

# MAINE STATE LEGISLATURE

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# 129th MAINE LEGISLATURE

## SECOND REGULAR SESSION-2020

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Legislative Document

No. 2133

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H.P. 1523

House of Representatives, March 5, 2020

**An Act To Implement Recommendations for Review of the  
Licensing Laws for Certain Licensed Health Professionals Pursuant  
to the State Government Evaluation Act**

(EMERGENCY)

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Reported by Representative TEPLER of Topsham for the Joint Standing Committee on Health Coverage, Insurance and Financial Services pursuant to the Maine Revised Statutes, Title 3, section 955, subsection 4.

Reference to the Committee on Health Coverage, Insurance and Financial Services suggested and ordered printed pursuant to Joint Rule 218.

Handwritten signature of Robert B. Hunt in cursive.

ROBERT B. HUNT  
Clerk

1           **Emergency preamble. Whereas,** acts and resolves of the Legislature do not  
2 become effective until 90 days after adjournment unless enacted as emergencies; and

3           **Whereas,** the State Government Evaluation Act requires the Legislature to  
4 periodically review agencies, independent agencies and boards of State Government in  
5 order to evaluate their efficacy and performance; and

6           **Whereas,** the Joint Standing Committee on Health Coverage, Insurance and  
7 Financial Services has reviewed the efficacy and performance of the Board of Licensure  
8 in Medicine, the Board of Osteopathic Licensure, the State Board of Nursing, the State  
9 Board of Optometry and the Board of Dental Practice; and

10           **Whereas,** this legislation implements the recommendation of the joint standing  
11 committee that each board, in consultation with interested parties, review its licensing  
12 laws and rules and recommend changes to update those laws and rules no later than  
13 February 15, 2021; and

14           **Whereas,** immediate enactment of this legislation is necessary so that each licensing  
15 board has adequate time to complete the review; and

16           **Whereas,** in the judgment of the Legislature, these facts create an emergency within  
17 the meaning of the Constitution of Maine and require the following legislation as  
18 immediately necessary for the preservation of the public peace, health and safety; now,  
19 therefore,

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

21           **Sec. 1. 32 MRSA §2153-A, sub-§1,** as enacted by PL 1993, c. 600, Pt. A, §123,  
22 is amended to read:

23           **1. Bylaws; rules.** May adopt bylaws, and adopt rules for the transaction of the  
24 business of the board and the government and management of its affairs, not inconsistent  
25 with the laws of this State and of the United States, as it considers expedient and make  
26 recommendations for changes to update the laws and rules related to the practice of  
27 nursing;

28           **Sec. 2. 32 MRSA §2417, sub-§5,** as amended by PL 2009, c. 195, §5, is further  
29 amended to read:

30           **5. Rules.** The board shall, in accordance with ~~the Maine Administrative Procedure~~  
31 ~~Act~~, Title 5, sections 8051 to 8059, make reasonable rules, not inconsistent with law, to  
32 govern the following:

33           A. The time, place and manner of conducting state board examinations in optometry  
34 and the manner and form in which applications for examination must be filed;

35           B. The fees for registration and licensing under subchapter ~~HH~~ 3; and

36           C. The conduct of the lawful practice of optometry in accordance with the standards  
37 established by this chapter.

1 The board may make other reasonable rules, in accordance with Title 5, sections 8051 to  
2 8059, as necessary for the proper performance of its duties, including rules relating to  
3 false, deceptive and misleading advertising. Rules adopted relating to such advertising  
4 may not be inconsistent with any rules adopted pursuant to Title 5, section 207,  
5 subsection 2. The board may make recommendations for changes to update the laws and  
6 rules related to the practice of optometry.

7 **Sec. 3. 32 MRSA §2562, first ¶**, as amended by PL 1997, c. 50, §2, is further  
8 amended to read:

9 The board shall meet in June of each year at a time and place the chair may designate.  
10 The board shall elect one of its members as chair annually and one of its members as  
11 secretary-treasurer, to hold office at the pleasure of the board. The secretary-treasurer  
12 shall ensure proper management of the board's finances. Special meetings may be called  
13 at the pleasure of the chair and in case of the death or inability of the chair, the secretary-  
14 treasurer may call special meetings. The board shall cause a seal of suitable inscription to  
15 be procured and affixed to papers that may require the seal, shall keep a correct record of  
16 its proceedings and has power to make rules, not inconsistent with this chapter, it  
17 considers necessary for the successful enforcement of its authority and the performance  
18 of its duties. The board may recommend changes to update the laws and rules related to  
19 the practice of osteopathic medicine. As part of the biennial relicensure process, the  
20 board shall prepare and distribute to each licensed osteopathic physician practicing in the  
21 State a copy of its code of ethics and current rules relative to continuing medical  
22 education. The chair and the secretary-treasurer may administer oaths in matters  
23 connected with the duties of the board. The records of the board must include a report of  
24 all money received and disbursed by the board and a list of all applicants for licenses,  
25 including the name and location of the school or college of osteopathic medicine  
26 approved by the American Osteopathic Association that granted the degree to each  
27 applicant and whether the applicant was granted or denied a license. These records, or  
28 duplicates, must always be open to inspection in the office of the Secretary of State  
29 during regular office hours. Four members of the board constitute a quorum for the  
30 transaction of business. A license to practice osteopathic medicine may not be granted,  
31 except on an affirmative vote of a majority of the board.

32 **Sec. 4. 32 MRSA §3269, sub-§7**, as amended by PL 1993, c. 600, Pt. A, §202, is  
33 further amended to read:

34 **7. Rules.** The power to adopt rules as the board determines necessary and proper to  
35 carry out this chapter and to make recommendations for changes to the laws and rules  
36 related to the practice of medicine;

37 **Sec. 5. 32 MRSA §18324**, as enacted by PL 2015, c. 429, §21, is amended to  
38 read:

39 **§18324. Rules**

40 The board shall adopt rules that are necessary for the implementation of this chapter.  
41 The rules may include, but need not be limited to, requirements for licensure, license  
42 renewal and license reinstatement as well as practice setting standards that apply to

1 individuals licensed under this chapter relating to recordkeeping, infection control,  
2 supervision and administering sedation and anesthesia. Rules adopted pursuant to this  
3 section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A. The  
4 board may make recommendations for changes to the laws and rules related to dental  
5 practice.

6 **Sec. 6. Board of Licensure in Medicine to review licensing laws and**  
7 **recommend changes.** The Board of Licensure in Medicine established by the Maine  
8 Revised Statutes, Title 5, section 12004-A, subsection 24, in consultation with interested  
9 parties, shall review Title 32, chapter 48 and any rules adopted by the board and  
10 recommend changes to update the licensing chapter and any rules. The board shall submit  
11 its report and recommendations to the joint standing committee of the Legislature having  
12 jurisdiction over health coverage, insurance and financial services matters no later than  
13 February 15, 2021. The joint standing committee may report out a bill to the First Regular  
14 Session of the 130th Legislature based on the board's recommendations.

15 **Sec. 7. Board of Osteopathic Licensure to review licensing laws and**  
16 **recommend changes.** The Board of Osteopathic Licensure established by the Maine  
17 Revised Statutes, Title 5, section 12004-A, subsection 29, in consultation with interested  
18 parties, shall review Title 32, chapter 36 and any rules adopted by the board and  
19 recommend changes to update the licensing chapter and any rules. The board shall submit  
20 its report and recommendations to the joint standing committee of the Legislature having  
21 jurisdiction over health coverage, insurance and financial services matters no later than  
22 February 15, 2021. The joint standing committee may report out a bill to the First Regular  
23 Session of the 130th Legislature based on the board's recommendations.

24 **Sec. 8. State Board of Nursing to review licensing laws and recommend**  
25 **changes.** The State Board of Nursing established by the Maine Revised Statutes, Title  
26 5, section 12004-A, subsection 25, in consultation with interested parties, shall review  
27 Title 32, chapter 31 and any rules adopted by the board and recommend changes to  
28 update the licensing chapter and any rules. The board shall submit its report and  
29 recommendations to the joint standing committee of the Legislature having jurisdiction  
30 over health coverage, insurance and financial services matters no later than February 15,  
31 2021. The joint standing committee may report out a bill to the First Regular Session of  
32 the 130th Legislature based on the board's recommendations.

33 **Sec. 9. State Board of Optometry to review licensing laws and**  
34 **recommend changes.** The State Board of Optometry established by the Maine Revised  
35 Statutes, Title 5, section 12004-A, subsection 28, in consultation with interested parties,  
36 shall review Title 32, chapter 34-A and any rules adopted by the board and recommend  
37 changes to update the licensing chapter and any rules. The board shall submit its report  
38 and recommendations to the joint standing committee of the Legislature having  
39 jurisdiction over health coverage, insurance and financial services matters no later than  
40 February 15, 2021. The joint standing committee may report out a bill to the First Regular  
41 Session of the 130th Legislature based on the board's recommendations.

42 **Sec. 10. Board of Dental Practice to review licensing laws and**  
43 **recommend changes.** The Board of Dental Practice established by the Maine Revised

1 Statutes, Title 5, section 12004-A, subsection 10, in consultation with interested parties,  
2 shall review Title 32, chapter 143 and any rules adopted by the board and recommend  
3 changes to update the licensing chapter and any rules. The board shall submit its report  
4 and recommendations to the joint standing committee of the Legislature having  
5 jurisdiction over health coverage, insurance and financial services matters no later than  
6 February 15, 2021. The joint standing committee may report out a bill to the First Regular  
7 Session of the 130th Legislature based on the board's recommendations.

8 **Emergency clause.** In view of the emergency cited in the preamble, this  
9 legislation takes effect when approved.

## 10 SUMMARY

11 This bill is reported out by the Joint Standing Committee on Health Coverage,  
12 Insurance and Financial Services pursuant to the Maine Revised Statutes, Title 3, section  
13 955, subsection 4. The bill implements recommendations related to the committee's  
14 review of the Board of Licensure in Medicine, the Board of Osteopathic Licensure, the  
15 State Board of Nursing, the State Board of Optometry and the Board of Dental Practice.

16 The bill directs each board, in consultation with interested parties, to review the  
17 licensing laws and rules for the board and to recommend changes to update those laws  
18 and rules no later than February 15, 2021. The bill authorizes the joint standing  
19 committee of the Legislature having jurisdiction over health coverage, insurance and  
20 financial services matters to report out a bill to the First Regular Session of the 130th  
21 Legislature based on the board's recommendations.

22 The committee is reporting the bill out for the sole purpose of turning the  
23 recommendations into a printed bill that can be referred to the committee for an  
24 appropriate public hearing and subsequent processing in the normal course. The  
25 committee is taking this action to ensure clarity and transparency in the legislative review  
26 of this bill.