

STATE OF MAINE

—
IN THE YEAR OF OUR LORD
TWO THOUSAND TWENTY-FOUR

—
H.P. 1302 - L.D. 2040

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

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

Whereas, current law does not allow the Board of Dental Practice to issue letters of guidance in matters not relating to complaints filed against licensees; and

Whereas, the board uses letters of guidance primarily to educate licensees in matters involving licensure applications and supervision responsibilities without filing formal complaints; and

Whereas, the board has many cases aging on its docket and requiring a formal complaint to be filed to resolve any matter necessitating a letter of guidance would reduce the efficiency of the board, take up more board staff time and prevent the board from addressing other matters; and

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,

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

Sec. 1. 24 MRSA §2510, sub-§2-A, as enacted by PL 1997, c. 680, Pt. D, §4, is amended to read:

2-A. Confidentiality of letters of guidance or concern. Letters of guidance or concern issued by the board pursuant to Title 10, section 8003, subsection 5, paragraph E; or Title 32, section 18325, subsection 3 are not confidential.

Sec. 2. 32 MRSA §18325, sub-§3 is enacted to read:

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

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 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 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 confidential. The board may place a letter of guidance or concern, together with any underlying complaint, report and investigation materials, in a licensee's or registrant's file 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 action commenced against the licensee or registrant within the specified time frame. Complaints, reports and investigation materials placed on file are only confidential to the 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.