



HOUSE BILL 1033: Dental Board Reform.

2025-2026 General Assembly

Committee:	House Judiciary 2. If favorable, re-refer to Health. If favorable, re-refer to Rules, Calendar, and Operations of the House	Date:	May 12, 2026
Introduced by:	Rep. Stevens	Prepared by:	Jason Moran-Bates Staff Attorney
Analysis of:	PCS to First Edition H1033-CSBC-71		

OVERVIEW: *The Proposed Committee Substitute to House Bill 1033 would make various changes to the North Carolina State Board of Dental Examiners, designed to ensure compliance with the decision handed down in N.C. State Bd. of Dental Examiners v. FTC. It would also require all occupational licensing boards to receive training in antitrust law, clarify that scope of practice modifications must be made through the rule-making process, require actions seeking relief against unlicensed practitioners to be brought in Superior Court, and allow boards to file contested cases under Chapter 150B to resolve jurisdictional disputes.*

CURRENT LAW: Current law is underlined below.

BILL ANALYSIS:

Section 1 would clarify that the practice of dentistry is subject to the control of the state and that state officials must have the power to review the acts of private parties, disapproving of those acts that contradict state policy.

Section 1 would also make the following changes to the North Carolina State Board of Dental Examiners (Board):

- Membership would be increased to eleven. There would be six dentist members, two dental hygienist members, and three members of the public. Currently there are eight members: six dentists, one dental hygienist, and one member of the public.
- The Governor would appoint four members: two dentists, one dental hygienist, and one member of the public. The General Assembly would appoint four members: two dentists on recommendation of the Speaker of the House and two dentists on recommendation of the President Pro Tempore of the Senate. The Commissioner of Labor would appoint three members: one dental hygienist and two members of the public. Currently, the Governor appoints the public member of the Board. The dentist members are chosen by vote of all licensed dentists residing and practicing in the state. The dental hygienist member is chosen by vote of all licensed dentist hygienists residing and practicing in the state.
- Board members would be able to be removed by the appointing authority for neglect of duty, incompetence, or unprofessional conduct. Vacancies would be filled by the appointing authority.

Section 2 of the bill would provide for staggering of the terms of the new Board members.

Kara McCraw
Director



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Section 3 of the bill would require the Board to adopt rules necessary to implement the provisions of the bill.

Section 4 of the bill would make the following changes applicable to all occupational licensing boards (OLBs) in the state:

- OLB members would be required to get training in antitrust law and state action immunity.
- OLBs would be required to adopt rules for resolving complaints, taking action against licensees, and taking action against individuals practicing without a license. Interpretations and clarifications of the scope of practice must be adopted as rules. The complaint process must allow for electronic complaint submission and a written description of the final disposition of the complaint.
- OLBs would be required to provide notice to individuals practicing without a license of possible administrative, civil, and criminal penalties.
- OLBs would be required to bring actions seeking to enjoin unlicensed practice in superior court of the county where the defendant resides or where the OLB is headquartered. Courts would have the authority to provide injunctive relief or other appropriate action.
- OLBs that cannot solve jurisdictional disputes against another OLB through informal means would be able to file a contested case action in accordance with Chapter 150B.

EFFECTIVE DATE: The provisions applicable to all OLBs become effective October 1, 2026, and apply to actions arising on or after that date. The remainder of the bill is effective when it becomes law.

BACKGROUND: *N.C. State Bd. of Dental Examiners v. FTC*, 574 U.S. 494 (2015), dealt with when non-sovereign entities were entitled to state action immunity from federal antitrust law.

The North Carolina State Board of Dental Examiners (Board), which was controlled by licensed dental professionals who were directly elected by other licensed dental professionals in the state, declared teeth whitening to be the practice of dentistry. The Board sent cease and desist orders to several individuals who provided teeth whitening services, accusing them of engaging in the practice of dentistry without a license. The Federal Trade Commission issued an administrative complaint alleging the Board's action was an illegal restraint on trade because it was taken by market participants (i.e., licensed dental professionals) to prevent non-licensed professionals from entering the teeth whitening market. The Board replied that, although it was not a sovereign entity, it was entitled to state-action immunity from federal antitrust law because it was carrying out the state-approved policy of regulating dentistry.

The Court held that when the non-sovereign entities were controlled by market participants, they were not entitled to state action immunity for anti-competitive conduct unless there was active supervision by the state. Because the seven of the eight seats on the Board were held by market participants exclusively elected by other market participants and there was no opportunity for an executive agency to meaningfully review the Board's action in declaring teeth whitening to be the practice of dentistry, that action was held to be an illegal restraint of trade under federal law.