

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 Establish the Dental Adjudicatory Panel

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

Sec. 1. 5 MRSA §12004-A, sub-§10-A is enacted to read:

10-A.

Dental Adjudicatory Panel

Travel Expenses

32 MRSA §1080

Sec. 2. 32 MRSA §1077, sub-§1, as corrected by RR 2009, c. 2, §87, is amended to read:

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

The board 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 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, the factual basis of the complaint is or may be true, and the complaint is of sufficient gravity to warrant further action, the board may request an informal conference with the licensee. The board 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, 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 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 fixes the period and terms of probation best adapted to protect the public health and safety and to rehabilitate or educate the licensee. A consent agreement may be used to terminate a complaint investigation, if entered into by the board, 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, 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 concludes that modification or nonrenewal of the license is in order, the board shall ~~hold~~refer the complaint to the Dental Adjudicatory Panel established in 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, except that the Maine Rules of Evidence apply to all adjudicatory hearings; or

D. If the board concludes that suspension or revocation of the license is in order, the board shall notify the licensee of the reasons for the suspension or revocation and the facts on which they are based, and the licensee has the right to request an informal conference with the members of the board. If the board continues to believe that suspension or revocation of the license is in order, the board shall file a complaint in the District Court in accordance with Title 4, chapter 5.

The authority to take action pursuant to Title 10, section 8003, subsection 5, paragraph A1, subparagraphs (2) to (4) and paragraph C, subparagraph (3) is granted to the Dental Adjudicatory Panel and not to the board.

Sec. 3. 32 MRSA §1080 is enacted to read:

§ 1080. Dental Adjudicatory Panel

The Dental Adjudicatory Panel, referred to in this section as "the panel," is established.

1. Purpose of the panel. The purpose of the panel is to provide for an adjudicatory hearing independent of the board after the board conducts the initial investigation of a complaint against a licensee and refers the complaint to the panel.

2. Appointments. The panel consists of 5 members appointed by the Governor as follows:

A. One member must be a dental hygienist;

B. One member must be a denturist; and

C. Three members must be dentists.

A member must be licensed to practice in this State and may not be a member of the board.

3. Terms. Members of the panel serve at the pleasure of the Governor and must be appointed for 5 year terms. A member may continue to serve until that member's replacement is appointed and confirmed. A vacancy must be filled for the remainder of the unexpired term. Members may be reappointed.

4. Chair. The panel shall each year select a chair from among its membership. A member may serve as chair for more than one term.

5. Responsibilities. The panel has the following responsibilities and authority.

A. Upon referral of a complaint to the panel by the board pursuant to section 1077, subsection 1, paragraph C, the panel shall hold an adjudicatory hearing in accordance with the provisions of Title 5, chapter 375, subchapter 4, except that the Maine Rules of Evidence apply to all adjudicatory hearings.

B. Upon completion of the adjudicatory hearing, the panel may:

(1) Modify or refuse to renew the license of the licensee who is the subject of the complaint; or

(2) Dismiss the complaint.

6. Compensation. Members of the panel are entitled to compensation according to Title 5, section 12004A, subsection 10A.

7. Panel meetings. The panel shall meet at the request of the board or at the discretion of the chair of the panel. Any 3 members of the panel may call a meeting.

8. Quorum. Four of the members of the panel constitute a quorum.

9. Records and meetings. All meetings and records of the panel are subject to the provisions of Title 1, chapter 13.

Sec. 4. Staggered terms. Notwithstanding the Maine Revised Statutes, Title 32, section 1080, subsection 3, the initial appointment to the Dental Adjudicatory Panel of a dental hygienist and one of the dentists must be for 3 years, and the initial appointment of the denturist and one of the dentists must be for 4 years.

SUMMARY

This bill establishes the Dental Adjudicatory Panel for the purpose of conducting adjudicatory hearings for the Board of Dental Examiners. These adjudicatory hearings must utilize the Maine Rules of Evidence. Members of the panel may not be members of the Board of Dental Examiners.

The bill also makes a change in the process by which the Board of Dental Examiners files a complaint in the District Court to suspend or revoke a license. Before filing such a complaint, the board shall notify the licensee of reasons for the suspension or revocation and provide the licensee with an opportunity for an informal conference with the members of the board.