



# 126th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2013

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Legislative Document

No. 1230

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H.P. 870

House of Representatives, March 26, 2013

### An Act To Improve Access to Oral Health Care

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Reference to the Committee on Labor, Commerce, Research and Economic Development suggested and ordered printed.

*Millicent M. MacFarland*  
MILLICENT M. MacFARLAND  
Clerk

Presented by Speaker EVES of North Berwick.

Cosponsored by Representative SIROCKI of Scarborough, Senator BURNS of Washington and Representatives: BEAVERS of South Berwick, BOLAND of Sanford, CAMPBELL of Newfield, CASSIDY of Lubec, CHIPMAN of Portland, CROCKETT of Bethel, DAVIS of Sangerville, DUNPHY of Embden, EVANGELOS of Friendship, FARNSWORTH of Portland, GATTINE of Westbrook, GIFFORD of Lincoln, GOODE of Bangor, HAMANN of South Portland, HARVELL of Farmington, JORGENSEN of Portland, KESCHL of Belgrade, KINNEY of Limington, KNIGHT of Livermore Falls, KORNFIELD of Bangor, LIBBY of Waterboro, MASTRACCIO of Sanford, MORIARTY of Cumberland, ROTUNDO of Lewiston, SCHNECK of Bangor, SHAW of Standish, SOCTOMAH of the Passamaquoddy Tribe, STUCKEY of Portland, THERIAULT of Madawaska, TURNER of Burlington, WALLACE of Dexter, Senators: CRAVEN of Androscoggin, HASKELL of Cumberland, HILL of York, JACKSON of Aroostook, MAZUREK of Knox, PATRICK of Oxford, PLUMMER of Cumberland, TUTTLE of York, WOODBURY of Cumberland.

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

2 **Sec. 1. 32 MRSA c. 16, sub-c. 3-C** is enacted to read:

3 **SUBCHAPTER 3-C**

4 **DENTAL HYGIENE THERAPIST**

5 **§1094-AA. Dental hygiene therapist**

6 A dental hygienist or independent practice dental hygienist licensed by the board  
7 pursuant to this chapter may practice as a licensed dental hygiene therapist to the extent  
8 permitted by this subchapter. To qualify for licensure under this subchapter as a dental  
9 hygiene therapist, a person shall apply to the board on forms provided by the board, pay  
10 the application fee under section 1094-DD and demonstrate to the board that the  
11 applicant:

12 **1. Licensure.** Possesses a valid license to practice dental hygiene or independent  
13 practice dental hygiene pursuant to this chapter or qualifies for licensure to practice by  
14 endorsement pursuant to section 1094-L;

15 **2. Education and experience.** Has graduated from a dental hygiene therapy  
16 education program that:

17 A. Meets the standards adopted in this State for the certification of a degree-granting  
18 program in dental hygiene therapy at an accredited postsecondary institution;

19 B. Is consistent with the model curriculum for educating dental hygiene therapists  
20 adopted by the American Association of Public Health Dentistry, or a successor  
21 organization, is consistent with existing dental hygiene therapy programs in other  
22 states and is approved by the Commissioner of Health and Human Services and the  
23 Commissioner of Professional and Financial Regulation; and

24 C. Meets the requirements for dental hygiene therapy education programs adopted by  
25 the board;

26 **3. Examination.** Has passed a comprehensive, competency-based clinical  
27 examination approved by the board and administered independently of an institution  
28 providing dental hygiene therapy education and has passed an examination of the  
29 applicant's knowledge of Maine laws and rules relating to the practice of dentistry; and

30 **4. Supervised clinical practice.** Has completed 500 hours of supervised clinical  
31 practice under the supervision of a dentist licensed under this chapter and in conformity  
32 with rules adopted by the board, during which supervised clinical practice the applicant  
33 holds a provisional dental hygiene therapy license pursuant to section 1094-BB.

34 **§1094-BB. Provisional dental hygiene therapy license**

35 The board shall issue a provisional dental hygiene therapy license to an applicant for  
36 licensure under this subchapter who has met the requirements of section 1094-AA,

1 subsections 1 to 3 and rules adopted by the board and who has paid a fee established by  
2 the board of not more than \$175. During the period of provisional licensure the applicant  
3 shall maintain in good standing the applicant's license to practice as a dental hygienist or  
4 an independent practice dental hygienist. During the period of provisional licensure the  
5 applicant may be compensated for services performed as a dental hygiene therapist.

6 **§1094-CC. Dental coverage and reimbursement**

7 Any service performed by a dentist, dental assistant or dental hygienist licensed in  
8 this State that is reimbursed by private insurance, a dental service corporation, the  
9 MaineCare program under Title 22 or the Cub Care program under Title 22, section  
10 3174-T must also be covered and reimbursed when performed by a dental hygiene  
11 therapist authorized to practice under this subchapter.

12 **§1094-DD. License; fees; discontinuation of license**

13 The board shall issue a license to practice as a dental hygiene therapist to an applicant  
14 for licensure under this subchapter who has met the requirements of this subchapter and  
15 rules adopted pursuant to the subchapter for licensure and has paid the application fee of  
16 not more than \$175. A dental hygiene therapist shall publicly exhibit the license at the  
17 therapist's place of business or employment. The initial date of expiration of the license  
18 must be the original expiration date of the dental hygiene therapist's dental hygienist  
19 license issued by the board pursuant to subchapter 4 or, for an independent practice dental  
20 hygienist licensed by endorsement, January 1st of the first odd-numbered year following  
21 initial licensure. On or before January 1st of each odd-numbered year, a dental hygiene  
22 therapist shall pay to the board a license renewal fee. The board may renew the license of  
23 a dental hygiene therapist who meets the requirements for continued licensure and pays a  
24 renewal fee and a late fee by February 1st in the year in which renewal is due. The board  
25 shall suspend the license of a dental hygiene therapist who does not renew a license by  
26 February 1st in the year that renewal is due. The board may renew the license of a dental  
27 hygiene therapist who pays a renewal fee and a reinstatement fee as required by the  
28 board.

29 **§1094-EE. Continuing education**

30 As a condition of renewal of a license to practice under this subchapter, a dental  
31 hygiene therapist shall submit evidence of successful completion of 35 hours of  
32 continuing education in the 2 years prior to renewal. Continuing education under this  
33 section must be in conformity with the provisions of section 1084-A and must include  
34 board-approved courses, including but not limited to a course in cardiopulmonary  
35 resuscitation. The board may refuse renewal to an applicant who has not satisfied the  
36 requirements of this section or may renew a license on terms and conditions set by the  
37 board.

38 **§1094-FF. Limitation of practice**

39 Upon completion of 500 hours of supervised clinical practice under section 1094-AA,  
40 subsection 4 a dental hygiene therapist may provide services within the scope of practice  
41 provided in section 1094-HH and under the general supervision of a dentist in the

1 following health settings: a hospital; a clinic; a health center reimbursed as a federally  
2 qualified health center as defined in 42 United States Code, Section 1395x(aa)(4) (1993)  
3 or that has been determined by the federal Department of Health and Human Services,  
4 Centers for Medicare and Medicaid Services to meet the requirements for funding under  
5 Section 330 of the Public Health Service Act, 42 United States Code, Section 254(b); a  
6 federally qualified health center licensed in this State; a public health setting that serves  
7 underserved populations as recognized by the federal Department of Health and Human  
8 Services; a setting in a county designated as a dental shortage area by the federal  
9 Department of Health and Human Services; or a private dental practice that serves a  
10 population that is at least 25% patients covered by the MaineCare program under Title 22  
11 or underserved adults.

12 **§1094-GG. Written practice agreement; standing orders**

13 A dental hygiene therapist may practice only under the supervision of a dentist who is  
14 licensed in this State and through a written practice agreement signed by both parties.  
15 For the purposes of this section, a written practice agreement is a signed document that,  
16 in conformity with the legal scope of practice provided in section 1094-HH, outlines the  
17 functions that the dental hygiene therapist is authorized to perform. A dental hygiene  
18 therapist may practice only under the standing order of a dentist, may provide only care  
19 that follows written protocols and may provide only services that the dental hygiene  
20 therapist is authorized to provide by that dentist.

21 **1. Limitation.** A dental hygiene therapist may provide services to a patient who has  
22 not first seen a dentist for an examination if the supervising dentist has given the dental  
23 hygiene therapist written authorization and standing protocols for the services and  
24 reviews the patient records at least once in a 12-month period, as provided in the written  
25 practice agreement. The standing protocols may require the supervising dentist to  
26 personally examine patients either face-to-face or by the use of electronic means.

27 **2. Minimum written practice agreement requirements.** A written practice  
28 agreement between a supervising dentist and a dental hygiene therapist must include the  
29 following elements:

30 A. The services and procedures and the practice settings for those services and  
31 procedures that the dental hygiene therapist may provide, together with any  
32 limitations on those services and procedures;

33 B. Any age-specific and procedure-specific practice protocols, including case  
34 selection criteria, assessment guidelines and imaging frequency;

35 C. Procedures to be used with patients treated by the dental hygiene therapist for  
36 obtaining informed consent and for creating and maintaining dental records;

37 D. A plan for review of patient records by the supervising dentist and the dental  
38 hygiene therapist;

39 E. A plan for managing medical emergencies in each practice setting in which the  
40 dental hygiene therapist provides care;

1 F. A quality assurance plan for monitoring care, including patient care review,  
2 referral follow-up and a quality assurance chart review;

3 G. Protocols for administering and dispensing medications, including the specific  
4 circumstances under which medications may be administered and dispensed;

5 H. Criteria for providing care to patients with specific medical conditions or complex  
6 medical histories, including requirements for consultation prior to initiating care; and

7 I. Specific written protocols, including a plan for providing clinical resources and  
8 referrals, governing situations in which the patient requires treatment that exceeds the  
9 scope of practice or capabilities of the dental hygiene therapist.

10 **3. Responsibility.** The supervising dentist shall accept responsibility for all  
11 authorized services and procedures performed by the dental hygiene therapist pursuant to  
12 the written agreement. A dental hygiene therapist who provides services or procedures  
13 beyond those authorized in the written agreement engages in unprofessional conduct for  
14 the purposes of this chapter.

15 **4. Revision.** Revisions to the written practice agreement must be documented in a  
16 new written practice agreement signed by the supervising dentist and the dental hygiene  
17 therapist.

18 **5. Requirements.** A supervising dentist and a dental hygiene therapist who sign a  
19 written practice agreement shall each file a copy of the agreement with the board, keep a  
20 copy for the dentist's or dental hygiene therapist's own records and make a copy available  
21 to patients of the dental hygiene therapist upon request. The copy of the written practice  
22 agreement in the records of the board must be made available to the public upon request.

23 **§1094-HH. Scope of practice**

24 A dental hygiene therapist may provide the care and services listed in this section and  
25 may provide them only under the general supervision of a dentist. A dental hygiene  
26 therapist practicing under general supervision of a dentist may perform all duties of a  
27 dental hygiene therapist listed in rules adopted by the board. A dental hygiene therapist  
28 who is licensed as a dental hygienist may perform all of the duties of a dental hygienist  
29 under this chapter. A dental hygiene therapist who is licensed as an independent practice  
30 dental hygienist may perform all of the duties of an independent practice dental hygienist.  
31 A dental hygiene therapist may:

32 **1. Assessments and treatments; preparations; restorations.** Perform oral health  
33 assessments, pulpal disease assessments for primary and young teeth, simple cavity  
34 preparations and restorations and simple extractions;

35 **2. Crowns; space maintainers.** Prepare and place stainless steel crowns and  
36 aesthetic anterior crowns for primary incisors and prepare, place and remove space  
37 maintainers;

38 **3. Referrals.** Provide referrals;

39 **4. Anesthesia.** Administer local anesthesia and nitrous oxide analgesia;

1            **5. Preventive services.** Perform preventive services;

2            **6. Management of dental trauma, minor surgical care and suturing; extractions.**  
3            Conduct urgent management of dental trauma, perform minor surgical care and suturing  
4            and extract primary and permanent teeth;

5            **7. Prescribe.** Prescribe anti-inflammatories, analgesics, antimicrobials, antibiotics  
6            and anticaries materials in consultation with the supervising dentist or through standing  
7            orders from the supervising dentist;

8            **8. Radiographs.** Administer radiographs; and

9            **9. Other related services and functions.** Perform other related services and  
10           functions authorized by the supervising dentist and for which the dental hygiene therapist  
11           is trained.

12           **§1094-II. Supervision of dental hygienists and dental assistants**

13           A dental hygiene therapist may supervise dental assistants and dental hygienists to  
14           the extent permitted in the written practice agreement entered into under section  
15           1094-GG. A dental hygiene therapist may not supervise more than 3 dental assistants and  
16           2 dental hygienists in any one practice setting.

17           **§1094-JJ. Referrals**

18           A supervising dentist shall arrange for another dentist or specialist to provide any  
19           services needed by a patient of a dental hygiene therapist supervised by that dentist that  
20           are beyond the scope of practice of the dental hygiene therapist and that the supervising  
21           dentist is unable to provide. A dental hygiene therapist, in accordance with a written  
22           practice agreement entered into under section 1094-GG, shall refer patients to another  
23           qualified dental or health care professional to receive needed services that exceed the  
24           scope of practice of the dental hygiene therapist.

25           **§1094-KK. Rulemaking**

26           The board shall adopt rules to implement this chapter. Rules adopted pursuant to this  
27           section are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A.

28           **Sec. 2. Board of Dental Examiners.** By January 1, 2014, the Department of  
29           Professional and Financial Regulation, Board of Dental Examiners shall adopt rules  
30           setting requirements for dental hygiene therapy education programs. Rules adopted  
31           pursuant to this section are routine technical rules as defined in Title 5, chapter 375,  
32           subchapter 2-A.

33           **SUMMARY**

34           This bill establishes a licensure process and scope of practice for dental hygiene  
35           therapists. It requires the dental hygiene therapist to be supervised by a dentist licensed  
36           in this State. It requires a written practice agreement between the supervising dentist and

1 the dental hygiene therapist. It provides rulemaking authority for the Board of Dental  
2 Examiners.