H-1851.1

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**SUBSTITUTE HOUSE BILL 1514**

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**State of Washington 64th Legislature 2015 Regular Session**

**By** House Health Care & Wellness (originally sponsored by Representatives Jinkins, Manweller, and Cody)

AN ACT Relating to dental office support services; amending RCW 18.32.010 and 18.32.020; and adding a new section to chapter 18.32 RCW.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

**Sec.**  RCW 18.32.010 and 1994 sp.s. c 9 s 202 are each amended to read as follows:

((~~Words used in the singular in this chapter may also be applied to the plural of the persons and things; words importing the plural may be applied to the singular; words importing the masculine gender may be extended to females also; the term "commission" used in this chapter shall mean the Washington state dental quality assurance commission; and the term "secretary" shall mean the secretary of health of the state of Washington.~~)) The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Commission" means the Washington state dental quality assurance commission.

(2) "Dental practice" means any individual, entity, or office engaged in any of the activities constituting the practice of dentistry, as defined in RCW 18.32.020.

(3) "Dental practice owner" means a dentist licensed under this chapter who owns a dental practice as a sole proprietor or a professional entity that owns a dental practice.

(4) "Professional entity" means a professional corporation or other entity that is wholly owned by one or more dentists licensed under this chapter.

(5) "Secretary" means the secretary of health.

**Sec.**  RCW 18.32.020 and 2011 c 336 s 477 are each amended to read as follows:

(1) A person practices dentistry, within the meaning of this chapter, who ((~~(1)~~)) (a) represents himself or herself 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, or ((~~(2)~~)) (b) offers or undertakes by any means or methods 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 take impressions of the teeth or jaw, or ((~~(3)~~)) (c) owns, maintains, or operates an office for the practice of dentistry, or ((~~(4)~~)) (d) engages in any of the practices included in the curricula of recognized and approved dental schools or colleges, or ((~~(5)~~)) (e) professes 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.

(2)(a) An entity or person, including an investor, consultant, or dental service organization, may not have an equity interest or investment in a dental practice operating in this state, either by direct or by indirect means, unless he or she is a dentist licensed under this chapter. An entity or person who is not licensed as a dentist under this chapter may not be compensated for services with a share of revenues, profits, or proceeds upon sale or liquidation of a dental practice.

(b) A person does not practice dentistry within the meaning of subsection (1)(c) of this section if he or she: (i) Provides to a dentist a customary business loan or a financing lease of equipment at usual terms and rates; or (ii) secures a customary business loan or a financial lease of equipment with security interests in the tangible assets of the dental practice.

(c) An entity or person not licensed as a dentist under this chapter may provide ordinary consulting and clerical services to a dentist if: (i) Such 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 (ii) the services are subject to cancellation prospectively by the dentist at any time without special charge or penalty.

(3) The fact that a person uses any dental degree, or designation, or any card, device, directory, poster, sign, or other media whereby he or she represents himself or herself to be a dentist, shall be prima facie evidence that such person is engaged in the practice of dentistry.

(4) X-ray diagnosis as to the method of dental practice in which the diagnosis and examination is made of the normal and abnormal structures, parts, or functions of the human teeth, the alveolar process, maxilla, mandible or soft tissues adjacent thereto, is hereby declared to be the practice of dentistry. Any person other than a regularly licensed physician or surgeon who makes any diagnosis or interpretation or explanation, or attempts to diagnose or to make any interpretation or explanation of the registered shadow or shadows of any part of the human teeth, alveolar process, maxilla, mandible or soft tissues adjacent thereto by the use of X-ray is declared to be engaged in the practice of dentistry, medicine, or surgery.

(5) The practice of dentistry includes the performance of any dental or oral and maxillofacial surgery. "Oral and maxillofacial surgery" means the specialty of dentistry that includes the diagnosis and surgical and adjunctive treatment of diseases, injuries, and defects of the hard and soft tissues of the oral and maxillofacial region.

NEW SECTION. **Sec.**  A new section is added to chapter 18.32 RCW to read as follows:

(1) A contract between a licensed dentist or dentists, professional corporation, or professional limited liability company with an individual, association, partnership, or other entity not owned entirely by one or more licensed dentists must comply with the following:

(a) The contract may not manage, affect, or limit treatment decisions, decisions on patient referrals, or decisions on materials, instruments, or equipment utilized in treatment;

(b) The contract may not interfere with the dentist's ability to make final decisions on advertising, patient communication, and billing;

(c) The contract must be transparent to the commission, the dentist, the dentist's professional entity, the dentist's patients, and, to the extent determined by the commission, the public and prospective patients of the dentist;

(d) The contract may only provide for compensation on a fee-for-service basis that is fair and reasonable and without any direct or indirect equity interest in the dental practice by the consulting individual or entity. In no event may the fees and reimbursed expenses be measured by a share or percentage of the revenues, profits, or business volume of the practice or the proceeds of sale if the practice is sold;

(e) The agreed duration of the contract or arrangement must be for a term of one year or less without automatic renewal or optional renewal by the consultant, and the contract or arrangement must be terminable by the dentist or professional entity at any time upon payment of a termination fee not to exceed twenty-five thousand dollars;

(f) No extra fee or penalty may apply to a nonrenewal of the contract;

(g) Revenues of the practice belong solely to the dentist or professional entity. Services of the consultant or support organization are as an agent only;

(h) The contract may not include a noncompetition covenant for the benefit of the consultant or support organization;

(i) The dentist or professional entity exclusively controls every decision about sale of the practice or expansion or discontinuance of its business; and

(j) The dentist or professional entity and the consultant or support organization consent to provide copies of all contracts and relevant documents to the commission upon request.

(2) The commission may adopt and enforce any rules it determines to be necessary and appropriate to ensure compliance with this section. The commission may investigate violations of this section with or without a complaint.

(3) For purposes of this section, "contract" includes a contract, consulting agreement or arrangement, or dental support or management agreement.

**--- END ---**