

# Dental Act

## CHAPTER 3 OF THE ACTS OF 1992

*as amended by*

2000, c. 37; 2007, c. 29, ss. 90-110; 2008, c. 3, s. 3;  
2014, c. 11; 2015, c. 15



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## An Act Respecting Dentistry

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### Short title

1 This Act may be cited as the *Dental Act*. 1992, c. 3, s. 1.

### Interpretation

2 In this Act,

(a) “Assistants Association” means the Nova Scotia Dental Assistants Association;

(b) “Assistants' Register” means the Register of Dental Assistants established and maintained by the Registrar pursuant to this Act;

(c) “Board” means the Provincial Dental Board of Nova Scotia;

(d) “by-law” means, except where the context otherwise requires, a by-law of the Dental Association;

(da) “complaint” means a written complaint received by the Registrar respecting

(i) unprofessional conduct,

(ii) infamous conduct,

(iii) a breach of the standard of ethics, conduct, competence or proficiency as established by the regulations, or

(iv) a breach of the advertising standards established by the regulations;

(e) “Dental Association” means the Nova Scotia Dental Association;

(f) “dentistry” means the services usually performed by or under the supervision of a dentist and includes

(i) the diagnosis and treatment of any injury, disease, pain, deformity, defect, lesion, disorder or physical condition of, to, in or from a human mouth, mandible or maxilla or associated structures or tissues, including the prescribing and administering of radiographs, anaesthetics, drugs and medicines in connection therewith,

(ii) prescribing or advising the use of, or constructing, fitting or repairing any dental prosthesis, fixed or removable, denture, bridge, or appliance for any of the purposes indicated in subclause (i) or to replace, improve or supplement a human tooth, or to prevent, alleviate, correct or improve any condition in the human oral cavity, or to be used in, upon or in connection with a human tooth, jaw or

associated structure or tissues, or in the treatment of any condition thereof, and

(iii) taking or making, or the giving of advice or assistance, or the providing of facilities for the taking or making of any impression, bite or cast and design preparatory to constructing, fitting or repairing a dental prosthesis, fixed or removable, denture, bridge, appliance or thing;

(g) “Dentists' Register” means the Register of Dentists established and maintained by the Registrar pursuant to this Act;

(h) “Executive Director” means the Executive Director of the Dental Association;

(i) and (j) *repealed 2007, c. 29, s. 90.*

(k) “licensed dental assistant” means a dental assistant whose name has been registered in the Assistants' Register and who holds a current licence issued pursuant to this Act to engage in the practice of dental assisting;

(l) *repealed 2007, c. 29, s. 90.*

(m) “licensed dentist” means a dentist whose name has been registered in the Dentists' Register pursuant to this Act and who holds a current licence issued pursuant to this Act to engage in the practice of dentistry;

(n) “Registrar” means the Registrar of the Board;

(o) “regulation” means a regulation of the Board. 1992, c. 3, s. 2; 2000, c. 37, s. 1; 2007, c. 29, s. 90.

### Prohibition

**3 (1)** No person shall engage in the practice of dentistry unless that person is a licensed dentist.

**(2)** This Section does not apply to

(a) the practice of dental hygiene performed by a licensed dental hygienist or a professional corporation pursuant to the *Dental Hygienists Act*;

(b) work, service, advice or assistance that, by the regulations, constitutes part of dental assisting and that is undertaken, performed or given by a licensed dental assistant

(i) under the supervision of licensed dentist, or

(ii) with written permission given by the Board pursuant to subsection (2) of Section 17;

(c) work, service, advice or assistance in connection with the manufacturing or repairing of any prosthetic denture, bridge, appliance or device to be used in, upon or in connection with a human

tooth, jaw or associated structure or tissue, or in the treatment of any condition thereof, performed or given by a person pursuant to a written prescription of a licensed dentist and by the use of a design, impression or cast furnished by a licensed dentist, with such written prescription, where a design, impression or cast is necessary;

(d) a person by reason only of being engaged, as a student, in a program approved by the Board;

(e) a person by reason only of demonstrating clinical operations for educational purposes, having been authorized, in writing, by the Board pursuant to subsection (2) of Section 17 to do so; or

(f) a duly qualified medical practitioner. 1992, c. 3, s. 3; 2007, c. 29, s. 91.

#### **Restriction on corporation**

**4** Except as permitted by this Act and the regulations, no corporation shall engage in the practice of dentistry and no dentist, directly or indirectly, shall assist or be employed by a corporation for the purposes of engaging in the practice of dentistry. 1992, c. 3, s. 4.

#### **Restriction on specialist**

**5** No person shall, either directly or indirectly, purport to be a specialist in a branch of dentistry unless that person is licensed in accordance with the regulations as a specialist in that branch of dentistry. 1992, c. 3, s. 5.

#### **Nova Scotia Dental Association**

**6 (1)** The Dental Association of the Province of Nova Scotia is hereby continued under the name “Nova Scotia Dental Association”.

**(2)** The membership of the Dental Association consists of

(a) each person who, immediately before the coming into force of this Act, was a member of the Dental Association of the Province of Nova Scotia; and

(b) each person who becomes a member of the Dental Association pursuant to the by-laws,

as long as that person remains a member of the Dental Association. 1992, c. 3, s. 6.

#### **Objects of Association**

**7** The objects of the Dental Association are to

(a) advance the art and science of dentistry;

(b) inform and educate the general public with respect to the advantages and maintenance of good oral health;

- (c) initiate and sustain measures designed to improve the oral health of the public;
- (d) hold meetings, clinics and seminars to increase the knowledge and abilities of those engaged in dentistry in the Province;
- (e) support publications for communication with and between members of the Dental Association;
- (f) maintain communications with other health professions and with other health agencies, both public and private;
- (g) promote the welfare of its members. 1992, c. 3, s. 7.

**Powers of Association**

**8** The Dental Association may

- (a) buy, sell, mortgage, lease or otherwise deal with real or personal property;
- (b) manage the business and other activities of the Dental Association and invest funds of the Dental Association not immediately required;
- (c) determine its annual membership fees;
- (d) publish journals and other publications to advance the objects of the Dental Association;
- (e) elect or appoint members to serve as representatives of the Dental Association at or on national, regional or local associations or groups;
- (f) negotiate on behalf of its members with persons or agencies, including government agencies, in matters respecting the practice of dentistry;
- (g) assist individual members in matters respecting the practice of dentistry;
- (h) make by-laws not inconsistent with this Act or any provision of law for the conduct and management of its affairs, including, without restricting the generality of the foregoing, by-laws respecting membership in the Dental Association, including membership of persons who are not licensed dentists;
- (i) exercise such powers as are necessary or conducive to achieve its objects and exercise its powers. 1992, c. 3, s. 8.

**Executive Director**

**9 (1)** There shall be an Executive Director of the Dental Association.

**(2)** The Executive Director is appointed by the Dental Association upon such terms and conditions of employment and for such term of office as the Dental Association determines.

(3) The Executive Director has such functions and duties as are imposed on the Executive Director by this Act and the by-laws. 1992, c. 3, s. 9.

#### **Annual membership fee**

10 (1) Every licensed dentist shall remit annually the membership fees to the Executive Director on or before such date as is prescribed by the by-laws.

(2) The Executive Director shall notify the Registrar of the names of the dentists who have not paid the annual membership fees by the date prescribed by the by-laws.

(3) Upon payment by a dentist of the arrears of annual membership fees and a reinstatement fee as determined by the by-laws, the Executive Director shall so notify the Registrar. 1992, c. 3, s. 10.

#### **Executive Committee**

11 (1) The Dental Association shall elect, in the manner set forth in the by-laws, an Executive Committee from among its members in good standing.

(2) The Executive Committee shall carry on the general management of the business and other activities of the Dental Association in accordance with this Act and the by-laws and has such functions and duties as are imposed on it by this Act and the by-laws. 1992, c. 3, s. 11.

#### **Meetings of Association**

12 (1) The Dental Association shall hold an annual meeting in each calendar year and shall hold other general meetings in accordance with the by-laws.

(2) The Executive Committee shall determine the time and place of the meetings of the Dental Association.

(3) Thirty members of the Dental Association constitute a quorum. 1992, c. 3, s. 12.

#### **Provincial Dental Board of Nova Scotia**

13 (1) The Provincial Dental Board of Nova Scotia is hereby established as a body corporate.

(2) The Board consists of

(a) three members of the Dental Association appointed by the Governor in Council, each of whom is, and has been, for at least five years, licensed to engage in the practice of dentistry in the Province as long as that person is so licensed during that person's term of office;

(b) five members of the Dental Association appointed by the Dental Association, each of whom is, and has been, for at least five years, licensed to engage in the practice of dentistry in the Province, as long as that person is so licensed during that person's term of office;

(c) and (d) *repealed 2007, c. 29, s. 92.*

(e) one member of the Assistants Association appointed by the Governor in Council who is and has been, for at least five years, licensed to engage in the practice of dental assisting in the Province, as long as that person remains so licensed during that person's term of office;

(f) one member of the Assistants Association appointed by the Assistants Association who is and has been, for at least five years, licensed to engage in the practice of dental assisting in the Province, as long as that person remains so licensed during that person's term of office; and

(g) two persons appointed by the Governor in Council, each of whom is not a member of an association referred to in clause (a), (b), (e) or (f). 1992, c. 3, s. 13; 2007, c. 29, s. 92; 2014, c. 11, s. 1.

#### **Term of office of Board member and resignation**

**14 (1)** A member of the Board holds office for a three-year term and is eligible for re-appointment for two additional consecutive terms of three years each.

**(2)** A member of the Board may resign by written notice to the Registrar.

**(3)** The Registrar shall notify the body that appointed the member of the resignation and request that body to appoint pursuant to Section 13 a person to serve on the Board. 1992, c. 3, s. 14.

#### **Chair and Vice-chair of Board**

**15** The Board shall elect a Chair and a Vice-chair from among its members. 1992, c. 3, s. 15.

#### **Rules for meetings of Board and quorum**

**16 (1)** The Board may make such rules as are necessary for the calling and conduct for its meetings.

**(2)** Seven members of the Board constitute a quorum. 1992, c. 3, s. 16; 2007, c. 29, s. 93.

#### **Duties and powers of Board**

**17 (1)** The Board shall

- (a) represent and protect the interests of the general public in matters relating to the practice of dentistry;
- (b) establish the educational requirements for registration and licensing for the practice of dentistry and dental assisting;
- (c) approve clinical training programs for students in dentistry and dental assisting;
- (d) prescribe examinations, where necessary, to ascertain the qualifications of persons seeking to be registered and licensed to engage in the practice of dentistry or dental assisting;
- (e) establish a Complaints Committee, a Discipline Committee and a Registration Appeal Committee;
- (f) hear appeals from decisions of the Discipline Committee;
- (g) *repealed 2015, c. 15, s. 1.*
- (h) provide annually a report, including a financial statement, to the Minister of Health;
- (i) determine the registration fees and the annual licensing fees for dentists and dental assistants; and
- (j) carry out such other duties as are imposed upon it by this Act.

**(2)** The Board may grant

- (a) *repealed 2007, c. 29, s. 94.*
- (b) permission to a licensed dental assistant to undertake, perform or give work, service, advice or assistance that, by the regulations, constitutes part of the practice of dental assisting and is not undertaken, performed or given under the supervision of a dentist;
- (c) authorization to a person for demonstrating clinical operations for educational purposes. 1992, c. 3, s. 17; 2000, c. 37, s. 2; 2007, c. 29, s. 94; 2015, c. 15, s. 1.

**Examination of books and accounts of Board**

**18** The books and accounts of the Board shall, at all reasonable times, be open for examination by any licensed dentist or licensed dental assistant. 1992, c. 3, s. 18; 2007, c. 29, s. 95.

**Registrar**

**19** The Board shall appoint a dentist as Registrar of the Board and shall determine the Registrar's salary which shall be paid out of the money received by the Board pursuant to this Act. 1992, c. 3, s. 19.

**Duties of Registrar**

**20** The Registrar shall

- (a) examine the credentials of candidates for registration and licensing and approve for registration and licensing those candidates qualified to be licensed and registered;
- (b) issue certificates of registration and licences on behalf of the Board;
- (ba) impose conditions or restrictions on a certificate of registration or licence issued pursuant to clause (b), if required for the protection of the public and for appropriate patient care;
- (c) subject to the direction of the Board, maintain all registers in accordance with this Act and the regulations;
- (d) issue permits to corporations pursuant to the regulations;
- (e) collect all fees due to the Board;
- (f) serve as an *ex officio* member of the Board;
- (g) maintain records of the Board's proceedings;
- (h) investigate complaints respecting dentists and dental assistants and refer all complaints to the Complaints Committee;
- (i) initiate dispute mediation in appropriate circumstances;
- (j) retain and instruct counsel with respect to matters that proceed to the Discipline Committee;
- (k) report to the Board as and when necessary;
- (l) carry out such duties as are imposed on the Registrar by this Act or the regulations or as are directed by the Board. 1992, c. 3, s. 20; 2000, c. 37, s. 3; 2007, c. 29, s. 96; 2015, c. 15, s. 2.

**Registers**

**21 (1)** There is hereby established

- (a) the Register of Dentists; and
- (b) *repealed 2007, c. 29, s. 97.*
- (c) the Register of Dental Assistants.

**(2)** Upon approving the registration of a person and upon the payment of all prescribed fees, the Registrar shall enter the name of that person in the applicable register and issue to that person a certificate of registration.

**(3)** The Registrar shall from time to time make such alterations as are necessary to update the registers in accordance with this Act and the regulations.

(4) The Registrar shall strike the names of all registered persons who have died or who are to be struck from a register in accordance with this Act and the regulations.

(5) The name of a person struck from a register may be reinstated where the Registrar is satisfied that the person is entitled to be registered.

(6) All of the registers shall be open to inspection without charge by any person at reasonable times during normal business hours. 1992, c. 3, s. 21; 2007, c. 29, s. 97.

#### **Registration fees**

22 Every dentist and dental assistant applying to be registered in the applicable register shall remit to the Registrar the applicable registration fee determined by the Board. 1992, c. 3, s. 22; 2007, c. 29, s. 98.

#### **Reference to additional qualification**

23 A person registered pursuant to this Act who has obtained a degree or qualification relating to dentistry, other than a degree required to qualify that person for registration, is entitled to have the degree or additional qualification entered in the applicable register in substitution for, or in addition to, the qualifications previously registered upon satisfying the Registrar that the person is entitled to that qualification and upon payment of such fees as the Board determines. 1992, c. 3, s. 23.

#### **Licensing fees**

24 (1) Every dentist or dental assistant applying for a licence to engage in the practice of dentistry or dental assisting, respectively, for the ensuing year shall remit the applicable annual licensing fee to the Registrar on or before the date prescribed by the regulations.

(2) The name of a person who has not paid the annual licensing fees for the year or met the other requirements for the issue of an annual licence on or before the date prescribed by the regulations or who does not at any time meet the other requirements for the issue of a licence shall be struck from the applicable register but the name may be re-entered in the register upon

(a) payment of a reinstatement fee as determined by the Board;

(b) all the requirements for the issue of an annual licence being met; and

(c) where the person does not give prior written notice to the Board that the person does not intend to renew that person's licence, payment of the arrears of licensing fees,

if the person is otherwise still eligible to have the name so entered.

(3) The Board may, in a court of competent jurisdiction, recover as a private debt money owed to it. 1992, c. 3, s. 24; 2007, c. 29, s. 99.

#### Dentistry licence

25 (1) Subject to subsection (2), the Registrar shall annually issue a licence to engage in the practice of dentistry to a person who

- (a) is registered in the Dentists' Register;
- (b) has paid the membership fees of the Dental Association for the current year;
- (c) pays the annual licensing fee for the ensuing year on or before such date as is prescribed by the regulations;
- (d) meets the educational requirements and other qualifications set out in the regulations;
- (e) provides the Registrar with a statement signed by that person indicating whether or not that person has been engaged in the practice of dentistry within the preceding twelve months;
- (f) has complied with any restrictions, conditions or limitations imposed upon that person by the Registrar, the Registration Appeal Committee or the Discipline Committee pursuant to this Act or the regulations; and
- (g) meets any other requirements of the Board.

(2) Where a person ceases to be engaged in the practice of dentistry for the time prescribed by the regulations, the Registrar shall not issue to that person a licence to engage in the practice of dentistry unless and until that person passes examinations and meets any other requirements prescribed by the Board.

(3) The Registrar shall strike from the Dentists' Register the name of a dentist who does not pass the examinations or meet the requirements referred to in subsection (2).

(4) The Registrar shall re-enter a person's name in the Dentists' Register and restore the person's licence upon that person passing the examinations prescribed by the Board and upon fulfilling any other requirements of the Board. 1992, c. 3, s. 25; 2015, c. 15, s. 3.

26 *repealed 2007, c. 29, s. 100.*

#### Dental assisting licence

27 (1) Subject to subsection (2), the Registrar shall annually issue a licence to engage in the practice of dental assisting to a person who

- (a) is registered in the Assistants' Register;

(b) has paid the membership fees of the Assistants Association for the current year;

(c) pays the annual licensing fee for the ensuing year on or before such date as is prescribed by the regulations;

(d) meets the educational requirements and other qualifications set out in the regulations;

(e) provides the Registrar with a statement signed by that person indicating whether or not that person has been engaged in the practice of dental assisting within the preceding twelve months;

(f) has complied with any restrictions, conditions or limitations imposed upon that person by the Registrar, the Registration Appeal Committee or the Discipline Committee pursuant to this Act or the regulations; and

(g) meets any other requirements of the Board.

(2) Where a person ceases to be engaged in the practice of dental assisting for the time prescribed by the regulations, the Registrar shall not issue to that person a licence to engage in the practice of dental assisting unless and until that person passes examinations prescribed by the Board and meets any other requirements imposed by the Board.

(3) The Registrar shall strike from the Assistants' Register the name of a person who does not pass the examinations or meet the requirements referred to in subsection (2).

(4) The Registrar shall re-enter a person's name in the Assistants' Register and restore the person's licence upon that person passing the examinations prescribed by the Board and upon fulfilling any other requirements of the Board. 1992, c. 3, s. 27; 2015, c. 15, c. 4.

#### **Execution of licence**

**28** Every licence shall be sealed with the seal of the Board and signed by the Registrar. 1992, c. 3, s. 28.

#### **Licence as evidence**

**29** A licence is *prima facie* proof, for all purposes and in any action, proceeding or prosecution, that the person named therein is qualified to engage in the practice of dentistry or dental assisting, as the case may be, during the time indicated on the licence. 1992, c. 3, s. 29; 2007, c. 29, s. 101.

#### **Consequence of false representation**

**30** A person who makes a false representation in an application for registration or licensing shall be struck from the applicable register. 1992, c. 3, s. 30.

**Appeal to Registration Appeal Committee**

**31 (1)** A person who is dissatisfied with a decision of the Registrar respecting registration or licensing or otherwise relating to entries in either the Dentists' Register or the Dental Assistants' Register may appeal from the decision to the Registration Appeal Committee.

**(2)** Where an appeal is taken pursuant to subsection (1), the Registration Appeal Committee may reverse, uphold or vary the decision of the Registrar.

**(3)** The Registration Appeal Committee's decision made pursuant to subsection (2) is final. 1992, c. 3, s. 31; 2007, c. 29, s. 102; 2015, c. 15, s. 5.

**Power to inspect and assess**

**32 (1)** The Registrar, or a licensed dentist appointed by the Registrar, may enter, without notice and at all reasonable times, premises where dentistry is practised to inspect and assess the quality of the dental practice.

**(2)** No person shall obstruct a person in exercising the powers conferred upon that person by this Section.

**(3)** The Registrar or inspector shall make a report setting out the findings of an inspection together with any recommendations and the report shall be sent by the Registrar to each dentist whose premises are inspected. 1992, c. 3, s. 32.

**Discipline regulations**

**33 (1)** The Board may, subject to subsection (3) of Section 45, make regulations

(a) constituting a Complaints Committee to consider complaints relating to dentists and dental assistants;

(b) prescribing the powers and procedures of the Complaints Committee;

(c) prescribing the actions that the Complaints Committee may take with respect to complaints, which actions may include

(i) dismissing the complaint,

(ii) referring the complaint to the Discipline Committee,

(iii) counselling,

(iv) cautioning,

(v) reprimanding;

(d) providing for appeals from the Complaints Committee to the Discipline Committee.

- regulations
- (2) The Board may, subject to subsection (3) of Section 45, make regulations
- (a) constituting a Discipline Committee to hear complaints relating to dentists and dental assistants;
  - (b) prescribing the powers and procedures of the Discipline Committee;
  - (c) prescribing the sanctions that may be imposed by the Discipline Committee on a dentist or dental assistant against whom a finding is made with respect to any matter referred to it, which sanctions may include
    - (i) counselling,
    - (ii) cautioning,
    - (iii) reprimanding,
    - (iv) suspending or cancelling a certificate of registration or an annual licence, with or without conditions,
    - (v) requiring that a person pay all or part of the costs of the disciplinary proceeding.
- (3) The Board may, subject to subsection (3) of Section 45, make regulations respecting the publication of decisions of the Complaints Committee and the Discipline Committee. 2000, c. 37, s. 4; 2007, c. 29, s. 103.

#### **Immediate suspension or imposition of restrictions**

**34 (1)** In urgent and compelling circumstances, the Complaints Committee may, without a hearing, in the interests of the public, immediately suspend the licence of a dentist or dental assistant or may immediately impose restrictions on a temporary basis on the registration or licence, or both, of a dentist or dental assistant.

**(2)** When a licence is suspended pursuant to subsection (1), the Registrar shall, forthwith, give written notice of the decision made pursuant to subsection (1) to the dentist or dental assistant.

**(3)** The Complaints Committee shall, upon receipt of a request from the dentist or dental assistant, provide an opportunity for a meeting with the Committee within ten days of the written request and, after the meeting, the Committee may confirm, vary or terminate the suspension or restrictions imposed pursuant to subsection (1).

**(4)** Where a decision is made pursuant to subsection (1) and the suspension or any restrictions imposed by the Complaints Committee remain in place following the meeting referred to in subsection (3), the matter shall be referred to the Discipline Committee which shall hold a hearing within thirty days unless the dentist or dental assistant requests a hearing date that is more than thirty

days after the referral of the matter to the Discipline Committee. 2000, c. 37, s. 4; 2007, c. 29, s. 104.

### **Inadmissibility of evidence in legal proceeding**

**34A (1)** In this Section,

(a) “civil proceeding” means any proceeding of a civil nature other than an arbitration proceeding or a proceeding before an adjudicative tribunal, board or commission or inquiry; and

(b) “legal proceeding” means any civil proceeding, discovery, inquiry, proceeding before a tribunal, board or commission or arbitration, in which evidence may be given, and includes an action or proceeding for the imposition of punishment by fine, penalty or imprisonment for the violation of a Provincial enactment, but does not include any proceeding or hearing conducted pursuant to this Act or the regulations.

(2) A witness in any legal proceeding, whether a party to the proceeding or not, is excused from answering any question as to any proceedings of the Complaints Committee, the Discipline Committee or the Registration Appeal Committee, and is excused from producing any report, statement, memorandum, recommendation, document or information prepared for the purpose of the investigative, disciplinary and hearing processes of the Board, including any information gathered in the course of an investigation or produced for the Complaints Committee, the Discipline Committee, the Registration Appeal Committee or staff members of the Board.

(3) Subsection (2) does not apply to documents or records that have been made available to the public by the Board.

(4) Unless otherwise determined by a court of competent jurisdiction, a decision of the Complaints Committee, the Discipline Committee or the Registration Appeal Committee is not admissible in a civil proceeding other than in an appeal or a review pursuant to this Act. 2008, c. 3, s. 3; 2015, c. 15, s. 6.

### **Jurisdiction unaffected**

**35** The jurisdiction of the Complaints Committee and the Discipline Committee to deal with a charge or a complaint against a person is not affected by the failure to renew the annual licence or by the fact that a person's name is no longer on the applicable register. 2000, c. 37, s. 4.

### **Recording in register of finding or order**

**36 (1)** The Complaints Committee or the Discipline Committee may determine whether or not a finding or order against a person shall be recorded in the applicable register and the length of time during which the record remains in the register.

(2) A person against whom a finding or order is made by the Complaints Committee or the Discipline Committee may apply to the Complaints Committee or the Discipline Committee, as the case may be, to have the record of the finding or order removed from the applicable register. 1992, c. 3, s. 36; 2000, c. 37, s. 5.

#### **Application for restoration of licence**

37 The Board, upon application, may order that the registration or licensing of a dentist or dental assistant be restored upon such terms and conditions as the Board orders. 1992, c. 3, s. 37; 2007, c. 29, s. 105.

#### **Appeal to Court of Appeal**

38 (1) A dentist or dental assistant against whom the Discipline Committee has rendered a decision and imposed sanctions may appeal on any point of law from the findings of the Discipline Committee to the Nova Scotia Court of Appeal.

(2) The notice of appeal shall be filed with the Nova Scotia Court of Appeal not later than thirty days after service of the decision of the Discipline Committee and shall be served upon the Registrar and the complainant.

(3) The record on appeal from the findings of the Discipline Committee shall consist of a copy of the transcript of the proceedings, the decision of the Committee and the evidence before the Committee certified by the Chair of the Committee.

(4) The *Civil Procedure Rules* governing appeals from the Supreme Court of Nova Scotia to the Nova Scotia Court of Appeal that are not inconsistent with this Act apply *mutatis mutandis* to appeals to the Nova Scotia Court of Appeal pursuant to this Section.

(5) Where a matter is appeal to the Nova Scotia Court of Appeal pursuant to this Section, the Nova Scotia Court of Appeal has jurisdiction to, pending a decision by the Court, grant a stay of any order made pursuant to this Act where, in its discretion, it deems it fit to grant such a stay. 2000, c. 37, s. 6; 2007, c. 29, s. 106.

39 *repealed 2000, c. 37, s. 6.*

#### **Practice by corporation**

40 (1) Subject to subsections (2) and (3), a corporation may engage in the practice of dentistry in accordance with the regulations.

(2) A majority of the voting shares of a corporation engaged in the practice of dentistry shall be beneficially owned by one or more licensed dentists.

(3) The majority of the directors and officers of a corporation engaged in the practice of dentistry shall be licensed dentists. 1992, c. 3, s. 40.

#### **Effect of incorporation**

41 (1) The relationship of a dentist or dental assistant to a corporation that is engaged in the practice of dentistry, whether as a shareholder, director, officer, or employee, does not affect, modify or diminish the application to the dentist or dental assistant of the provisions of this Act and the regulations.

(2) The liability of an individual arising from that individual or any other individual engaging in the practice of dentistry or dental assisting is not affected by reason only that the services are provided by a corporation. 1992, c. 3, s. 41; 2007, c. 29, s. 107.

#### **Confidential and ethical relationships**

42 (1) Nothing contained in this Act affects, modifies or limits a law applicable to the confidential or ethical relationships between a dentist or dental assistant and a patient.

(2) The relationship between a corporation engaged in the practice of dentistry and a person receiving the professional services of the corporation is subject to all applicable laws relating to the confidential and ethical relationship between a dentist and the dentist's patient.

(3) All rights and obligations respecting communications made to, or information received by a person who is a dentist or dental assistant apply to that person notwithstanding that the person is a shareholder, director, officer or employee of a corporation engaged in the practice of dentistry. 1992, c. 3, s. 42; 2007, c. 29, s. 108.

#### **Powers, privileges and immunities**

43 (1) The members of the Complaints Committee, the Discipline Committee and the Registration Appeal Committee have all the powers, privileges and immunities of a commissioner appointed pursuant to the *Public Inquiries Act* with the exception of the powers of contempt, arrest and imprisonment.

(2) The Registrar, when performing the powers and duties of the Registrar pursuant to this Act, and a person appointed by the Registrar pursuant to Section 32 when performing that person's functions pursuant to that Section, have all the privileges and immunities of a commissioner appointed pursuant to the *Public Inquiries Act* with the exception of the powers of contempt, arrest and imprisonment. 1992, c. 3, s. 43; 2000, c. 37, s. 7; 2015, c. 15, s. 7.

#### **Secrecy**

44 (1) The Registrar, a person entitled to enter premises pursuant to Section 32 and each member of the Complaints Committee, the Discipline Committee or the Registration Appeal Committee, shall preserve the secrecy of all matters

that have come to the Registrar's, that person's or that member's, as the case may be, knowledge in the course of carrying out any duty, performing any function or exercising any power pursuant to this Act and shall not communicate any such matters to any other person except

- (a) as may be required in connection with the administration of or any proceedings pursuant to this Act or the regulations; or
- (b) with the consent of each person to whom the information relates.

(2) No person is required to give testimony in any civil suit or proceeding with regard to information obtained in the course of carrying out any duty, performing any function or exercising any power except in a proceeding pursuant to this Act or the regulations. 1992, c. 3, s. 44; 2000, c. 37, s. 8; 2015, c. 15, s. 8.

### General regulations

45 (1) Subject to subsections (2) and (3), the Board may make regulations

- (a) prescribing the qualifications for registration and licensing to engage in the practice of dentistry and dental assisting;
- (b) prescribing the dates on or before which licensing fees shall be paid;
- (c) providing for examinations to determine the qualifications of candidates for registration and licensing to engage in the practice of dentistry and dental assisting;
- (d) prescribing the minimum periods of time during which a person must engage in the practice of dentistry or dental assisting to qualify for annual licence renewal;
  - (da) respecting the powers, authority and processes of the Registrar;
  - (db) constituting a Registration Appeal Committee;
  - (dc) prescribing the powers and procedures of the Registration Appeal Committee;
  - (dd) prescribing the actions, sanctions or other remedies that the Registration Appeal Committee may impose with respect to appeals;
- (e) providing for the maintenance of various registers including the form, contents and publication of the registers;
- (f) prescribing forms to carry out the procedures pursuant to this Act and the regulations;
- (g) regulating the provision of dental services by dental assistants, including prescribing the functions of dentistry that consti-

tute the practice of dental assisting and the conditions under which dental assistants may engage in those functions;

(h) prescribing the standards of ethics, conduct, competence and proficiency to be maintained by dentists and dental assistants;

(i) defining what constitutes unprofessional conduct and infamous conduct by dentists and dental assistants;

(j) providing for mandatory continuing education for dentists and dental assistants;

(k) prescribing advertising standards to be observed by dentists;

(l) establishing, prescribing and regulating mandatory malpractice insurance for licensed dentists;

(m) regulating the provision of dental services through corporations;

(n) defining specialties within dentistry;

(o) establishing and regulating the qualifications and the conditions that must be met for licensing as a specialist;

(p) providing for the use, regulation and prohibition of terms, titles or designations by specialists;

(q) providing for the suspension or revocation of the licence of a specialist;

(qa) providing for practice assessment and evaluation;

(r) that are generally necessary to carry into effect the provisions of this Act.

(2) Where a proposed regulation may affect the members of the Dental Association or the Assistants Association, the Board shall consult with that association.

(3) A regulation is ineffective unless and until it is approved by the Governor in Council. 1992, c. 3, s. 45; 2000, c. 37, s. 9; 2007, c. 29, s. 109; 2015, c. 15, s. 9.

### Regulations Act

**45A** The exercise by the Board of the authority contained in Section 33 or 45 is regulations within the meaning of the *Regulations Act*. 2000, c. 37, s. 10.

### Misleading re licensing

**46** Every person who is not a licensed dentist and who wilfully or falsely misleads another person to believe that that person is licensed pursuant to this Act to engage in the practice of dentistry is guilty of an offence. 1992, c. 3, s. 46.

**Dentistry without licence**

**47** Every person who employs or otherwise engages a person who engages in the practice of dentistry and is not a licensed dentist or a person exempted from Section 3 by subsection (2) thereof is guilty of an offence except that a person does not contravene this Section by reason only of being a patient of the unlicensed person. 1992, c. 3, s. 47.

**Liability of directors and officers**

**48** Where a corporation commits an offence contrary to this Act, every person who, at the time of the commission of the offence, was a director or officer of the corporation is guilty of the same offence unless the act or omission constituting the offence took place without the person's knowledge or consent or the person exercised all due diligence to prevent the commission of the offence. 1992, c. 3, s. 48.

**Contravention of Act**

**49** A person who contravenes or fails to comply with this Act or a regulation or an order made pursuant to this Act is guilty of an offence punishable on summary conviction. 1992, c. 3, s. 49.

**Penalties**

**50 (1)** A person who is guilty of an offence contrary to this Act is liable

(a) for the first offence, to a penalty not exceeding five hundred dollars;

(b) for the second offence, to a penalty not exceeding one thousand dollars;

(c) for every subsequent offence, to a penalty not exceeding three thousand dollars.

**(2)** Every day on which an offence occurs or continues is a separate offence. 1992, c. 3, s. 50.

**Aid to those in urgent need**

**51** Nothing in this Act prevents a person from giving necessary aid to anyone in urgent need provided that such aid or attendance is not given for hire or gain, nor the giving of it made a business or way of gaining a livelihood by such person. 1992, c. 3, s. 51.

**Transitional provisions**

**52 (1)** In this Section, "former Act" means Chapter 125 of the Revised Statutes, 1989, the *Dental Act*.

**(2)** An application for registration or for a licence that was made pursuant to the former Act but not completely dealt with pursuant to the former Act

prior to the coming into force of this Act shall be dealt with pursuant to the former Act as if this Act were not in force.

(3) Regulations made pursuant to the former Act continue in full force and effect and to the same extent as if made pursuant to this Act until they are revoked and replaced by regulations made pursuant to this Act.

(4) A person registered and licensed as a dentist or dental assistant pursuant to the former Act and regulations made thereunder on the day immediately before the day on which this Act comes into force continues to be registered and licensed as if they were registered and licensed pursuant to this Act.

(5) Every member of the Dental Association and the Executive Committee of the Association on the day immediately before this Act comes into force continues as a member of the Association or a member of the Executive Committee, respectively.

(6) The members of the Board appointed pursuant to the former Act are deemed to be members of the Board pursuant to this Act and the additional members of the Board pursuant to this Act shall begin to serve once all have been appointed.

(7) Any discipline proceedings that were commenced but not concluded before the coming into force of this Act shall be dealt with pursuant to the former Act as though this Act had not come into force.

(8) Any discipline proceedings commenced after the coming into force of this Act when the proceedings relate to conduct occurring all or partly before the coming into force of this Act shall be dealt with pursuant to this Act.

(9) Any order of the Discipline Committee or the Board made pursuant to the former Act continues in full force and effect as though this Act had not come into force. 1992, c. 3, s. 52; 2007, c. 29, s. 110.

### Repeal

**53** Said Chapter 125 is repealed. 1992, c. 3, s. 53.

### Substituted reference

**54** (1) A reference in any enactment or any document, including any deed, lease, will, trust or indenture to the Dental Association of the Province of Nova Scotia shall, as regards any subsequent transaction, matter or thing, be held and construed to be a reference to the Nova Scotia Dental Association.

(2) No rights, duties, obligations or liabilities of the Dental Association of the Province of Nova Scotia are in anywise affected by the change of name made by this Act and those rights, duties, obligations and liabilities continue to be vested in and are binding upon it by the name "Nova Scotia Dental Association". 1992, c. 3, s. 54.

**Proclamation**

**55** This Act comes into force on and not before such day as the Governor in Council orders and declares by proclamation. 1992, c. 3, s. 55.

Proclaimed	-	September 1, 1992
In force	-	September 8, 1992

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