

MAINE STATE LEGISLATURE

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LAWS
OF THE
STATE OF MAINE

AS PASSED BY THE
ONE HUNDRED AND TWENTY-FIRST LEGISLATURE

FIRST SPECIAL SESSION
August 21, 2003 to August 22, 2003

The General Effective Date For
First Special Session
Non-Emergency Laws Is
November 22, 2003

SECOND REGULAR SESSION
January 7, 2004 to January 30, 2004

The General Effective Date For
Second Regular Session
Non-Emergency Laws Is
April 30, 2004

SECOND SPECIAL SESSION
February 3, 2004 to April 30, 2004

The General Effective Date For
Second Special Session
Non-Emergency Laws Is
July 30, 2004

PUBLISHED BY THE REVISOR OF STATUTES
IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,
TITLE 3, SECTION 163-A, SUBSECTION 4.

Penmor Lithographers
Lewiston, Maine
2004

the priority established by subparagraphs (1) to (3).

3. Judicial review. A payroll processor closed by action of the administrator pursuant to this chapter may bring an action challenging the administrator's appointment of receiver in Superior Court of Kennebec County or of the county in which the processor transacts business within 10 days after the administrator appoints a receiver. The court shall uphold the administrator's finding that a payroll processor is insolvent or that its condition is such as to render its further proceedings hazardous to the public or to those having funds in its custody and shall uphold the appointment of a receiver unless the court finds that the administrator's action was arbitrary and capricious.

Sec. 7. 36 MRSA §112, sub-§4, as repealed and replaced by PL 1999, c. 127, Pt. A, §49, is amended to read:

4. Examination of records and premises. Whenever necessary to the administration of this Title, the assessor may make, or cause to be made by an employee, an examination or investigation of the place of business, books and other documents and any other relevant personal property of any person who the assessor has reason to believe is liable for any tax imposed by this Title. ~~The assessor may also examine the books and records of a payroll processor, as defined in Title 10, section 1495, and client books and records in the possession of a payroll processor.~~

At the conclusion of an audit, the assessor or an agent shall conduct an audit conference with the taxpayer and shall give the taxpayer a written summary of the audit findings, including the legal basis for the audit findings and adjustments, along with copies of relevant bureau audit workpapers.

Sec. 8. 36 MRSA §182, sub-§2, as enacted by PL 2001, c. 583, §8, is repealed.

Sec. 9. 36 MRSA §191, sub-§2, ¶¶AA and BB, as enacted by PL 2003, c. 390, §4, are amended to read:

AA. The disclosure by employees of the bureau to designated representatives of the Finance Authority of Maine of information required to ensure that recipients of certain benefits under Title 20-A, chapter 417-E are eligible to receive such benefits; ~~and~~

BB. The disclosure to an authorized representative of the Department of Human Services, Office of Head Start and Child Care of taxpayer information directly relating to the certification of investments eligible for or the eligibility of a taxpayer for the quality child care investment credit provided by section 5219-Q-; ~~and~~

Sec. 10. 36 MRSA §191, sub-§2, ¶CC is enacted to read:

CC. The disclosure to an authorized representative of the Department of Professional and Financial Regulation of information necessary for the administration of Title 10, chapter 222.

Sec. 11. Appropriations and allocations. The following appropriations and allocations are made.

**PROFESSIONAL AND FINANCIAL REGULATION,
DEPARTMENT OF**

Office of Consumer Credit Regulation

Initiative: Allocates funds for a Senior Consumer Credit Examiner position, a Clerk IV position and All Other administrative costs to administer the licensing program for payroll processors.

Other Special Revenue Funds	2003-04	2004-05
Positions - Legislative Count	(0.000)	(2.000)
Personal Services	\$0	\$109,813
All Other	\$0	\$9,500
	<hr/>	<hr/>
Other Special Revenue		
Funds Total	\$0	\$119,313

Sec. 12. Effective date. This Act takes effect January 31, 2005.

Effective January 31, 2005.

CHAPTER 669

H.P. 1457 - L.D. 1958

**An Act To Implement the
Recommendations of the Joint
Standing Committee on Business,
Research and Economic
Development Regarding the Board of
Dental Examiners Pursuant to
Reviews Conducted under the State
Government Evaluation Act**

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

Sec. 1. 32 MRSA §1071, first ¶, as amended by PL 2001, c. 260, Pt. B, §1, is further amended to read:

The Board of Dental Examiners, established by Title 5, section 12004-A, subsection 10, and in this chapter called the "board," consists of ~~8~~ 9 members, appointed by the Governor as follows: five members of the dental profession, ~~one~~ 2 dental ~~hygienist~~ hygienists, one dentist and one representative of the public.

Sec. 2. 32 MRSA §1071, sub-§3, as amended by PL 1993, c. 600, Pt. A, §56, is further amended to read:

3. Dental hygienists. The dental ~~hygienist~~ hygienists must be qualified pursuant to subchapter ~~IV 4~~, must be ~~a legal resident~~ residents of the State and must have practiced in the State for at least 6 years immediately preceding appointment. The dental hygienist ~~member~~ members of the board ~~is a~~ are full-voting ~~member~~ members of the board. The term ~~of the~~ for a member who is a dental hygienist is 5 years. The Governor may accept nominations from the Maine Dental ~~Hygienists~~ Hygienists' Association and from other organizations and individuals before the appointment of a hygienist to the board. A dental hygienist is not eligible to serve as a member of the board while employed by a dentist who is a member of the board.

Sec. 3. 32 MRSA §§1078 and 1079 are enacted to read:

§1078. Subcommittee on Denturist Discipline

The Subcommittee on Denturist Discipline, referred to in this section as "the subcommittee," is established as follows.

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

A. The denturist who is a member of the board;

B. Two denturists, appointed by the Governor, who are qualified pursuant to subchapter 6, are legal residents of the State and, for appointments made after January 1, 2006, have practiced in the State for at least 6 years immediately preceding appointment; and

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

The subcommittee shall annually elect a chair and a secretary.

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

3. Duties. The subcommittee shall perform an initial review of all complaints initiated pursuant to section 1077 involving denturists. Upon completion of its review of a complaint, the secretary of the subcommittee shall report to the board the subcommittee's recommended disposition of the complaint in accordance with those dispositions authorized by

section 1077. Notwithstanding the provisions of section 1077, the board shall adopt the subcommittee's recommended disposition of a complaint unless no fewer than 2/3 of the board members who are present and voting vote to reject that recommended disposition.

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

§1079. Subcommittee on Dental Hygienist Submissions

The Subcommittee on Dental Hygienist Submissions, referred to in this section as "the subcommittee," is established as follows:

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

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

B. Two dental hygienists, appointed by the Governor, who are qualified pursuant to subchapter 6, are legal residents of the State and have practiced in the State for at least 6 years immediately preceding appointment; and

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

The subcommittee shall annually elect a chair and a secretary.

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

3. Duties. The subcommittee shall perform an initial review of all applications for licensure as a dental hygienist pursuant to section 1097, all submissions relating to continuing education of dental hygienists pursuant to section 1098-B and all submissions relating to public health supervision status of dental hygienists as defined by board rule. Upon completion of its review of an application or submission, the secretary of the subcommittee shall report to the board the subcommittee's recommended disposition of the application or submission, including issuance, renewal, denial or nonrenewal of a dental hygienist license. Notwithstanding the provisions of section 1098, the board shall adopt the subcommittee's recommended disposition of an application or submission unless no fewer than 2/3 of the board

members who are present and voting vote to reject that recommended disposition.

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

Sec. 4. 32 MRSA §1084, as amended by PL 2003, c. 285, §1, is further amended to read:

§1084. Licenses; fees

The board shall issue under its seal to any person who successfully meets all licensure requirements a license to practice dentistry in this State, signed by the members of the board. A dentist shall publicly exhibit the dentist's license. The license is prima facie evidence of authority to practice dentistry in this State, except that it is unlawful for a person to practice dentistry in this State after the expiration date that appears on the license unless the practitioner pays to the board on or before January 1st of even-numbered years a fee of not more than ~~\$400~~ \$550 to be determined by the board, and meets other conditions that the board may require. Upon receipt of the required fee, the board shall issue a renewal of the practitioner's license, which the practitioner shall place beside or attach to the practitioner's initial license. Practitioners who have not paid as provided and who otherwise qualify for renewal may be reinstated upon payment of a fee to be determined by the board of not more than \$200 if paid before February 1st. A license to practice is automatically suspended on February 1st for nonpayment of the license renewal fee and may be reinstated, if approved by the board, on payment of a fee to be determined by the board of not more than ~~\$400~~ \$550. A new applicant having paid the application fee shall pay either the biennial licensure fee, if the applicant applies ~~on~~ in an even-numbered year, or half the biennial licensure fee if the applicant applies in an odd-numbered year.

Sec. 5. 32 MRSA §1084-B is enacted to read:

§1084-B. Mental or physical examination

For the purposes of this section, by application for and acceptance of a license to practice, a licensed dentist is considered to have given consent to a mental or physical examination when directed by the board. The board may direct a dentist to submit to an examination whenever the board determines the dentist may be suffering from a mental illness that may be interfering with the competent practice of dentistry or from the use of intoxicants or drugs to an extent that they are preventing the dentist from practicing dentistry competently and with safety to patients. A dentist examined pursuant to an order of the board may not prevent the testimony of the

examining individual or prevent the acceptance into evidence of the report of an examining individual. Failure to comply with an order of the board to submit to a mental or physical examination results in the immediate suspension of the license of the dentist by order of the District Court until the dentist submits to the examination.

Sec. 6. 32 MRSA §1085, as amended by PL 2003, c. 557, §1, is further amended to read:

§1085. Endorsement; fees

The board is authorized, at its discretion, without the examination as provided, to issue a license to an applicant who furnishes proof, satisfactory to the board, that the applicant has been licensed to practice dentistry in another state or a Canadian province after full compliance with the requirements of its dental laws. If an applicant is licensed to practice dentistry in another state or a Canadian province, that applicant's professional education may not be less than is required in this State and the applicant must have been at least 3 years in actual practice in the state or Canadian province in which the license was granted. Applicants for licensure by endorsement who meet the requirements of this section must be interviewed in person by the board or members of the board, prior to being issued a license. Every license of this type issued by the board must state upon its face the grounds upon which it is issued and the applicant may be required to furnish proof upon affidavit. The fee for the license is determined by the board, but may not be more than ~~\$400~~ \$550.

Sec. 7. 32 MRSA §1097, as amended by PL 1993, c. 600, Pt. A, §81, is further amended to read:

§1097. Application; fee

An eligible person desiring to practice dental hygiene must make written application to the Board of Dental Examiners to take the examination. The application must be accompanied by a fee to be determined by the board not to exceed ~~\$100~~ \$175. Applicants for licensure ~~shall~~ must pay a fee set by the board for the examination. The board may recognize a nationally or regionally administered examination for applicants to practice dental hygiene in the State.

Sec. 8. 32 MRSA §1098, 1st ¶, as amended by PL 1993, c. 600, Pt. A, §82, is further amended to read:

The board shall issue a license to practice as a dental hygienist in this State to an individual who has met the licensure requirements. The license must be exhibited publicly at the person's place of employment. The license authorizes practice as a dental hygienist in this State for the year in which it is issued until the expiration date that appears on the license.

On or before January 1st of each odd-numbered year, the dental hygienist must pay to the board a license renewal fee of not more than ~~\$100~~ \$175 to be determined by the board or 1/2 of the biennial licensure fee if the applicant applies in an even-numbered year. Dental hygienists who have not paid as provided must be reinstated upon payment of a fee of not more than \$50 to be determined by the board if paid before February 1st of the year in which license renewal is due. Failure to be properly licensed by February 1st results in automatic suspension of a license to practice dental hygiene. Reinstatement may be made, if approved by the board, by payment to the secretary-treasurer of the board of a fee determined by the board of not more than ~~\$400~~ \$175.

Sec. 9. 32 MRSA §1098-B, as amended by PL 1993, c. 600, Pt. A, §84, is further amended to read:

§1098-B. Continuing education

As a condition of renewal of a license to practice, a dental hygienist must submit evidence of successful completion of ~~20~~ 30 hours of continuing education consisting of board-approved courses in the 2 years preceding the application for renewal. The board and the dental hygienist shall follow and are bound by the provisions of section 1084-A in the implementation of this section.

Sec. 10. 32 MRSA §§1098-C and 1098-D are enacted to read:

§1098-C. Mental or physical examination

For the purposes of this section, by application for and acceptance of a license to practice, a licensed dental hygienist is considered to have given consent to a mental or physical examination when directed by the board. The board may direct a dental hygienist to submit to an examination whenever the board determines the dental hygienist may be suffering from a mental illness that may be interfering with the competent practice of dental hygiene or from the use of intoxicants or drugs to an extent that they are preventing the dental hygienist from practicing dental hygiene competently and with safety to patients. A dental hygienist examined pursuant to an order of the board may not prevent the testimony of the examining individual or prevent the acceptance into evidence of the report of an examining individual. Failure to comply with an order of the board to submit to a mental or physical examination results in the immediate suspension of the license of the dental hygienist by order of the District Court until the dental hygienist submits to the examination.

§1098-D. Licensure requirements for graduates of accredited programs

In order to be licensed as a dental hygienist under this chapter, a person who is a graduate of a dental hygiene program approved by the American Dental Association Commission on Dental Accreditation or its successor organization must meet one of the following 2 sets of requirements:

1. Standard licensure. For standard licensure, the applicant must:

A. Have received, at least, an associate degree from a dental hygiene program accredited by the American Dental Association Commission on Dental Accreditation or its successor organization and have provided a notarized statement from the dean of the school affirming that the applicant has met all applicable degree requirements;

B. Have completed with a passing grade the National Board Dental Hygiene Examination or the successor to that examination;

C. Have completed with a passing grade the Northeast Regional Board Dental Hygiene Examination or the successor to that examination;

D. Have completed with a passing grade the jurisprudence examination given by the board; and

E. For any applicant who has completed the Northeast Regional Board Dental Hygiene Examination or the successor to that examination more than one year prior to application for licensure in the State, have successfully completed a personal interview before the board; or

2. Licensure by endorsement. For licensure by endorsement, the applicant must:

A. Have graduated from an accredited dental hygiene program;

B. If the candidate graduated subsequent to 1964, have completed with a passing grade the National Board Dental Hygiene Examination, or the successor to that examination, if such examination was required;

C. Have furnished proof, satisfactory to the board, that the candidate has been duly licensed to practice dental hygiene in another state after full compliance with its laws;

D. If the candidate graduated subsequent to 1970, have completed with a passing grade the Northeast Regional Board Dental Hygiene Examination, or the successor to that examination, if such examination was required, except that the

board may at its discretion waive the Northeast Regional Board Dental Hygiene Examination, or the successor to that examination, if all other requirements of this subsection have been met;

E. Have engaged in active clinical practice for a minimum of 5 years prior to application;

F. Have completed with a passing grade the jurisprudence examination given by the board; and

G. Have successfully completed a personal interview before the board.

The board may at its discretion waive the Northeast Regional Board Dental Examination, or the successor to that examination, if all other requirements have been met.

Sec. 11. 32 MRSA §1099, as amended by PL 2003, c. 557, §2, is further amended to read:

§1099. Endorsement

The board may at its discretion, without examination, issue a license to an applicant to practice dental hygiene who furnishes proof satisfactory to the board that the dental hygienist has been duly licensed to practice in another state or a Canadian province after full compliance with the requirements of its dental laws, except that the professional education may not be less than is required in this State. The board may require letters of reference as to ability. Applicants for licensure by endorsement who meet the requirements of this section must be interviewed in person by the board or members of the board prior to being issued a license. Every license so given must state upon its face that it was granted on the basis of endorsement. The fee for that license must be determined by the board, but may not be more than ~~\$400~~ \$175.

Sec. 12. 32 MRSA §1100-D, sub-§3, as amended by PL 1995, c. 590, §6, is further amended to read:

3. Application for examination; fee. An eligible person desiring to take an examination in order to become licensed as a dentist ~~shall~~ must make a written application to the board to take the examination. This application must be accompanied by an application fee, to be determined by the board, but not to exceed ~~\$400~~ \$175 and an examination fee to be determined by the board that may not exceed the actual cost of the examination. The application fee includes the fee for the initial license and is nonrefundable.

Sec. 13. 32 MRSA §1100-E, sub-§3, as amended by PL 1995, c. 590, §7, is further amended to read:

3. Renewal; renewal fee. After a license has been issued under subsection 2, and on or before January 1st of odd-numbered years, a dentist must pay to the board a license renewal fee of not more than ~~\$100~~ \$175 to be determined by the board in order to renew the license and to continue to be authorized to practice as a dentist in the State or 1/2 the biennial licensure fee if application is made in an even-numbered year.

After the requirements for a license renewal, including any necessary continuing education, have been met, a renewal card of the dentist's license must be issued, which the dentist shall place beside or attach to the dentist's initial license. Dentists who have not paid as provided by January 1st must be reinstated upon payment of a fee, to be determined by the board, of not more than \$50 if paid by February 1st. A license to practice is automatically suspended on February 1st and may be reinstated, if approved by the board, on payment of a fee to be determined by the board of not more than ~~\$400~~ \$175.

Sec. 14. 32 MRSA §1100-E, sub-§4, as amended by PL 2001, c. 260, Pt. B, §4, is further amended to read:

4. Endorsement. The board, at its discretion, without examination, may issue a license to an applicant to practice as a dentist who furnishes proof satisfactory to the board that the dentist has been licensed to practice and has actively practiced for a period of 3 years in another state or Canadian province after full compliance with the requirements of its dental laws, if the licensure requirements are, in all essentials, at least equivalent to those of this State. The board may require letters of reference about the dentist. Applicants for licensure by endorsement who meet the requirements of this section must be interviewed in person by the board, or members of the board, prior to being issued a license. Every license so given must state upon its face that it was granted on the basis of endorsement. The fee for the license may not exceed ~~\$400~~ \$175.

Sec. 15. 32 MRSA §1100-N, as amended by PL 1993, c. 600, Pt. A, §99, is further amended to read:

§1100-N. Application

To apply for a license to practice dental radiography, an applicant ~~shall~~ must submit a written application with supporting documents to the board, on forms provided by the board, and ~~shall~~ must pay an application fee, which may not exceed ~~\$50~~ \$125.

Sec. 16. 32 MRSA §1100-O, sub-§1, as amended by PL 1993, c. 600, Pt. A, §99, is further amended to read:

1. Term of license; renewal. All licenses to practice dental radiography issued by the board are valid for 5 years from the date of issuance and may be renewed upon application to the board and payment of a renewal fee, which may not exceed ~~\$50~~ \$125.

Sec. 17. 32 MRSA §1100-S is enacted to read:

§1100-S. Mental or physical examination

For the purposes of this section, by application for and acceptance of a license to practice, a licensed dental radiographer is considered to have given consent to a mental or physical examination when directed by the board. The board may direct a dental radiographer to submit to an examination whenever the board determines the dental radiographer may be suffering from a mental illness that may be interfering with the competent practice of dental radiography or from the use of intoxicants or drugs to an extent that they are preventing the dental radiographer from practicing dental radiography competently and with safety to patients. A dental radiographer examined pursuant to an order of the board may not prevent the testimony of the examining individual or prevent the acceptance into evidence of the report of an examining individual. Failure to comply with an order of the board to submit to a mental or physical examination results in the immediate suspension of the license of the dental radiographer by order of the District Court until the dental radiographer submits to the examination.

Sec. 18. Existing members. The dentist members of the Board of Dental Examiners holding office on the effective date of this Act hold office as members of the board for the terms for which they were appointed. The first dentist board member position that expires after the effective date of this Act is terminated upon expiration. Upon termination of the dentist board member position, the dental hygienist board member position created pursuant to this Act is established.

Sec. 19. Denturist scope of practice and sunrise review. The Commissioner of Professional and Financial Regulation shall, pursuant to the Maine Revised Statutes, Title 32, chapter 1-A, subchapter 2, conduct an independent assessment concerning expansion of the scope of practice of denturists under Title 32, section 1100-B to include fabrication and insertion of partial dentures and dentures over implants. The commissioner shall submit a report to the joint standing committee of the Legislature having jurisdiction over business, research and economic development issues no later than January 15, 2005. That joint standing committee is authorized to introduce a bill to the First Regular Session of the 122nd Legislature expanding the scope of practice of

denturists to include partial dentures and dentures over implants.

Sec. 20. Appropriations and allocations. The following appropriations and allocations are made.

**PROFESSIONAL AND FINANCIAL REGULATION,
DEPARTMENT OF**

Board of Dental Examiners 0384

Initiative: Provides funds for one Clerk Typist III position, per diem and all other costs associated with the operation of the newly formed Subcommittee on Denturist Discipline and the Subcommittee on Dental Hygienist Submissions as well as the additional per diem and all other costs for one additional member of the Board of Dental Examiners.

Other Special Revenue Funds	2003-04	2004-05
Positions - Legislative Count	(0.000)	(1.000)
Personal Services	\$0	\$51,910
All Other	0	42,343
Other Special Revenue		
Funds Total	\$0	\$94,253

See title page for effective date.

CHAPTER 670

H.P. 972 - L.D. 1318

An Act To Promote the Public Interest by Providing for Reasonable Rates of Compensation for Forest Products Harvesting and Hauling Services

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

Sec. 1. 26 MRSA §931, first ¶, as amended by PL 1991, c. 798, §3, is further amended to read:

The State Board of Arbitration and Conciliation, in this subchapter called the "board," consists of 3 members appointed by the Governor from time to time upon the expiration of the terms of the several members, for terms of 3 years. One member must be an employer of labor or selected from some association representing employers of labor, and another must be an employee or selected from some bona fide trade or labor union. The 3rd member must represent the public interests of the State and serves as chair. Vacancies occurring during a term must be filled for the unexpired term. Members of the board are entitled to receive \$75 a day for their services for the time actually employed in the discharge of their official duties. They are entitled to receive their traveling and all other necessary expenses. The costs for services rendered and expenses incurred by the State Board of