

HOUSE BILL 870

J2

EMERGENCY BILL

2lr2707

By: **Delegate Donoghue**

Introduced and read first time: February 9, 2012

Assigned to: Health and Government Operations

A BILL ENTITLED

1 AN ACT concerning

2 **State Board of Dental Examiners – Dentists and Dental Hygienists –**
3 **Appointments**

4 FOR the purpose of altering the process for determining certain lists of names from
5 which the Governor will make certain appointments to the State Board of
6 Dental Examiners; requiring certain candidates to submit a certain form and a
7 certain statement to the Board; requiring the Board to submit certain names to
8 the Governor for candidates who meet certain requirements; prohibiting the
9 Board from nominating certain candidates and submitting certain names to the
10 Governor; requiring the Board to adopt certain regulations; making a stylistic
11 change; making this Act an emergency measure; and generally relating to
12 appointments and the State Board of Dental Examiners.

13 BY repealing and reenacting, with amendments,
14 Article – Health Occupations
15 Section 4–202
16 Annotated Code of Maryland
17 (2009 Replacement Volume and 2011 Supplement)

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

20 **Article – Health Occupations**

21 4–202.

22 (a) (1) The Board consists of 16 members.

23 (2) Of the 16 Board members:

24 (i) 9 shall be licensed dentists;

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (ii) 4 shall be licensed dental hygienists; and

2 (iii) 3 shall be consumer members.

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

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

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

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

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

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

19 (b) (1) For each licensed dentist vacancy, the Board shall:

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

22 1. Each] **EACH** dentist licensed by the Board; and

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

25 (ii) Conduct a [balloting] **NOMINATION** process by which [each
26 dentist licensed by the State is eligible to vote to select the names of the licensed
27 dentists to be submitted] **LICENSED DENTISTS WILL NOMINATE CANDIDATES**
28 **WHOSE NAMES WILL BE SUBMITTED BY THE BOARD** to the Governor.

29 **(2) EACH DENTIST CANDIDATE SHALL SUBMIT TO THE BOARD:**

1 **(I) A NOMINATION FORM SIGNED BY THE DENTIST**
2 **CANDIDATE AND AN ADDITIONAL 10 LICENSED DENTISTS WHO SUPPORT THE**
3 **DENTIST CANDIDATE; AND**

4 **(II) A WRITTEN STATEMENT FROM THE DENTIST**
5 **CANDIDATE STATING WHY THE DENTIST CANDIDATE SHOULD BE APPOINTED TO**
6 **THE BOARD.**

7 **(3) EACH DENTIST BOARD MEMBER:**

8 **(I) SHALL BE AN INDIVIDUAL OF RECOGNIZED ABILITY AND**
9 **HONOR;**

10 **(II) SHALL BE A PRACTICING HOLDER OF A GENERAL**
11 **LICENSE TO PRACTICE DENTISTRY WHO HAS PRACTICED DENTISTRY ACTIVELY**
12 **IN THIS STATE FOR AT LEAST 5 YEARS IMMEDIATELY BEFORE APPOINTMENT;**

13 **(III) SHALL BE A RESIDENT OF THIS STATE; AND**

14 **(IV) IN THE CASE OF A BOARD MEMBER BELONGING TO AN**
15 **ASSOCIATION WHOSE MEMBERS ARE REGULATED BY THE BOARD, MAY NOT BE:**

16 **1. AN OFFICER OF THE ASSOCIATION;**

17 **2. A MEMBER OF THE ASSOCIATION'S GOVERNING**
18 **BOARD OR COMMITTEE;**

19 **3. A MEMBER OF THE ASSOCIATION'S HOUSE OF**
20 **DELEGATES; OR**

21 **4. A VOTING MEMBER OF A COMMITTEE OF THE**
22 **ASSOCIATION THAT CONTRIBUTES TO THE ESTABLISHMENT OF**
23 **GOVERNMENTAL, REGULATORY, OR LEGISLATIVE POLICY OBJECTIVES OF THE**
24 **ASSOCIATION.**

25 **(4) THE BOARD SHALL SUBMIT TO THE GOVERNOR THE NAME OF**
26 **EACH DENTIST CANDIDATE WHO MEETS THE REQUIREMENTS OF PARAGRAPHS**
27 **(2) AND (3) OF THIS SUBSECTION.**

28 **(5) THE BOARD MAY NOT:**

29 **(I) NOMINATE A DENTIST CANDIDATE; OR**

1 **(II) SUBMIT TO THE GOVERNOR THE NAME OF A DENTIST**
2 **CANDIDATE WHO HAS NOT COMPLIED WITH THE REQUIREMENTS OF THIS**
3 **SUBSECTION.**

4 **[(2)](C) (1)** For each licensed dental hygienist vacancy, the Board
5 shall:

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

8 1. Each] **EACH** dental hygienist licensed by the Board;
9 and

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

12 (ii) Conduct a [balloting] **NOMINATION** process by which [each
13 dental hygienist licensed by the State is eligible to vote to select the names of the
14 licensed dental hygienists to be submitted] **LICENSED DENTAL HYGIENISTS WILL**
15 **NOMINATE CANDIDATES WHOSE NAMES WILL BE SUBMITTED BY THE BOARD** to
16 the Governor.

17 **(2) EACH DENTAL HYGIENIST CANDIDATE SHALL SUBMIT TO THE**
18 **BOARD:**

19 **(I) A NOMINATION FORM SIGNED BY THE DENTAL**
20 **HYGIENIST CANDIDATE AND AN ADDITIONAL 10 LICENSED DENTAL HYGIENISTS**
21 **WHO SUPPORT THE DENTAL HYGIENIST CANDIDATE; AND**

22 **(II) A WRITTEN STATEMENT FROM THE DENTAL HYGIENIST**
23 **CANDIDATE STATING WHY THE DENTAL HYGIENIST CANDIDATE SHOULD BE**
24 **APPOINTED TO THE BOARD.**

25 **(3) EACH DENTAL HYGIENIST BOARD MEMBER:**

26 **(I) SHALL BE A PRACTICING HOLDER OF A GENERAL**
27 **LICENSE TO PRACTICE DENTAL HYGIENE WHO HAS PRACTICED DENTAL**
28 **HYGIENE ACTIVELY IN THIS STATE FOR AT LEAST 3 YEARS IMMEDIATELY**
29 **BEFORE APPOINTMENT;**

30 **(II) SHALL BE A RESIDENT OF THIS STATE; AND**

31 **(III) IN THE CASE OF A BOARD MEMBER BELONGING TO AN**
32 **ASSOCIATION WHOSE MEMBERS ARE REGULATED BY THE BOARD, MAY NOT BE:**

- 1 1. AN OFFICER OF THE ASSOCIATION;
- 2 2. A MEMBER OF THE ASSOCIATION'S GOVERNING
3 BOARD OR COMMITTEE;
- 4 3. A MEMBER OF THE ASSOCIATION'S HOUSE OF
5 DELEGATES; OR
- 6 4. A VOTING MEMBER OF A COMMITTEE OF THE
7 ASSOCIATION THAT CONTRIBUTES TO THE ESTABLISHMENT OF
8 GOVERNMENTAL, REGULATORY, OR LEGISLATIVE POLICY OBJECTIVES OF THE
9 ASSOCIATION.

10 (4) THE BOARD SHALL SUBMIT TO THE GOVERNOR THE NAME OF
11 EACH DENTAL HYGIENIST CANDIDATE WHO MEETS THE REQUIREMENTS OF
12 PARAGRAPHS (2) AND (3) OF THIS SUBSECTION.

13 (5) THE BOARD MAY NOT:

14 (I) NOMINATE A DENTAL HYGIENIST CANDIDATE; OR

15 (II) SUBMIT TO THE GOVERNOR THE NAME OF A DENTAL
16 HYGIENIST CANDIDATE WHO HAS NOT COMPLIED WITH THE REQUIREMENTS OF
17 THIS SUBSECTION.

18 [(3)](D) The Board shall [develop guidelines] **ADOPT REGULATIONS**
19 for [the solicitation of nominations and balloting] **A NOMINATION** process that [to]:

20 (1) **COMPLIES WITH THE REQUIREMENTS OF THIS SECTION; AND**

21 (2) **TO** the extent [possible] **PRACTICABLE**, will result in the overall
22 composition of the Board reasonably reflecting the geographic, racial, ethnic, and
23 gender diversity of the State.

24 [(c) Each dentist Board member:

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

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

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

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

3 (i) An officer of the association;

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

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

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

9 (d) Each dental hygienist Board member:

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

13 (2) Shall be a resident of this State;

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

16 (i) An officer of the association;

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

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

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

22 (e) **(1)** Each consumer member of the Board:

23 **[(1)] (I)** Shall be a member of the general public;

24 **[(2)] (II)** May not be or ever have been a dentist or dental hygienist or
25 in training to become a dentist or dental hygienist;

26 **[(3)] (III)** May not have a household member who is a dentist or dental
27 hygienist or in training to become a dentist or dental hygienist;

1 **[(4)] (IV)** May not participate or ever have participated in a
2 commercial or professional field related to dentistry;

3 **[(5)] (V)** May not have a household member who participates in a
4 commercial or professional field related to dentistry; and

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

7 **[(f)] (2)** While a member of the Board, a consumer member may not have a
8 substantial financial interest in a person regulated by the Board.

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

11 **[(h)] (G)** (1) The term of a member is 4 years.

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

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

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

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

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

22 **[(i)] (H)** (1) The Governor may remove a member for incompetence,
23 misconduct, continued neglect of duties imposed by this subtitle, unprofessional
24 conduct, or dishonorable conduct.

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

27 SECTION 2. AND BE IT FURTHER ENACTED, That this Act is an emergency
28 measure, is necessary for the immediate preservation of the public health or safety,
29 has been passed by a yea and nay vote supported by three-fifths of all the members
30 elected to each of the two Houses of the General Assembly, and shall take effect from
31 the date it is enacted.