

HOUSE BILL REPORT

SSB 5322

As Reported by House Committee On: Health Care & Wellness

Title: An act relating to patient safeguards in agreements between dentists and third parties that provide support services to dentists.

Brief Description: Concerning agreements between dentists and third parties that provide supportive services to dentists.

Sponsors: Senate Committee on Health Care (originally sponsored by Senators King, Frockt, Miloscia, Conway, Hobbs and Becker).

Brief History:

Committee Activity:

Health Care & Wellness: 3/14/17, 3/15/17 [DP].

Brief Summary of Substitute Bill

- Permits an unlicensed person or entity to own or lease assets used by a dental practice, employ or contract for services of personnel other than licensed dental providers, provide business support and management services to a dental practice, and receive fees for such services.
- Prohibits interference with a dentist's independent clinical judgment.
- Prohibits a dentist from abandoning a patient, and requires a dentist to provide notifications under certain circumstances.

HOUSE COMMITTEE ON HEALTH CARE & WELLNESS

Majority Report: Do pass. Signed by 17 members: Representatives Cody, Chair; Macri, Vice Chair; Schmick, Ranking Minority Member; Graves, Assistant Ranking Minority Member; Caldier, Clibborn, DeBolt, Harris, Jinkins, MacEwen, Maycumber, Riccelli, Robinson, Rodne, Slatter, Stonier and Tharinger.

Staff: Alexa Silver (786-7190).

Background:

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.

Practice of Dentistry.

Dentists are licensed and regulated by the Dental Quality Assurance Commission. No person may practice dentistry without first obtaining a license. 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, including real property, furnishings, equipment, and inventory, excluding patient records related to clinical care;
- 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.

Uniform Disciplinary Act.

Under the Uniform Disciplinary Act, the Secretary of Health investigates complaints regarding unlicensed practice and may issue a cease and desist order and impose a fine of up to \$1,000 per day. Unlicensed practice is also a gross misdemeanor for the first violation and a class C felony for subsequent violations.

Communication with a Government Agency.

Individuals who make good faith reports to government agencies are immune from liability for claims based on that communication. In addition, the agency receiving the information may intervene in and defend against such a lawsuit.

Summary of Bill:

Language providing that the prohibition on corporate practice of dentistry does not apply to entities that furnish information or clerical services to a dentist is removed. A person or entity not licensed by the Dental Quality Assurance Commission may:

- own or lease any assets used by a dental practice, including real property, furnishings, equipment, instruments, materials, supplies, and inventory, excluding dental patient records;
- employ or contract for the services of personnel other than licensed dentists, licensed dental hygienists, licensed expanded function dental auxiliaries, certified dental anesthesia assistants, and registered dental assistants;
- provide business support and management services to a dental practice, including as the sole provider of the services; and
- receive fees related to ownership or leasehold of assets, employment of personnel, and business support and management services provided to a dental practice, calculated as agreed to by the dental practice owner.

A person not licensed as a dentist, or an entity that is not a professional entity, practices dentistry in violation of the law and is subject to enforcement under the Uniform Disciplinary Act (UDA) if it interferes with a dentist's independent clinical judgment by:

- limiting the time spent with a patient or performing dental services, or placing conditions on the number of patients treated or procedures completed;
- limiting or imposing requirements on: a dentist's treatment decisions; the manner in which a dentist uses equipment or materials; the use of a laboratory or materials, supplies, instruments, or equipment necessary to provide diagnoses and treatment consistent with the standard of care; professional training necessary to serve patients; referrals to other practitioners; advertising, if it would result in a violation of the dentistry law or the UDA; or communications with patients; or
- interfering with access to patient records or a refund of a payment.

An attending dentist may not neglect, ignore, abandon, or refuse to complete the current procedure for a patient without reasonable cause. A dentist who withdraws responsibility for a patient must advise the patient that: (1) termination of treatment is contemplated and that another dentist should be sought; and (2) the dentist will be reasonably available for up to 15 days to render emergency care. A dental practice owner who is discontinuing a dental practice or moving to a new location must comply with these notice requirements or make arrangements for the transfer of active patient records to a dentist, professional entity, or patient. An unlicensed person or entity may not intentionally prevent a dental practice owner from complying with these requirements.

If a dentist provides services as an employee or contractor of another dentist or entity authorized to render dental services or operate a dental office: (1) the other dentist or entity is responsible for the continuing treatment of patients; and (2) the employee/contractor dentist does not abandon a patient for whom continuing treatment responsibility is retained by the other dentist or entity. A licensed dentist who is the owner of an entity is considered the attending dentist responsible for the entity's compliance with these requirements.

The requirement to obtain a license to practice dentistry is clarified by providing that no person may practice dentistry *in this state* without obtaining a license.

Communicating information to a state agency under the statutes governing good faith communication with a government agency is subject to those statutes.

Appropriation: None.

Fiscal Note: Available.

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

Staff Summary of Public Testimony:

(In support) This bill strikes a balance by allowing dental support organizations to work with clarity under state law, while also providing strong protections for patients, which is the real concern. It allows dentists to operate their businesses and choose the type of support services they need. It also allows the state to hold dental support organizations accountable for their actions.

(Opposed) None.

Persons Testifying: Senator King, prime sponsor; Mellani McAleenan, Washington State Dental Association; Roman Daniels-Brown, Pacific Dental Services; and Cliff Webster, Association of Dental Support Organizations.

Persons Signed In To Testify But Not Testifying: None.