

Article 2.

Dentistry.

**§ 90-22. Practice of dentistry regulated in public interest; Article liberally construed; Board of Dental Examiners; composition; qualifications and terms of members; vacancies; nominations and elections; compensation; expenditures by Board.**

(a) The practice of dentistry in the State of North Carolina is hereby declared to affect the public health, safety and welfare and to be subject to regulation and control in the public interest. It is further declared to be a matter of public interest and concern that the dental profession merit and receive the confidence of the public and that only qualified persons be permitted to practice dentistry in the State of North Carolina. This Article shall be liberally construed to carry out these objects and purposes.

(b) The North Carolina State Board of Dental Examiners heretofore created by Chapter 139, Public Laws 1879 and by Chapter 178, Public Laws 1915, is hereby continued as the agency of the State for the regulation of the practice of dentistry in this State. Said Board of Dental Examiners shall consist of six dentists who are licensed to practice dentistry in North Carolina, one dental hygienist who is licensed to practice dental hygiene in North Carolina and one person who shall be a citizen and resident of North Carolina and who shall be licensed to practice neither dentistry nor dental hygiene. The dental hygienist or the consumer member cannot participate or vote in any matters of the Board which involves the issuance, renewal or revocation of the license to practice dentistry in the State of North Carolina. The consumer member cannot participate or vote in any matters of the Board which involve the issuance, renewal or revocation of the license to practice dental hygiene in the State of North Carolina. Members of the Board licensed to practice dentistry in North Carolina shall have been elected in an election held as hereinafter provided in which every person licensed to practice dentistry in North Carolina and residing or practicing in North Carolina shall be entitled to vote. Each member of said Board shall be elected for a term of three years and until his successor shall be elected and shall qualify. Each year there shall be elected two dentists for such terms of three years each. Every three years there shall be elected one dental hygienist for a term of three years. Dental hygienists shall be elected to the Board in an election held in accordance with the procedures hereinafter provided in which those persons licensed to practice dental hygiene in North Carolina and residing or practicing in North Carolina shall be entitled to vote. Every three years a person who is a citizen and resident of North Carolina and licensed to practice neither dentistry nor dental hygiene shall be appointed to the Board for a term of three years by the Governor of North Carolina. Any vacancy occurring on said Board shall be filled by a majority vote of the remaining members of the Board to serve until the next regular election conducted by the Board, at which time the vacancy will be filled by the election process provided for in this Article, except that when the seat on the Board held by a person licensed to practice neither dentistry nor dental hygiene in North Carolina shall become vacant, the vacancy shall be filled by appointment by the Governor for the period of the unexpired term. No dentist shall be nominated for or elected to membership on said Board, unless, at the time of such nomination and election such person is licensed to practice dentistry in North Carolina and actually engaged in the practice of dentistry. No dental hygienist shall be nominated for or elected to membership on said Board unless, at the time of such nomination and election, such person is licensed to practice dental hygiene in North Carolina and is currently employed in dental hygiene in North Carolina. No person shall be nominated, elected, or appointed to serve more than two consecutive terms on said Board.

(c) Nominations and elections of members of the North Carolina State Board of Dental Examiners shall be as follows:

- (1) An election shall be held each year to elect successors to those members whose terms are expiring in the year of the election, each successor to take office on the first day of August following the election and to hold office for a term of three years and until his successor has been elected and shall qualify; provided that if in any year the election of the members of such Board for that year shall not have been completed by August 1 of that year, then the said members elected that year shall take office immediately after the completion of the election and shall hold office until the first of August of the third year thereafter and until their successors are elected and qualified. Persons appointed to the Board by the Governor shall take office on the first day of August following their appointment and shall hold office for a term of three years and until such person's successor has been appointed and shall qualify; provided that if in any year the Governor shall not have appointed a person by August first of that year, then the said member appointed that year shall take office immediately after his appointment and shall hold office until the first of August of the third year thereafter and until such member's successor is appointed and qualified.
- (2) Every dentist with a current North Carolina license residing or practicing in North Carolina shall be eligible to vote in elections of dentists to the Board. Every dental hygienist with a current North Carolina license residing or practicing in North Carolina shall be eligible to vote in elections of dental hygienists to the Board. The holding of such a license to practice dentistry or dental hygiene in North Carolina shall constitute registration to vote in such elections. The list of licensed dentists and dental hygienists shall constitute the registration list for elections to the appropriate seats on the Board.
- (3) All elections shall be conducted by the Board of Dental Examiners which is hereby constituted a Board of Dental Elections. If a member of the Board of Dental Examiners whose position is to be filled at any election is nominated to succeed himself, and does not withdraw his name, he shall be disqualified to serve as a member of the Board of Dental Elections for that election and the remaining members of the Board of Dental Elections shall proceed and function without his participation.
- (4) Nomination of dentists for election shall be made to the Board of Dental Elections by a written petition signed by not less than 10 dentists licensed to practice in North Carolina and residing or practicing in North Carolina. Nomination of dental hygienists for election shall be made to the Board of Dental Elections by a written petition signed by not less than 10 dental hygienists licensed to practice in North Carolina and residing or practicing in North Carolina. Such petitions shall be filed with said Board of Dental Elections subsequent to January 1 of the year in which the election is to be held and not later than midnight of the twentieth day of May of such year, or not later than such earlier date (not before April 1) as may be set by the Board of Dental Elections: provided, that not less than 10 days' notice of such earlier date shall be given to all dentists or dental hygienists qualified to sign a petition of nomination. The Board of Dental Elections shall, before

preparing ballots, notify all persons who have been duly nominated of their nomination.

- (5) Any person who is nominated as provided in subdivision (4) above may withdraw his name by written notice delivered to the Board of Dental Elections or its designated secretary at any time prior to the closing of the polls in any election.
- (6) Following the close of nominations, there shall be prepared, under and in accordance with such rules and regulations as the Board of Dental Elections shall prescribe, ballots containing, in alphabetical order, the names of all nominees; and each ballot shall have such method of identification, and such instructions and requirements printed thereon, as shall be prescribed by the Board of Dental Elections. At such time as may be fixed by the Board of Dental Elections a ballot and a return official envelope addressed to said Board shall be mailed to each person entitled to vote in the election being conducted, together with a notice by said Board designating the latest day and hour for return mailing and containing such other items as such Board may see fit to include. The said envelope shall bear a serial number and shall have printed on the left portion of its face the following:
  - "Serial No. of Envelope
  - Signature of Voter
  - Address of Voter

(Note: The enclosed ballot is not valid unless the signature of the voter is on this envelope)."

The Board of Dental Elections may cause to be printed or stamped or written on said envelope such additional notice as it may see fit to give. No ballot shall be valid or shall be counted in an election unless, within the time hereinafter provided, it has been delivered to said Board by hand or by mail and shall be sealed. The said Board by rule may make provision for replacement of lost or destroyed envelopes or ballots upon making proper provisions to safeguard against abuse.

- (7) The date and hour fixed by the Board of Dental Elections as the latest time for delivery by hand or mailing of said return ballots shall be not earlier than the tenth day following the mailing of the envelopes and ballots to the voters.
- (8) The said ballots shall be canvassed by the Board of Dental Elections beginning at noon on a day and at a place set by said Board and announced by it in the notice accompanying the sending out of the ballots and envelopes, said date to be not later than four days after the date fixed by the Board for the closing of the balloting. The canvassing shall be made publicly and any licensed dentists may be present. The counting of ballots shall be conducted as follows: The envelopes shall be displayed to the persons present and an opportunity shall be given to any person present to challenge the qualification of the voter whose signature appears on the envelope or to challenge the validity of the envelope. Any envelope (with enclosed ballot) challenged shall be set aside, and the challenge shall be heard later or at that time by said Board. After the envelopes have been so exhibited, those not challenged shall be opened and the ballots extracted therefrom, insofar as practicable without showing the marking on the ballots,

and there shall be a final and complete separation of each envelope and its enclosed ballot. Thereafter each ballot shall be presented for counting, shall be displayed and, if not challenged, shall be counted. No ballot shall be valid if it is marked for more nominees than there are positions to be filled in that election: provided, that no ballot shall be rejected for any technical error unless it is impossible to determine the voter's choices or choice from the ballot. The counting of the ballots shall be continued until completed. During the counting, challenge may be made to any ballot on the grounds only of defects appearing on the face of the ballot. The said Board may decide the challenge immediately when it is made or it may put aside the ballot and determine the challenge upon the conclusion of the counting of the ballots.

- (9) a. Where there is more than one nominee eligible for election to a single seat:
    1. The nominee receiving a majority of the votes cast shall be declared elected.
    2. In the event that no nominee receives a majority, a second election shall be conducted between the two nominees who receive the highest number of votes.
  - b. Where there are more than two nominees eligible for election to either of two seats at issue in the same election:
    1. A majority shall be any excess of the sum ascertained by dividing the total number of votes cast for all nominees by four.
    2. In the event that more than two nominees receive a majority of the votes cast, the two receiving the highest number of votes shall be declared elected.
    3. In the event that only one of the nominees receives a majority, he shall be declared elected and the Board of Dental Examiners shall thereupon order a second election to be conducted between the two nominees receiving the next to highest number of votes.
    4. In the event that no nominee receives a majority, a second election shall be conducted between the four candidates receiving the highest number of votes. At such second election, the two nominees receiving the highest number of votes shall be declared elected.
  - c. In any election, if there is a tie between candidates, the tie shall be resolved by the vote of the Board of Dental Examiners, provided that if a member of that Board is one of the candidates in the tie, he may not participate in such vote.
- (10) In the event there shall be required a second election, there shall be followed the same procedure as outlined in the paragraphs above subject to the same limitations and requirements: provided, that if the second election is between four candidates, then the two receiving the highest number of votes shall be declared elected.
  - (11) In the case of the death or withdrawal of a candidate prior to the closing of the polls in any election, he shall be eliminated from the contest and any votes cast for him shall be disregarded. If, at any time after the closing of the

period for nominations because of lack of plural or proper nominations or death, or withdrawal, or disqualification or any other reason, there shall be (i) only two candidates for two positions, they shall be declared elected by the Board of Dental Elections, or (ii) only one candidate for one position, he shall be declared elected by the Board of Dental Elections, or (iii) no candidate for two positions, the two positions shall be filled by the Board of Dental Examiners, or (iv) no candidate for one position, the position shall be filled by the Board of Dental Examiners, or (v) one candidate for two positions, the one candidate shall be declared elected by the Board of Dental Elections and one qualified dentist shall be elected to the other position by the Board of Dental Examiners. In the event of the death or withdrawal of a candidate after election but before taking office, the position to which he was elected shall be filled by the Board of Dental Examiners. In the event of the death or resignation of a member of the Board of Dental Examiners, after taking office, his position shall be filled for the unexpired term by the Board of Dental Examiners.

- (12) An official list of licensed dentists shall be kept at an office of the Board of Dental Elections and shall be open to the inspection of any person at all times. Copies may be made by any licensed dentist. As soon as the voting in any election begins a list of the licensed dentists shall be posted in such office of said Board and indication by mark or otherwise shall be made on that list to show whether a ballot-enclosing envelope has been returned.
- (13) All envelopes enclosing ballots and all ballots shall be preserved and held separately by the Board of Dental Elections for a period of six months following the close of an election.
- (14) From any decision of the Board of Dental Elections relative to the conduct of such elections, appeal may be taken to the courts in the manner otherwise provided by Chapter 150B of the General Statutes of North Carolina.
- (15) The Board of Dental Elections is authorized to make rules and regulations relative to the conduct of these elections, provided same are not in conflict with the provisions of this section and provided that notice shall be given to all licensed dentists residing in North Carolina.

(d) For service on the Board of Dental Elections, the members of such Board shall receive the per diem compensation and expenses allowed by this Article for service as members of the Board of Dental Examiners. The Board of Dental Elections is authorized and empowered to expend from funds collected under the provisions of this Article such sum or sums as it may determine necessary in the performance of its duties as a Board of Dental Elections, said expenditures to be in addition to the authorization contained in G.S. 90-43 and to be disbursed as provided therein.

(e) The Board of Dental Elections is authorized to appoint such secretary or secretaries and/or assistant secretary or assistant secretaries to perform such functions in connection with such nominations and elections as said Board shall determine, provided that any protestant or contestant shall have the right to a hearing by said Board in connection with any challenge of a voter, or an envelope, or a ballot or the counting of an election. Said Board is authorized to designate an office or offices for the keeping of lists of registered dentists, for the issuance and the receipt of envelopes and ballots. (1935, c. 66, s. 1; 1957, c. 592, s. 1; 1961, c. 213, s. 1; 1971, c. 755, s. 1; 1973, c. 1331, s. 3; 1979, 2nd Sess., c. 1195, ss. 1-5; 1981, c. 751, ss. 1, 2; 1987, c. 827, s. 1.)