCare program under Title 22 or are underserved adults.

B. A dental hygiene therapist may practice only under the direct supervision of a dentist through a written practice agreement signed by both parties. A written practice agreement is a signed document that outlines the functions that the dental hygiene therapist is authorized to perform, which may not exceed the scopes of practice specified in subsections 1 and 2. A dental hygiene therapist may practice only under the standing order of the supervising dentist, may provide only care that follows written protocols and may provide only services that the dental hygiene therapist is authorized to provide by the written practice agreement.

C. A written practice agreement between a supervising dentist and a dental hygiene therapist must include the following elements:

- (1) The services and procedures and the practice settings for those services and procedures that the dental hygiene therapist may provide, together with any limitations on those services and procedures;
- (2) Any age-specific and procedure-specific practice protocols, including case selection criteria, assessment guidelines and imaging frequency;
- (3) Procedures to be used with patients treated by the dental hygiene therapist for obtaining informed consent and for creating and maintaining dental records;
- (4) A plan for review of patient records by the supervising dentist and the dental hygiene therapist;
- (5) A plan for managing medical emergencies in each practice setting in which the dental hygiene therapist provides care;
- (6) A quality assurance plan for monitoring care, including patient care review, referral follow-up and a quality assurance chart review;
- (7) Protocols for administering and dispensing medications, including the specific circumstances under which medications may be administered and dispensed;

1 (8) Criteria for providing care to patients with specific medical conditions or
 2 complex medical histories, including requirements for consultation prior to
 3 initiating care; and

4 (9) Specific written protocols, including a plan for providing clinical resources
 5 and referrals, governing situations in which the patient requires treatment that
 6 exceeds the scope of practice or capabilities of the dental hygiene therapist.

7 D. Revisions to a written practice agreement must be documented in a new written
 8 practice agreement signed by the supervising dentist and the dental hygiene therapist.

9 E. A dental hygiene therapist shall file a copy of a written practice agreement with
 10 the board, keep a copy for the dental hygiene therapist's own records and make a
 11 copy available to patients of the dental hygiene therapist upon request.

12 F. A dental hygiene therapist shall refer patients in accordance with a written
 13 practice agreement to another qualified dental or health care professional to receive
 14 needed services that exceed the scope of practice of the dental hygiene therapist.

15 G. A dental hygiene therapist who provides services or procedures beyond those
 16 authorized in a written agreement engages in unprofessional conduct and is subject to
 17 discipline pursuant to section 18325.

18 4. Dental coverage and reimbursement. Notwithstanding Title 24-A, section
 19 2752, any service performed by a dentist, dental assistant or dental hygienist licensed in
 20 this State that is reimbursed by private insurance, a dental service corporation, the
 21 MaineCare program under Title 22 or the Cub Care program under Title 22, section
 22 3174-T must also be covered and reimbursed when performed by a dental hygiene
 23 therapist authorized to practice under this chapter.

24 **§18378. Denturist**

25 **1. Scope of practice.** A denturist and faculty denturist may:

26 A. Take denture impressions and bite registrations for the purpose of or with a view
 27 to the making, producing, reproducing, construction, finishing, supplying, altering or
 28 repairing a denture to be fitted to an edentulous or partially edentulous arch or arches;

29 B. Fit a denture to an edentulous or partially edentulous arch or arches, including by
 30 making, producing, reproducing, constructing, finishing, supplying, altering or
 31 repairing dentures without performing alteration to natural or reconstructed tooth
 32 structure. A denturist may perform clinical procedures related to the fabrication of a
 33 removable tooth-borne partial denture, including cast frameworks;

34 C. Perform procedures incidental to the procedures specified in paragraphs A and B,
 35 as specified by board rule; and

36 D. Make, place, construct, alter, reproduce or repair nonorthodontic removable
 37 sports mouth guards and provide teeth whitening services, including by fabricating
 38 whitening trays, providing whitening solutions determined to be safe for public use
 39 and providing any required follow-up care and instructions for use of the trays and
 40 solutions at home.

1 dental laboratory fabricating the prosthesis. If, in the professional judgment of the dentist
2 or dental laboratory, this identification is not practical, identification must be provided as
3 follows:

4 A. The social security number of the patient may be omitted if the name of the
5 patient is shown;

6 B. The initials of the patient may be shown alone, if use of the name of the patient is
7 impracticable; or

8 C. The identification marks may be omitted in their entirety if none of the forms of
9 identification specified in paragraphs A and B are practicable or clinically safe.

10 2. Applicability. A removable dental prosthesis in existence prior to September 23,
11 1983 that was not marked in accordance with subsection 1 at the time of its fabrication
12 must be marked in accordance with subsection 1 at the time of a subsequent rebasing.

13 3. Violation. Failure of a dentist or denturist to comply with this section constitutes
14 grounds for discipline pursuant to section 18325, as long as the dentist or denturist is
15 charged with the violation within 2 years of initial insertion of the dental prosthetic
16 device.

17 **§18393. Confidentiality**

18 1. Definitions. As used in this section, unless the context otherwise indicates, the
19 following terms have the following meanings.

20 A. "Confidential communication" means a communication not intended to be
21 disclosed to 3rd persons other than those present to further the interest of the patient
22 in the consultation, examination or interview or persons who are participating in the
23 diagnosis and treatment under the direction of the dentist, including members of the
24 patient's family.

25 B. "Patient" means a person who consults or is examined or interviewed by a dentist
26 or dental auxiliary.

27 2. General rule of privilege. A patient has a privilege to refuse to disclose and to
28 prevent another person from disclosing confidential communications made for the
29 purpose of diagnosis or treatment of the patient's physical, mental or emotional
30 conditions, including alcohol or drug addiction, among the patient, the patient's dentist
31 and persons who are participating in the diagnosis or treatment under the direction of the
32 dentist, including members of the patient's family.

33 3. Who may claim the privilege. The privilege under subsection 2 may be claimed
34 by the patient, by the patient's guardian or conservator or by the personal representative
35 of a deceased patient. The dentist or dental auxiliary at the time of the communication is
36 presumed to have authority to claim the privilege, but only on behalf of the patient.

37 4. Exceptions. Notwithstanding any other provision of law, the following are
38 exceptions to the privilege under subsection 2.

39 A. If the court orders an examination of the physical, mental or emotional condition
40 of a patient, whether a party or a witness, communications made in the course of the

1 examination are not privileged under this section with respect to the particular
2 purpose for which the examination is ordered unless the court orders otherwise.

3 B. There is not any privilege under this section as to communications relevant to an
4 issue of the physical, mental or emotional condition of a patient in a proceeding in
5 which the condition of the patient is an element of the claim or defense of the patient
6 or of a party claiming through or under the patient or because of the patient's
7 condition or claiming as a beneficiary of the patient through a contract to which the
8 patient is or was a party or, after the patient's death, in a proceeding in which a party
9 puts the condition in issue.

10 C. There is not any privilege under this section as to information regarding a patient
11 that is sought by the Chief Medical Examiner or the Chief Medical Examiner's
12 designee in a medical examiner case, as defined by Title 22, section 3025, in which
13 the Chief Medical Examiner or the Chief Medical Examiner's designee has reason to
14 believe that information relating to dental treatment may assist in determining the
15 identity of a deceased person.

16 D. There is not any privilege under this section as to disclosure of information
17 concerning a patient when that disclosure is required by law, and nothing in this
18 section may modify or affect the provisions of Title 22, sections 4011-A to 4015 and
19 Title 29-A, section 2405.

20 **Sec. 22. 36 MRSA §5219-DD, sub-§1, ¶A**, as enacted by PL 2009, c. 141, §2, is
21 amended to read:

22 A. "Eligible dentist" means a person licensed as a dentist under Title 32, chapter 16,
23 ~~subchapter 3~~ 143 who, after January 1, 2009:

- 24 (1) First begins practicing dentistry in the State by joining an existing dental
- 25 practice in an underserved area or establishing a new dental practice or
- 26 purchasing an existing dental practice in an underserved area;
- 27 (2) Agrees to practice full time for at least 5 years in an underserved area; and
- 28 (3) Is certified under subsection 3 to be eligible by the oral health program.

29 **Sec. 23. Maine Revised Statutes amended; revision clause.** Wherever in the
30 Maine Revised Statutes the words "Maine board of dental examiners" appear or reference
31 is made to those words, they are amended to read and mean "board of dental practice" and
32 the Revisor of Statutes shall implement this revision when updating, publishing or
33 republishing the statutes.

34 **Sec. 24. Transition provisions.** The following provisions apply to the transition
35 of the former Board of Dental Examiners to the Board of Dental Practice.

- 36 1. The Board of Dental Practice is the successor in every way to the powers, duties
- 37 and functions of the former Maine Board of Dental Examiners.
- 38 2. Members of the Board of Dental Examiners, the Subcommittee on Dental
- 39 Hygienists and the Subcommittee on Denturists serving immediately prior to the effective
- 40 date of this Act continue to serve on the Board of Dental Practice, the Subcommittee on

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1 Dental Hygienists and the Subcommittee on Denturists for the remainder of the members'
2 terms.

3 3. All licenses and permits issued by the Maine Board of Dental Examiners and in
4 effect on the effective date of this Act remain in effect and are considered licenses issued
5 by the Board of Dental Practice under the Maine Revised Statutes, Title 32, chapter 143
6 until the date of expiration specified in the license or permit.

7 4. Except to the extent that they conflict with the language of this Act, all rules
8 adopted by the Maine Board of Dental Examiners and in effect on the effective date of
9 this Act remain in effect. All rules adopted by the Department of Health and Human
10 Services pursuant to Title 32, section 1094-C and in effect on the effective date of this
11 Act remain in effect and are considered rules adopted pursuant to Title 32, section 18391.

12 5. Except to the extent that they conflict with the language of this Act, all procedures
13 adopted by the Maine Board of Dental Examiners or any of its administrative units or
14 officers in effect on the effective date of this Act remain in effect.

15 6. All contracts, agreements and compacts in effect immediately prior to the effective
16 date of this Act with regard to the Maine Board of Dental Examiners continue in effect.

17 7. Any positions authorized and allocated subject to the personnel laws to the former
18 Maine Board of Dental Examiners are transferred to the Board of Dental Practice and
19 continue to be authorized.

20 8. All records, property and equipment previously belonging to or allocated for the
21 use of the former Maine Board of Dental Examiners become, on the effective date of this
22 Act, the property of the Board of Dental Practice.

23 9. All forms, licenses, letterheads and similar items bearing the name of or referring
24 to the Maine Board of Dental Examiners may be used by the Board of Dental Practice
25 until existing supplies of those items are exhausted.

26 **Sec. 25. Board of Dental Practice to study the dental practice laws and**
27 **recommend changes.** The Board of Dental Practice, in consultation with interested
28 parties, shall conduct a study of the Maine Revised Statutes, Title 32, chapter 143 and any
29 rules adopted by the board and recommend changes to the scopes of practice of dental
30 practitioners, practice settings and delivery models and any other dental practice issues.
31 The board shall report its recommendations to the joint standing committee of the
32 Legislature having jurisdiction over labor, commerce, research and economic
33 development matters on or before March 1, 2017. The joint standing committee may
34 report out a bill to the Second Regular Session of the 128th Legislature related to the
35 board's report.'

36 **SUMMARY**

37 This amendment replaces the bill, which is a concept draft. The amendment
38 recodifies the Maine Revised Statutes, Title 32, chapter 16, which governs the practice of
39 dentistry by dentists and dental auxiliaries. The amendment creates a new Dental
40 Practice Act that identifies the qualifications required for individuals to obtain each type
41 of license issued by the board. The amendment incorporates in statute all of the scopes of
42 practice provisions for dentists and dental auxiliaries currently located partially in statute

COMMITTEE AMENDMENT

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COMMITTEE AMENDMENT "A" to H.P. 1086, L.D. 1596

1 and partially in board rule, enumerating the dental procedures that dentists, expanded
2 function dental assistants, dental hygienists, public health dental hygienists, dental
3 hygiene therapists, independent practice dental hygienists, dental radiographers and
4 denturists may perform and the level of supervision required for specific procedures. The
5 amendment identifies the limited settings in which faculty dentists, clinical dentist
6 educators, charitable dentists, limited dentists, resident dentists, faculty dental hygienists
7 and faculty denturists may practice. The amendment further identifies the specific,
8 limited duties that a dentist may delegate to supervised, unlicensed dental assistants.

9 The amendment renames the Board of Dental Examiners as the Board of Dental
10 Practice and retains the board subcommittees on dental hygienists and denturists. The
11 amendment aligns many of the board's duties and powers with the laws governing
12 professional licensing boards within the Department of Professional and Financial
13 Regulation, Office of Professional and Occupational Regulation. The amendment directs
14 that any license or permit in effect on the effective date of the Act remains in effect
15 through its current date of expiration, at which time a new license or authority may be
16 issued by the board. The amendment further directs the board to conduct a study of the
17 new Dental Practice Act and submit a report with recommended legislation by March 1,
18 2017 to the joint standing committee of the Legislature having jurisdiction over labor,
19 commerce, research and economic development matters. The committee may report out a
20 bill to the Second Regular Session of the 128th Legislature proposing legislation related
21 to the board's report.

FISCAL NOTE REQUIRED
(See attached)

COMMITTEE AMENDMENT



127th MAINE LEGISLATURE

LD 1596

LR 2597(02)

An Act To Revise the Laws Regarding Dental Practices

Fiscal Note for Bill as Amended by Committee Amendment 'A' (H-621)
Committee: Labor, Commerce, Research and Economic Development

Fiscal Note Required: Yes

Fiscal Note

Minor cost increase - Other Special Revenue Funds

Fiscal Detail and Notes

Additional costs to the Board of Dental Practice, affiliated with the Department of Professional and Financial Regulation, to conduct the required study can be absorbed within existing budgeted resources.