

HOUSE BILL REPORT

HB 1514

As Reported by House Committee On:
Health Care & Wellness

Title: An act relating to dental office support services.

Brief Description: Concerning dental office support services.

Sponsors: Representatives Jinkins, Manweller and Cody.

Brief History:

Committee Activity:

Health Care & Wellness: 2/4/15, 2/18/15 [DPS].

Brief Summary of Substitute Bill

- Permits a person or entity not licensed as a dentist to provide consulting and clerical services to a dentist, provide a customary business loan or financing lease of equipment to a dentist, and secure a business loan or financing lease with security interests in the dental practice's assets.
- Prohibits a person or entity not licensed as a dentist from having an equity interest or investment in a dental practice.
- Imposes requirements on contracts between dentists or professional entities and individuals or entities not entirely owned by dentists and permits the Dental Quality Assurance Commission to adopt rules related to these requirements.

HOUSE COMMITTEE ON HEALTH CARE & WELLNESS

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 10 members: Representatives Riccelli, Vice Chair; Schmick, Ranking Minority Member; Caldier, DeBolt, Jinkins, Johnson, Moeller, Rodne, Short and Van De Wege.

Minority Report: Without recommendation. Signed by 4 members: Representatives Cody, Chair; Clibborn, Robinson and Tharinger.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Minority Report: Do not pass. Signed by 1 member: Representative Harris, Assistant Ranking Minority Member.

Staff: Alexa Silver (786-7190).

Background:

Practice of Dentistry.

Dentists are licensed and regulated by the Dental Quality Assurance Commission. The practice of dentistry is defined as:

- owning, maintaining, or operating an office for the practice of dentistry;
- representing oneself as being able to diagnose, treat, remove stains and concretions from teeth, operate or prescribe for any disease, pain, injury, deficiency, deformity, or physical condition of the human teeth, alveolar process, gums, or jaw;
- offering or undertaking to diagnose, treat, remove stains or concretions from teeth, operate or prescribe for any disease, pain, injury, deficiency, deformity, or physical condition of the same, or taking impressions of the teeth or jaw;
- engaging in any of the practices included in the curricula of recognized and approved dental schools or colleges; or
- professing to the public by any method to furnish, supply, construct, reproduce, or repair any prosthetic denture, bridge, appliance, or other structure to be worn in the human mouth.

Corporations are prohibited from practicing dentistry or soliciting dental patronage for dentists employed by a corporation. This restriction does not apply to corporations or associations that furnish information or clerical services to a licensed dentist, so long as the information or services can be furnished by unlicensed persons and the dentist assumes full responsibility for the information and services.

Practice of Dentistry in Oregon and Alaska.

In Oregon and Alaska, only a licensed dentist may own, operate, conduct, or maintain a dental practice, office, or clinic, but an unlicensed person is explicitly permitted to:

- own or lease tangible or intangible assets used in a dental office or clinic;
- employ or contract for services of personnel other than licensed dentists; and
- manage the business aspects of a dental office or clinic that do not include the clinical practice of dentistry.

Summary of Substitute Bill:

A person or entity not licensed as a dentist may:

- provide to a dentist a customary business loan or a financing lease of equipment at usual terms and rates;
- secure a customary business loan or a financial lease of equipment with security interests in the tangible assets of a dental practice; or

- provide ordinary consulting and clerical services to a dentist if:
 - the services are compensable only through regular fees not involving a share of revenues, profits, or proceeds upon sale or liquidation of the dental practice; and
 - the dentist may cancel the services at any time without charge or penalty.

A person or entity not licensed as a dentist may not have a direct or indirect equity interest or investment in a dental practice and may not be compensated with a share of revenue, profits, or proceeds upon sale or liquidation of a dental practice.

The following requirements apply to a contract between a licensed dentist, professional corporation, or professional limited liability corporation and an individual or entity not owned entirely by dentists:

- The contract may not manage, affect, or limit treatment decisions, decisions regarding patient referrals, or decisions regarding materials, instruments, or equipment used in treatment.
- The contract may not interfere with the dentist's ability to make final decisions on advertising, billing, and patient communication.
- The contract must be transparent to the Dental Quality Assurance Commission (Commission), the dentist, the dentist's professional entity, patients, and, to the extent determined by the Commission, the public and prospective patients.
- The contract may only provide for compensation on a fee-for-service basis that is fair and reasonable and without an equity interest in the practice by the consulting individual or entity. Fees and reimbursed expenses may not be measured by a share of revenues, profits, business volume, or proceeds of sale of the practice.
- The duration of the contract must be for one year or less without automatic renewal or optional renewal by the consultant, and the contract must be terminable by the dentist upon payment of a termination fee not to exceed \$25,000.
- No extra fee or penalty may apply to non-renewal of the contract.
- Revenues of the practice belong solely to the dentist or professional entity.
- The contract may not include a noncompetition covenant for the benefit of the consultant.
- The dentist or professional entity must exclusively control decisions about sale of the practice or expansion or discontinuance of its business.
- The dentist or professional entity and the consultant must consent to provide copies of contracts and relevant documents to the Commission upon request.

The Commission may adopt and enforce any necessary and appropriate rules with respect to contracts between dentists or professional entities and entities not entirely owned by dentists. The Commission may investigate violations related to these contracts with or without a complaint. "Contract" includes a contract, consulting agreement or arrangement, or dental support or management agreement.

A "dental practice" is an individual, entity, or office engaged in the activities that constitute the practice of dentistry. A "dental practice owner" is a licensed dentist who owns a dental practice as a sole proprietor or a professional entity that owns a dental practice. A "professional entity" is a professional corporation or other entity that is wholly owned by licensed dentists.

Substitute Bill Compared to Original Bill:

The substitute bill restores the definition of the practice of dentistry in current law and modifies the activities that unlicensed persons and entities are permitted to and prohibited from performing. It eliminates the requirement that a dental practice owner who is discontinuing the practice make reasonable arrangements for the transfer of patient records and the requirement that the Dental Quality Assurance Commission adopt rules requiring professional entities that own dental records to maintain and produce records for examination. Finally, it eliminates the changes to the section of law prohibiting the corporate practice of dentistry.

Appropriation: None.

Fiscal Note: Available. New fiscal note requested on February 19, 2015.

Effective Date of Substitute Bill: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) Questions have arisen over the years about whether it is the corporate practice of medicine for a dentist to contract out for back office functions like billing. This bill reinforces what the law already is. Dentists may contract with whomever they want for functions that are not actually the practice of dentistry. Dental support organizations provide a variety of non-clinical support services so that dentists can spend more time with patients and less time on administration, maintenance, and information technology. Dental support organizations equip a dental office with the latest technology, and they reduce the cost of delivering care because of their buying power with vendors. For some dentists, a group practice works better than a practice in which the dentist has to find his or her own patients. A group practice provides for mentoring and a focus on patient care. Dentists in these practices do not take direction on how or when to provide services to patients. Without this bill, there is concern that group practices will not be able to deliver the quality of care that patients have come to expect.

(Opposed) There is no opposition to dentists forming group practices, owning multiple practices, or contracting with dental support organizations. The law allows these practices to get the back office support they need, but this bill goes beyond clarifying the law. It opens up the possibility for untrained business managers and investors to manage the business and administrative aspects of the practice, which can impact the clinical aspects of practice. Dental support organizations prey on young graduates who are swamped with student debt. They are de facto owners of dental clinics. They exercise complete control, dictate treatment plans, and give dentists quotas that force them to over-diagnose and over-treat. Patients end up with massive amounts of unnecessary treatments. This compromises trust in the dentist-patient relationship. A committee has been working on these issues over the last several years.

Persons Testifying: (In support) Representative Jenkins, prime sponsor; Bill McGlashan; Ashifa Nurani; and Karen Sheppard.

(Opposed) Bracken Killpack, Washington State Dental Association; Vic Berry; and Karen Hyatt.

Persons Signed In To Testify But Not Testifying: Ronald Hsu; Quinn Duffurrena, Association of Dental Support Organizations; Roman Daniels-Brown; and William Saiget, Gentle Dental.