

PLEASE NOTE: Legislative Information **cannot** perform research, provide legal advice, or interpret Maine law. For legal assistance, please contact a qualified attorney.

An Act To Improve Access to Dental Care through the Establishment of the Maine Board of Oral Health

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

Sec. 1. 3 MRSA §959, sub-§1, ¶C, as amended by PL 2013, c. 588, Pt. E, §1 and affected by §2, is further amended to read:

C. The joint standing committee of the Legislature having jurisdiction over business, research and economic development matters shall use the following list as a guideline for scheduling reviews:

(1) Maine Development Foundation in 2021;

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

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

(23) Maine State Housing Authority in 2015;

(32) Finance Authority of Maine in 2017;

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

(37) Board of Osteopathic Licensure in 2019;

(38) Board of Licensure in Medicine in 2019;

(41) State Board of Nursing in 2019;

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

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

(46) Maine Board of Oral Health in 2021.

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

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

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

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

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

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

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

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

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

28-A.

Maine Board of Oral Health

Legislative Per Diem
secretary-treasurer, as
determined by board

32 MRSA §1071

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

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

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

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

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

N. State Board of Alcohol and Drug Counselors; and

O. State Board of Examiners of Psychologists; and

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

P. Maine Board of Oral Health.

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

1. Board. "Board" means the Board of Licensure in Medicine, the Maine Board of Dental ExaminersOral Health or the Board of Osteopathic Licensure.

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

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

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

2. Dentists. The Governor may accept nominations from the Maine Dental Associationa statewide association of dentists and from other organizations and individuals.

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

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

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

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

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

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

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

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

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

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

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

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

4. Protocols for professional review committee. ~~Establish~~Through its subcommittees, establish protocols for the operation of a professional review committee as defined in Title 24, section 2502, subsection 4-A. The protocols must include the committee reporting information the board ~~considers~~and subcommittees consider appropriate regarding reports received, contracts or investigations made and the disposition of each report, ~~provided that~~as long as the committee is not required to disclose any personally identifiable information. The protocols may not prohibit an impaired ~~dentist~~dental professional from seeking alternative forms of treatment.

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

§ 1076. Budget

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

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

§ 1077. Disciplinary actions

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

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

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

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

- A. With the consent of the licensee, enter into a consent agreement that takes any action authorized by Title 10, section 8003, subsection 5 or Title 10, section 8003-D. A consent agreement may be used to terminate a complaint investigation, if entered into by the board and subcommittee, the licensee and the Attorney General's office;
- B. In consideration for acceptance of a voluntary surrender of the license, if a consent agreement is signed by the board through the subcommittee, the licensee and the Attorney General's office, negotiate stipulations, including terms and conditions for reinstatement, that ensure protection of the public health and safety and that serve to rehabilitate or educate the licensee;
- C. If the ~~board~~subcommittee concludes that denial of initial licensure or modification or nonrenewal of an existing license is in order, the board and subcommittee may refer the complaint to a dental adjudicatory panel, convened pursuant to section 1080, for the purpose of holding an adjudicatory hearing in accordance with the provisions of the Maine Administrative Procedure Act, Title 5, chapter 375, subchapter 4; or
- D. If the ~~board~~subcommittee concludes that suspension or revocation of the license is in order, the board may file a complaint in the District Court in accordance with Title 4, chapter 5.

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

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

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

- A. The practice of fraud or deceit in obtaining a license under this chapter or in connection with service rendered within the scope of the license issued;
- B. Misuse of alcohol, drugs or other substances that has resulted or may result in the licensee performing services in a manner that endangers the health or safety of patients;
- C. A professional diagnosis of a mental or physical condition that has resulted or may result in the licensee performing services in a manner that endangers the health or safety of patients;
- D. Aiding or abetting the practice of a dental profession by an individual who is not licensed under this chapter and who claims to be legally licensed;
- E. Incompetence in the practice for which the licensee is licensed. A licensee is considered incompetent in the practice if the licensee has:
 - (1) Engaged in conduct that evidences a lack of ability or fitness to perform the duties owed by the licensee to a client or patient or the general public; or
 - (2) Engaged in conduct that evidences a lack of knowledge or inability to apply principles or skills to carry out the practice for which the licensee is licensed;
- F. Unprofessional conduct. A licensee is considered to have engaged in unprofessional conduct if the licensee violates a standard of professional behavior that has been established in the practice for which the licensee is licensed;
- G. Subject to the limitations of Title 5, chapter 341, conviction of a crime that involves dishonesty or false statement or that relates directly to the practice for which the licensee is licensed, or conviction of a crime for which incarceration for one year or more may be imposed;
- H. A violation of this chapter or a rule adopted by the board and the subcommittee; or
- I. Engaging in false, misleading or deceptive advertising.

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

§ 1078.Subcommittee on Denturists

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

- 1. Membership.** The subcommittee consists of 54 members as follows:

- A. ~~The dentist~~2 denturists ~~who is a member~~are members 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~~One dentist ~~who are members~~is a member of the board, appointed by the president of the board; ~~and~~
- D. A public representative who is a member of the board.

The subcommittee shall annually elect a chair and a secretary.

2. Terms. ~~Each of the 3~~The 4 members of the subcommittee ~~who also are members of the board shall serve on the subcommittee for the duration of that member's term~~their terms 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:

A. 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~~more than 2/3 of the board members who are present and voting vote to reject that recommended disposition; and the board makes a specific finding that a recommendation:

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

B. Perform an initial review of all applications for licensure as a denturist pursuant to section 1100-D and all submissions relating to continuing education of denturists pursuant to section 1100-E-1. 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 denturist license. Notwithstanding the provisions of section 1100-E, the board shall adopt the subcommittee's recommended disposition of an application or submission unless ~~no fewer~~more than 2/3 of the board members who are present and voting vote to reject that recommended disposition;and the board makes a specific finding that a recommendation:

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

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.

5. Rulemaking; proposals originate with subcommittee. Beginning September 1, 2014, any rule involving denturist licensure, including interviews for licensing and renewal, continuing education, discipline and inactive licensure status, may not be adopted by the board pursuant to section 1073, subsection 2 or section 1100-C unless it originates from a recommendation by the subcommittee to the board. The secretary of the subcommittee shall report to the board the proposed rule, and the board shall take action on it at the first meeting of the board following the subcommittee's report to the board. The board shall either vote to proceed with the rule-making process in accordance with the Maine Administrative Procedure Act using the subcommittee's proposed rule or, by a vote of more than 2/3 of the board members present and voting, to submit a revision of the proposed rule to the subcommittee for its consideration. The subcommittee shall either accept or reject the board's revision to the rule, and the secretary shall report the subcommittee's final decision to the board. The board shall vote to accept the final recommendation of the subcommittee and proceed with the rule-making process in accordance with the Maine Administrative Procedure Act using the subcommittee's final recommendation for the proposed rule or to reject the recommendation proposed by the subcommittee. A vote to reject the recommendation proposed by the subcommittee requires a vote of more than 2/3 of the board members present and voting, as well as a specific finding that the final recommendation of the subcommittee:

- A. Is beyond the jurisdiction of the subcommittee;
- B. Places an undue financial burden upon the board; or
- C. Is not supported by the record.

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

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

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

§ 1079. Subcommittee on Dental Hygienists

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

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

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

B. ~~Two~~Three dental hygienists, one of whom must be a licensed dental hygienist, one of whom must be an independent practice dental hygienist and one of whom must be a dental hygienist with public health supervision status, as defined by board rule, appointed by the Governor from a list of nominees provided by a statewide association of dental hygienists, who are qualified pursuant to subchapter 64, are legal residents of the State and have practiced in the State for at least 6 years immediately preceding appointment. One of the dental hygienists must be a member of the board; and

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

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

The subcommittee shall annually elect a chair and a secretary.

2. Terms. ~~Each of the 3 members~~The member of the subcommittee who also ~~are members~~is a member of the board ~~shall serve~~serves on the subcommittee for the duration of ~~that~~the 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~~:

A. ~~Perform~~Shall perform an initial review of all complaints initiated pursuant to section 1077 involving dental hygienists, independent practice dental hygienists, dental hygienists with public health supervision status, as defined by board rule, and other dental hygiene-related professions. 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~~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;~~ and makes a specific finding that the recommendation:

(1) Is beyond the jurisdiction of the subcommittee;

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

(3) Is not supported by the record.

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

B. ~~Perform~~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 sections 1098-B and 1099 ~~and~~, all submissions relating to public health supervision status of dental hygienists as defined by board rule and all submissions relating to independent practice dental hygienists and other dental hygiene-related professions. 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.~~the board makes a specific finding that a recommendation:

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

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

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

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

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

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

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

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

§ 1079-A. Subcommittee on Dentists

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

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

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

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

The subcommittee shall annually elect a chair and a secretary.

2. Terms. The member of the subcommittee who is a member of the board serves on the subcommittee for the duration of the 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:

A. Shall perform an initial review of all complaints initiated pursuant to section 1077 involving dentists. 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. The board shall adopt the subcommittee's recommended disposition of a complaint unless the board makes a specific finding that the recommendation:

(1) Is beyond the jurisdiction of the subcommittee;

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

(3) Is not supported by the record.

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

B. Shall perform an initial review of all applications for licensure as a dentist pursuant to section 1083 and all submissions relating to continuing education of dentists pursuant to section 1084-A. 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 dentist license. Notwithstanding the provisions of section 1084, the board shall adopt the subcommittee's recommended disposition of an application or submission unless the board makes a specific finding that the recommendation:

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

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

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

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

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

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

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

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

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

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

§ 1095. Definition

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

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

§ 1097. Application; fee

An eligible person desiring to practice dental hygiene must make written application to the Maine Board of Dental Examiners Oral Health to take the examination. The application must be accompanied by a fee to be determined by the board not to exceed \$175. Applicants for licensure 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. 28. 32 MRSA §1098-E, as enacted by PL 2005, c. 198, §1, is amended to read:

§ 1098-E. Temporary filling procedures

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

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

§ 1100-A. Definition

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

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

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

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

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

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

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

SUMMARY

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

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

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

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