



NEWFOUNDLAND & LABRADOR DENTAL BOARD BY-LAW # 1

ELECTION OF BOARD MEMBERS

DEFINITIONS

1. In this by-law,
 - (a) the word “money” when used in the context of money owed to the Board means any money including but without limitation costs or expenses ordered to be paid by a panel of the discipline committee, costs awarded by a Court, monies owed to the Board pursuant to a regulation or by-law or an order or decision of a statutory committee or a panel of a statutory committee or pursuant to an agreement entered into by the member with the Board;
 - (b) "tie vote" means a vote involving two or more eligible candidates where no one eligible candidate received more votes than any other eligible candidate; and
 - (c) "run-off election" means the election referred to in subsection 17 of this by-law.
 - (d) “Dental Act” refers to Dental Act 2008 – Chapter D-6.1 SNL
2008Amended

NUMBER OF MEMBERS ELECTED

2. (1) There shall be five dentists registered and licensed under the Dental Act nominated and elected in accordance with the by-laws.

TERM OF OFFICE

3. (1) The term of office of a dentist elected to the Board in an election held pursuant to sections (5) and (48) of the Dental Act 2008 commences with the first regular meeting of the Board immediately following the member's election
- (2) The elected dentists of the Board shall continue in office until their successors take office at the first regular meeting of the Board following an election.

ELECTION DATE

4. An election of dentists to the Board shall be held every spring when a term expires or a vacancy occurs.

ELIGIBILITY TO VOTE

5. Every dentist may vote if, on the date ballots are mailed, he or she
 - (a) holds an active general or specialty certificate of registration;
 - (b) is not in default of payment of any fees and does not otherwise owe any money to the Board; and
 - (c) is not in default of completing and returning any form prescribed by the Regulations or required by the by-laws of the Board.
6. Any dispute as to whether a dentist is eligible to vote shall be decided by the elections committee.

ELIGIBILITY FOR ELECTION

7. (1) A dentist is eligible for election to the Board if, on the deadline for receipt of nominations,
 - (a) the dentist holds an active general or specialty certificate of registration;

- (b) the dentist is engaged in the practice of dentistry in the Province of Newfoundland and Labrador at the date of the election.
 - (c) the dentist completed and signed a written nomination in a form approved by the Board and that form was received by the registrar 30 days prior to the election;
 - (d) if a dentist has been found guilty of an offence under the Criminal Code (Canada), a period of at least three years has elapsed since the member fully complied with any penalty imposed as a result of that finding or if no penalty was imposed, a period of at least three years has elapsed since the finding was made;
 - (e) the dentist is not in default of payment of any fees and does not otherwise owe any money to the Board;
 - (f) the dentist is not in default of completing and returning any form prescribed by the Regulations or required by the by-laws of the Board;
 - (g) the dentist is not the subject of any disciplinary or incapacity proceeding;
 - (h) the dentist's certificate of registration is not subject to a term, condition or limitation other than one applicable to all dentists holding that class of certificate;
 - (i) a period of at least three years has elapsed since the dentist complied with all aspects of an order of a panel of the Discipline Committee;
 - (j) a period of at least three years has elapsed since the dentist was disqualified from sitting on the Board as a result of a breach of the Board's Code of Conduct for Board members or the Board's Conflict of Interest By-Law; and
- (2) An eligible dentist may be elected to the Board in three consecutive elections – three year terms except as required by Section 48 of the Dental Act 2008. A dentist elected to a 2 year term shall not be eligible

for a 4th consecutive term.

- (3) A dentist who has been elected to the Board in three consecutive elections is not eligible for election until the election held in accordance with section 5 of the Dental Act 2008 which is more than five calendar years after the member was last elected as a member of Board.

REGISTRAR TO SUPERVISE NOMINATIONS

8. (1) The Registrar shall supervise the nomination of candidates.
- (2) The Registrar shall establish a deadline for receipt of nominations which deadline shall be at least thirty days before the date of the election.

NOTICE OF ELECTIONS AND NOMINATIONS

9. No later than forty-five days before the date of an election, the Registrar shall notify every dentist who is eligible to vote of the date, time, place and method of the election, the procedure to be followed in order to stand for election and the deadline for receipt of nominations.

NOMINATION PROCEDURE

- 10 (1) The nomination form shall be signed by the candidate.
- (2) A candidate may withdraw his or her nomination for election to the Board by notifying the Registrar in writing at least twenty-two days before the election.

DISPUTES AS TO ELIGIBILITY FOR ELECTION

11. (1) Should a candidate for election file with the Registrar a notice in writing disputing the eligibility of another candidate for election or should the registrar receive information which, if true, may result in a candidate not being eligible for election or being disqualified as an elected member, the Registrar shall

- (a) if the written notice or information is received by the registrar on or before the twenty-second day before the day of the election, determine the candidate's eligibility; and
 - (b) if the written notice or information is received by the registrar after the twenty-second day before the day of the election and the candidate whose eligibility is questioned is successful in the election, refer the matter to the Board to determine if the elected dentist should be disqualified in accordance with this by-law.
- (2) The Registrar shall provide to the candidate whose eligibility is the subject of question, full particulars of the information received as well as a reasonable opportunity to make either written or oral submissions or both to the elections committee should he or she wish to do so.
- (3) The elections committee shall notify the registrar of its decision.
- (4) The registrar shall immediately notify the candidate whose eligibility was brought into question and any candidate who filed a notice under subsection (1) of the decision of the elections committee.
- (5) The decision of the elections committee is final and an election result is not subject to challenge on the basis that a candidate was not permitted to run as a result of a decision of the elections committee made pursuant to this section.

ACCLAMATION

- 12.** (1) If only one eligible candidate is nominated for a position on the Board, the Registrar shall declare that candidate to be elected by acclamation.
- (2) If no eligible candidate is nominated in any position, a vacancy shall be deemed to exist in the position and the Board shall direct the Registrar to hold a by-election for that position in accordance with this by-law.

VOTING

- 13.** Voting for an election of members to the Board shall be by mail ballot using the ballot supplied by the Registrar.

REGISTRAR'S ELECTORAL DUTIES

- 14. (1)** The registrar shall supervise and administer the election of candidates and, for the purposes of carrying out that duty, and without limiting the generality of this, the registrar shall
- (a) appoint a returning officer(s) and scrutineers;
 - (b) establish a deadline for the receiving of ballots;
 - (c) establish procedures for the opening and counting of ballots; and
 - (d) provide for the notification of all candidates and licenceholders of the results of the election.
- (2) No later than fourteen days before the date of an election, the Registrar shall send to every dentist eligible to vote, a list of the eligible candidates, a ballot and an explanation of the voting procedures.

NUMBER OF VOTES TO BE CAST

- 15.** A dentist shall not cast more than one vote in an election of members to the Board unless otherwise stipulated by the explanations of the voting procedures. A ballot may contain more than one voting option.
- 16.** Ballots received on or before the deadline for the receiving of ballots will be opened and counted on the day of the election by the returning officer(s) in the presence of the scrutineers.

TIE VOTES

- 17. (1)** If there is a tie vote in an election of members to the Board a run-off election shall be conducted between/among only those candidates who obtained the highest number of votes.
- (2) The run-off election shall be conducted in the same manner as other elections (excluding by-elections) under this by-law and the provisions

of this by-law shall be applied with such modifications as shall be necessary save and except

- (a) there shall be no nomination of candidates and the only eligible candidates shall be those candidates who obtained the highest number of votes in the election which gave rise to the run-off election;
- (b) section 11 "Disputes as to Eligibility for Election" shall not be applicable to a run-off election;
- (c) the Registrar shall determine the date for the run-off election and the deadline for the receipt of ballots, bearing in mind the need to complete the run-off election before the next regular meeting of the Board; and
- (d) if the run-off election results in a tie vote, the Registrar shall break the tie by lot, in the presence of at least one member of the elections committee.

NOTICE OF RESULTS

- 18.** (1) As soon as possible following the counting of the ballots, the registrar shall, in respect of each election,
 - (a) notify each eligible candidate of the results of the election and the number of votes cast for each eligible candidate; and
 - (b) notify each eligible candidate that he or she may require a recount.
- (2) Where the registrar breaks a tie by lot the registrar shall notify each eligible candidate of the manner in which the tie was broken and who was present when the registrar broke the tie.

RECOUNTS

- 19.** (1) An eligible candidate may require a recount by giving a written request to the registrar no more than five days after being advised of the result of the election.

- (2) The registrar shall hold the recount no more than five days after receiving the request.
 - (3) A recount shall be conducted in the same manner as the original counting of the ballots except that at least one member of the elections committee shall be present and each eligible candidate shall be entitled to attend in person or by a representative.
- 20.** In an election of members to the Board, the successful candidate is the eligible candidate with the highest number of votes or the eligible candidate whose name was chosen by the registrar by lot in accordance with subsection 18 (2).

INTERRUPTION OF MAIL SERVICE

- 21.** Where there is an interruption of mail service during a nomination or election, the registrar may extend the deadline for receipt of nominations or date of the election or both for such period of time as the registrar considers necessary to compensate for the interruption.

DISQUALIFICATION OF AN ELECTED MEMBER

- 22. (1)** The Board shall disqualify an elected member from sitting on the Board if the elected member
- (a) is determined by Board not to have met the eligibility requirements for election;
 - (b) ceases to be the holder of a general or specialty certificate of registration;
 - (c) ceases to either practise or reside in the Province of Newfoundland and Labrador;
 - (d) has a term, condition or limitation placed on his or her certificate of registration other than one applicable to all members holding that class of certificate;

- (e) is found to have committed an act of professional misconduct or is found to be incompetent by a panel of the Discipline Committee;
 - (f) is found to be an incapacitated member by a panel of a Fitness to Practise Committee;
 - (g) fails, without reasonable cause, to attend two consecutive regular meetings of the Board;
 - (h) fails, without reasonable cause, to attend three consecutive meetings of a committee of which he or she is a member; or
 - (i) fails, without reasonable cause, to attend a hearing of a panel of a committee for which he or she has been selected.
- (2) An elected member of the Board is also subject to disqualification by the Board for breaching the Confidentiality/Conflict Agreement.

CANCELLATION OF AN APPOINTED MEMBERSHIP

- 23.** An appointed member has his or her selection rescinded, withdrawn or otherwise cancelled by the Minister or the Minister's replacement that appointed the member;

PROCESS FOR DISQUALIFYING AN ELECTED MEMBER

- 24.** (1) Where the Registrar believes, on reasonable and probable grounds, that an elected member of the Board meets one or more of the disqualification factors set out in this by-law, the Registrar shall
- (a) provide in writing to the Board Member whose conduct has been brought into question the basis for the Registrar's belief;
 - (b) provide that the Board Member with twenty days to provide a written response; and
 - (c) once the written response has been received or the twenty days referred to in clause (b) have expired, provide the executive committee with the written response and the information referred

to in clause (a).

- (2) Where the Registrar receives a written statement from a Board Member alleging that an elected member of the Board should be disqualified under this by-law, the Registrar shall
 - (a) provide a copy of the written statement to the Board Member whose conduct has been called into question;
 - (b) provide that Board Member with twenty days to provide a written response; and
 - (c) once the written response has been received or the twenty days referred to in clause (b) have expired, provide the Chair of the Board with the written response and the information referred to in clause (a).
- (3) The Chair of the Board shall make a preliminary determination of the relevant facts and report those facts to the Board Member whose conduct is the subject of concern and, where applicable, to the Board Member who brought the concern to the Registrar's attention.
- (4) If either the Chair of the Board or the Board Member who brought the matter to the Registrar's attention is of the view that further action may be required by Board, the issue shall be placed on the agenda for the next meeting of the Board.
- (5) If the issue is placed on the agenda for a meeting of Board, the Registrar shall advise the person whose conduct is the subject of concern of the date of that meeting of Board and of his or her opportunity to make either written or oral submissions or both to the Board should he or she wish to do so.
- (6) After providing the opportunity referred to in subsection (5), the Board shall determine whether any material facts are in dispute.
- (7) Where material facts are in dispute, and the Board determines that if proven the allegations would constitute grounds to disqualify the Board Member whose conduct has been called into question, it shall appoint a retired Justice of the Newfoundland and Labrador Supreme Court

(“Commissioner”) to hold a hearing to consider

- (a) the relevant facts; and
 - (b) any questions of law in respect of which the Board requests the Commissioner's assistance.
- (8) The Commissioner shall determine who, in addition to the Board Member whose conduct has been called into question, shall be parties to the hearing and, where appropriate, may appoint legal counsel to present relevant evidence.
- (9) The Commissioner shall use a process that provides the Board Member whose conduct is in question with full and continuing disclosure of the evidence which will be presented at the hearing as well as an opportunity to make written or oral submissions or both to the Commissioner. To the extent reasonably possible, the provisions of the Public Inquiry Act shall be used in respect of the hearing.
- (10) Where the Board appoints a Commissioner, it may suspend the Board Member whose conduct has been brought into question from all of his/her duties with the Board, including all committees of the Board, until the matter is finally disposed of if the Board is satisfied that the suspension is necessary to ensure the integrity of the Board and/or its processes.
- (11) The hearing shall be completed within forty-five days of the appointment of the Commissioner or such other period of time as shall be permitted by the Chair of the Board.
- (12) After considering all of the evidence, the Commissioner shall provide a written report to the Board which shall include the Commissioner's
- (a) findings in respect of the relevant facts; and
 - (b) opinion as to any questions of law on which the Board sought the Commissioner's advice;
- as well as the Commissioner's reasons for those findings and opinions.

- (13) The Commissioner shall deliver to the Registrar the report referred to in subsection (12) as soon as possible following the completion of the hearing.
- (14) The Registrar shall provide a copy of the report to the Chair and unless the Chair directs that a special meeting of the Board be called, the report and the decision of what action to take as a result of the report shall be included in the agenda at the next meeting of the Board.
- (15) The Board may adopt either in whole or in part any or all of the findings or opinions of the Commissioner and where the Board determines that the Board Member whose conduct is the subject of concern has acted in a manner which constitutes grounds for disqualification under this by-law, the Board shall disqualify the Board Member.
- (16) Where the Board determines that the Board Member whose conduct is the subject of concern has not acted in a manner which constitutes grounds for disqualification under this by-law, any interim suspension imposed hereunder shall automatically be lifted.

PROCEDURAL AND OTHER SAFEGUARDS

- 25.** (1) A resolution of at least two-thirds of the members of the Board at a meeting duly called for that purpose shall be required in order to
 - (a) appoint a Commissioner to hold a hearing referred to in subsection 24(7);
 - (b) impose an interim suspension on the member of the Board in accordance with subsection 24(10);or
 - (c) disqualify a member of the Board in accordance with this by-law.
- (2) The member of the Board whose conduct is the subject of concern shall not take part in any Board deliberation or vote which is taken pursuant to this by-law.
- (3) Any deliberation or vote taken under this by-law shall be with the public excluded from the meeting unless the member whose conduct is

the subject of concern requests that a public meeting be held.

- (4) A member of the Board who is the subject of a vote taken under this by-law shall not be present during the vote on those issues and shall not be counted as a member of the Board in determining whether a quorum exists or whether the resolution was carried or defeated.
- 26. An elected Board Member who is disqualified by the Board under this or any other by-law of the Board ceases to be a Board Member and ceases to be a member of all committees.
- 27. If the Board disqualifies an elected Board Member, it shall treat the situation in the same way as if a vacancy had been created as a result of the resignation of that Board Member.
- 28. (1) An elected Member of the Board who becomes in default of
 - (i) the payment of any fees or who owes money to the Board; or
 - (ii) completion and return of any form prescribed by the Regulations by by-laws of the Boardincluding a default or debt which originates at any time after the deadline for receipt of nominations, in the case of an elected member shall not serve on the Board or any committee until the default is remedied.
- (2) An elected member of the Board who becomes subject to a disciplinary or incapacity proceeding including one which originates at any time after the deadline for receipt of nominations, in the case of an elected member, shall not serve on the Board or any committee until the proceeding is finally completed.

VACANCIES

- 29. (1) The seat of an elected member of the Board shall be deemed to be vacant upon the death, resignation or retirement, or disqualification of that member of the Board.

- (2) A resignation shall be irrevocable and therefore may not be withdrawn.
- (3) A resignation is effective upon receipt by the Chair, Vice-Chair or the Registrar.
- (4) If the seat of an elected member of the Board becomes vacant not more than six months before the expiry of the member's term of office, the Board may,
 - (a) leave the seat vacant;
 - (b) appoint a member who would be eligible as of the date of the appointment;
 - (c) direct the Registrar to hold a by-election in accordance with this by-law.
- (5) If the seat of an elected member of the Board becomes vacant more than six months before the expiry of the member's term of office, the Board shall direct the Registrar to hold a by-election in accordance with this by-law.

Effective December 2009
Amended May 2014
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