



131st MAINE LEGISLATURE

SECOND REGULAR SESSION-2024

Legislative DocumentNo. 2040

H.P. 1302

House of Representatives, December 13, 2023

An Act to Restore the Board of Dental Practice's Authority to Issue Letters of Guidance

(EMERGENCY)

Submitted by the Department of Professional and Financial Regulation pursuant to Joint Rule 203.

Received by the Clerk of the House on December 11, 2023. Referred to the Committee on Health Coverage, Insurance and Financial Services pursuant to Joint Rule 308.2 and ordered printed pursuant to Joint Rule 401.

R(+ B. Hunt

ROBERT B. HUNT Clerk

Presented by Representative MASTRACCIO of Sanford.

- 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,** current law does not allow the Board of Dental Practice to issue letters of 4 guidance in matters not relating to complaints filed against licensees; and
- 5 **Whereas,** the board uses letters of guidance primarily to educate licensees in matters 6 involving licensure applications and supervision responsibilities without filing formal 7 complaints; and
- 8 Whereas, the board has many cases aging on its docket and requiring a formal 9 complaint to be filed to resolve any matter necessitating a letter of guidance would reduce 10 the efficiency of the board, take up more board staff time and prevent the board from 11 addressing other matters; and
- 12 Whereas, the elimination of the board's authority in this regard was an error; and
- Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,
- 17 Be it enacted by the People of the State of Maine as follows:
- 18
- Sec. 1. 32 MRSA §18325, sub-§3 is enacted to read:

19 **3.** Letters of guidance. In addition to the authority conferred under Title 10, section 8003, subsection 5-A, the board may issue a letter of guidance or concern to a licensee or 20 21 registrant. A letter of guidance or concern may be used to educate, reinforce knowledge regarding legal or professional obligations and express concern over action or inaction by 22 23 the licensee or registrant that does not rise to the level of misconduct sufficient to merit disciplinary action. The issuance of a letter of guidance or concern is not a formal 24 25 proceeding and does not constitute an adverse disciplinary action of any form. Notwithstanding any provision of law to the contrary, a letter of guidance or concern is not 26 27 confidential. The board may place a letter of guidance or concern, together with any 28 underlying complaint, report and investigation materials, in a licensee's or registrant's file 29 for a specified amount of time, not to exceed 10 years. Any letters, complaints and materials placed on file may be accessed and considered by the board in any subsequent 30 action commenced against the licensee or registrant within the specified time frame. 31 Complaints, reports and investigation materials placed on file are only confidential to the 32 33 extent that confidentiality is required pursuant to Title 24, chapter 21.

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

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SUMMARY

This bill restores authority to the Board of Dental Practice to issue letters of guidance
involving matters other than a dismissal of a complaint against a licensee.