



Larry Hogan, Governor · Boyd K. Rutherford, Lt. Governor · Dennis R. Schrader, Acting Secretary

**Maryland State Board of Dental Examiners
Spring Grove Hospital Center • Benjamin Rush Building
55 Wade Avenue/Tulip Drive • Catonsville, Maryland 21228**

February 24, 2021

The Honorable Shane E. Pendergrass
Chair, Health and Government Operations Committee
Room 241, House Office Building
Annapolis, Maryland 21401-1991

Re: HB 1030 – State Board of Dental Examiners – Membership-Nomination and Appointment Process-Support with Amendments

Dear Chair Pendergrass and Committee Members:

The Maryland State Board of Dental Examiners is submitting this letter of support with amendments for HB 1030-State Board of Dental Examiners-Membership-Nomination and Appointment Process. The bill as submitted provides that the Governor shall appoint the dentist and dental hygienist Board members with the advice and consent of the Senate from a list of dentists and dental hygienists submitted to the Secretary of Health and the Governor by any State dental organization affiliated with a national organization that represents at least 25 licensed dentists, or a petition submitted to the Secretary and Governor by a licensed dentist. The same applies to the appointment of dental hygienists. The balloting process which is presently conducted by an independent third-party administrator in which dentists and dental hygienists cast a ballot for those who seek Board appointment, is eliminated.

The Dental Board supports the bill with amendments. Although the Board agrees that the selection process for Board membership can be streamlined and improved, the Board has reservations surrounding credibility and politicization of Board membership. In the bill there are no requirements that the candidates be in “good standing”, and thus no vetting process in place. The only requirement is that the candidate hold a Maryland dental license. Candidates should be free of any formal disciplinary orders and the conditions of any orders for at least 5 years. The Board fears that those who have been subject to Board orders within the recent past may harbor a vendetta against the Board or certain individuals on the Board, or other licensed professionals who were involved in the disciplinary process against the dentist. This would cloud the candidate’s obligation to act and vote in a fair and impartial manner. The Board is

also concerned that “any State dental organization affiliated with a national organization” that represents at least 25 licensed dentists” may submit candidates to the Governor and the Secretary. For one, there is no definition of “state dental organization affiliated with a national organization.” It could merely be composed of 25 dentists who form a loose bond to influence the appointment of Board members. In actuality, having either a “state dental organization affiliated with a national organization” or a “state dental hygienist organization affiliated with a national organization” is superfluous since they are terms that are difficult to define and have no true importance except for political influence. Any dentist or dental hygienist who is in good standing may run for appointment to the Board. Any organization, regardless of its numbers, and regardless of its affiliation with a national organization may support any candidate that it wishes. To politicize the size of the organization and its influence is simply unfair to candidates who have no such affiliation. Also, there are no limits placed on the number of candidates the organization wishes to submit. For example, if the organization were composed of 25 members, the organization could submit 25 or more candidates. Organizations that are large and well-funded could exert their influence and politicize the election process. It is best that professional trade groups do not influence Board appointments. Board members should be beholden to no one except the citizens of the State.

The Board believes that more dental specialists should be solicited for membership. In addition to general dentists, there should be an attempt to attract a wider range of candidates. Provision should be made to have specialists such as oral and maxillofacial surgeons, dental public health specialists, endodontists, orthodontists, periodontists, and pediatric dentists, to name a few, to serve on the Board. An attempt should also be made to attract an educator from the University of Maryland Dental School.

The Board feels that the present experience requirement that dentists who have practiced for 5 or more years and dental hygienists who have practiced for 3 or more years are eligible for Board appointment, does not provide a sufficient experience requirement for dealing with the often complex clinically based complaints that the Board frequently receives. The experience requirements for both should be increased to 10 years.

Additionally, the amendments delete the requirement that the Board hold an election for the appointment of dentists and dental hygienists to the Board and delete the requirement that there be a minimum number of candidates for each open dentist and dental hygienist position. The Board would continue to solicit dentist and dental hygienist candidates for Board membership, and the names of eligible candidates would continue to be submitted to the Governor. The Governor would then appoint the dentist and dental hygienist Board members with the advice of the Secretary and the advice and consent of the Senate. (The Board notes that there is no election process for consumer members. The Governor appoints the consumer members with the advice of the Secretary and advice and consent of the Senate).

Since the Governor is not required to appoint individuals with the greatest number of votes, the present voting process is superfluous. In addition, there are statutory requirements regarding the number of candidates for each vacancy. For dentists, there must be at least four names for one vacancy, at least six names for two vacancies, and for three or more vacancies, at least two names for each vacancy. For dental hygienists there must be four names for each vacancy.

In some elections the Board was unable to obtain the required number of candidates, so the minimum number of candidates requirement should also be deleted. As previously stated, the Board would

continue to solicit nominations from qualified dentists and dental hygienists, and the names would then go directly to the Governor for consideration.

For these reasons, the Board supports HB 1030 with the following amendments (The bill as proposed is stricken and the following amendment is submitted).

AMENDMENT

On page 1, beginning on line 1 and ending on page 4, line 6 inclusive, strike the text in its entirety and insert:

AN ACT concerning

State Board of Dental Examiners – Membership – Nomination and Appointment Process

FOR the purpose of altering the membership of the State Board of Dental Examiners; repealing a requirement that a certain number of names be submitted for a certain vacancy on the Board; requiring a certain form be submitted to the Board; requiring that applicants for Board membership be in good standing and free of certain Board action for a certain period of time; requiring that applicants have certain experience; requiring the Board to send a certain notice of vacancy to certain licensees that includes certain information; repealing a requirement that the Board conduct a certain balloting process; and generally relating to nominations and appointments to the State Board of Dental Examiners.

BY repealing and reenacting with amendments,
Article – Health Occupations
Section 4-202(a) through (i)
Annotated Code of Maryland
(2014 Replacement Volume and 2020 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article – Health Occupations

§4–202.

- (a) (1) The Board consists of 16 members.
- (2) Of the 16 Board members:
 - (i) 9 shall be licensed dentists;

- (ii) 4 shall be licensed dental hygienists; and
- (iii) 3 shall be consumer members.

(B) THE BOARD SHALL MAKE REASONABLE EFFORTS TO SOLICIT THE FOLLOWING INDIVIDUALS TO SUBMIT A PETITION FOR BOARD MEMBERSHIP:

- (1) ONE ORAL AND MAXILLOFACIAL SURGEON;**
- (2) THREE WHO SPECIALIZE IN EITHER DENTAL PUBLIC HEALTH, ENDODONTICS, ORAL MEDICINE AND PATHOLOGY, ORAL AND MAXILLOFACIAL RADIOLOGY; ORTHODONTICS, PERIODONTICS, PEDIATRICS, OR OTHER RECOGNIZED SPECIALTY;**
- (3) ONE FULL-TIME DENTIST FACULTY MEMBER AT THE UNIVERSITY OF MARYLAND SCHOOL OF DENTISTRY; AND**
- (4) FOUR GENERAL DENTISTS.**

(C) FAILURE OF THE GOVERNOR TO APPOINT THE SPECIALISTS IDENTIFIED IN SUBSECTION (B) OF THIS SECTION SHALL NOT INVALIDATE THE APPOINTMENT OF ANY DENTIST TO THE BOARD.

(3) (i) Subject to subsection [(b)] (C)(1) of this section, the Governor shall appoint the dentist Board members, with the advice of the Secretary and the advice and consent of the Senate, from a list of names submitted to the Governor by the Board.

[(ii) The number of names on the list for one vacancy shall be at least four names, for two vacancies at least three names for each vacancy, and for three or more vacancies at least two names for each vacancy.]

(4) [(i)] Subject to subsection [(b)] (C)(2) of this section, the Governor shall appoint the dental hygienist Board members, with the advice of the Secretary and the advice and consent of the Senate, from a list of names submitted to the Governor by the Board.

[(ii) The number of names on the list shall be four times the number of vacancies.]

(5) The Governor shall appoint the consumer members with the advice of the Secretary and the advice and consent of the Senate.

(6) To the extent practicable, the members appointed to the Board shall reasonably reflect the geographic, racial, ethnic, cultural, and gender diversity of the State.

[(b)] (C) (1) For each licensed dentist vacancy, the Board shall:

(i) Send by electronic mail [or regular mail] a solicitation for nominations to fill the vacancy to[:

1.] Each dentist licensed by the Board[; and].

[2. Each State dental organization affiliated with a national organization; and

(ii) Conduct a balloting process by which each dentist licensed by the State is eligible to vote to select the names of the licensed dentists to be submitted to the Governor.]

(2) For each licensed dental hygienist vacancy, the Board shall:

(i) Send by electronic mail [or regular mail] a solicitation for nominations to fill the vacancy to[:

1]. Each dental hygienist licensed by the Board[; and].

[2. Each State dental hygienist organization affiliated with a national organization; and

(ii) Conduct a balloting process by which each dental hygienist licensed by the State is eligible to vote to select the names of the licensed dental hygienists to be submitted to the Governor.]

(3) The Board shall develop [guidelines]:

(I) REGULATIONS for the solicitation of nominations [and balloting process] that to the extent possible will result in the overall composition of the Board reasonably reflecting the geographic, racial, ethnic, and gender diversity of the State[.]; **AND**

(II) FORMS FOR SUBMISSION TO THE BOARD BY PROSPECTIVE NOMINEES.

(c) Each dentist Board member:

(1) Shall be an individual of recognized ability and honor;

(2) Shall be a practicing holder of a general license to practice dentistry who has practiced dentistry actively in this State for at least **[5] 10** years immediately before appointment;

(3) Shall be a resident of this State; [and]

(4) SHALL BE IN GOOD STANDING AND SHALL NOT HAVE BEEN SUBJECT TO FORMAL DISCIPLINARY ACTION BY THE BOARD, OR SUBJECT TO THE CONDITIONS OF ANY FORMAL DISCIPLINARY ACTION BY THE BOARD FOR AT LEAST 5 YEARS PRECEDING THE PROPOSED DATE OF APPOINTMENT; AND

[(4)] (5) In the case of a Board member belonging to an association whose members are regulated by the Board, may not be:

(i) An officer of the association;

(ii) A member of the association's governing board or committee;

(iii) A member of the association's house of delegates; or

(iv) A voting member of a committee of the association that contributes to the establishment of governmental, regulatory, or legislative policy objectives of the association.

(d) Each dental hygienist Board member:

(1) Shall be a practicing holder of a general license to practice dental hygiene who has practiced dental hygiene actively in this State for at least **[3] 10** years immediately before appointment;

(2) Shall be a resident of this State;

(3) SHALL BE IN GOOD STANDING AND SHALL NOT HAVE BEEN SUBJECT TO FORMAL DISCIPLINARY ACTION BY THE BOARD, OR SUBJECT TO THE CONDITIONS OF ANY FORMAL DISCIPLINARY ACTION BY THE BOARD FOR AT LEAST 5 YEARS PRECEDING THE PROPOSED DATE OF APPOINTMENT; AND

[(3)] (4) In the case of a Board member belonging to an association whose members are regulated by the Board, may not be:

- (i) An officer of the association;
- (ii) A member of the association's governing board or committee;
- (iii) A member of the association's house of delegates; or

(iv) A voting member of a committee of the association that contributes to the establishment of governmental, regulatory, or legislative policy objectives of the association.

(e) Each consumer member of the Board:

(1) Shall be a member of the general public;

(2) May not be or ever have been a dentist or dental hygienist or in training to become a dentist or dental hygienist;

(3) May not have a household member who is a dentist or dental hygienist or in training to become a dentist or dental hygienist;

(4) May not participate or ever have participated in a commercial or professional field related to dentistry;

(5) May not have a household member who participates in a commercial or professional field related to dentistry; and

(6) May not have had within 2 years before appointment a substantial financial interest in a person regulated by the Board.

(f) While a member of the Board, a consumer member may not have a substantial financial interest in a person regulated by the Board.

(g) Before taking office, each appointee to the Board shall take the oath required by Article I, § 9 of the Maryland Constitution.

(h) (1) The term of a member is 4 years.

(2) The terms of the members are staggered as required by the terms provided for members of the Board on October 1, 2006.

(3) At the end of a term, a member continues to serve until a successor is appointed and qualifies.

(4) A member who is appointed after a term has begun serves only for the rest of the term and until a successor is appointed and qualifies.

(5) A member may not be appointed for more than 2 consecutive full terms.

(6) To the extent practicable, the Governor shall fill any vacancy on the Board within 60 days of the date of the vacancy.

(i) (1) The Governor may remove a member for incompetence, misconduct, continued neglect of duties imposed by this subtitle, unprofessional conduct, or dishonorable conduct.

(2) The Governor shall remove a member whom the Governor finds to have been absent from 2 successive Board meetings without adequate reason.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect on June 1, 2021.

The opinion of the Maryland State Board of Dental Examiners expressed in this support with amendments position does not necessarily reflect that of the Department of Health or the Administration.

I hope that this information is useful. If you would like to discuss this further, please contact Dr. James Goldsmith, Board President at 301-367-2352, jgoldsm217@comcast.net, or Dr. Arpana Verma, the Board's Legislative Committee Chair at 240-498-8159, asverma93@gmail.com. In addition, the Board's Executive Director, Mr. Frank McLaughlin, may be reached at 443-878-5253, frank.maclaughlin@maryland.gov.

Sincerely,

James P. Goldsmith, D.M.D.

James P. Goldsmith, D.M.D.
Board President