S-1597.2

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**SUBSTITUTE SENATE BILL 5322**

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**State of Washington 65th Legislature 2017 Regular Session**

**By** Senate Health Care (originally sponsored by Senators King, Frockt, Miloscia, Conway, Hobbs, and Becker)

AN ACT Relating to patient safeguards in agreements between dentists and third parties that provide support services to dentists; amending RCW 18.32.675 and 18.32.091; adding new sections to chapter 18.32 RCW; and creating a new section.

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

NEW SECTION. **Sec.**  The legislature finds that Washington law should allow dentists to determine, based on their individual circumstances, which dental practice model would allow them to best serve the needs of their patients. Dentists should have the option to contract for administrative support services and dentists should also be able to lease real or personal property in a manner that meets their individual business needs. The legislature intends that these contract decisions must not interfere with the independent clinical judgment of the dentist entering the contract.

**Sec.**  RCW 18.32.675 and 2003 c 53 s 124 are each amended to read as follows:

(1) No corporation shall practice dentistry or shall solicit through itself, or its agent, officers, employees, directors or trustees, dental patronage for any dentists or dental surgeon employed by any corporation: PROVIDED, That nothing contained in this chapter shall prohibit a corporation from employing a dentist or dentists to render dental services to its employees: PROVIDED, FURTHER, That such dental services shall be rendered at no cost or charge to the employees; nor shall it apply to corporations or associations in which the dental services were originated and are being conducted upon a purely charitable basis for the worthy poor((~~, nor shall it apply to corporations or associations furnishing information or clerical services which can be furnished by persons not licensed to practice dentistry, to any person lawfully engaged in the practice of dentistry, when such dentist assumes full responsibility for such information and services~~)).

(2) Nothing in this chapter precludes a person or entity not licensed by the commission from:

(a) Ownership or leasehold of any assets used by a dental practice, including real property, furnishings, equipment, instruments, materials, supplies, and inventory, excluding dental records of patients;

(b) Employing or contracting 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;

(c) Providing business support and management services to a dental practice, including as a sole provider of such services; and

(d) Receiving fees for the services in (a) through (c) of this subsection provided to a dental practice calculated as agreed to by the dental practice owner or owners.

(3) Any corporation violating this section is guilty of a gross misdemeanor, and each day that this chapter is violated shall be considered a separate offense.

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

(1) A person that is not licensed under this chapter or an entity that is not a professional entity practices dentistry in violation of this chapter, and subject to enforcement under RCW 18.130.190, if the person or entity interferes with a licensed dentist's independent clinical judgment by:

(a) Limiting or imposing requirements on the length of time a dentist spends with a patient or performing dental services, or otherwise placing conditions on the number of patients a dentist must treat in a certain period of time or the number of certain types of procedures a dentist must complete in a certain time period;

(b) Limiting or imposing requirements on the decision of a dentist regarding a course or alternative course of treatment for a patient or the manner in which a course of treatment is carried out by the dentist;

(c) Limiting or imposing requirements on the manner in which a dentist uses dental equipment or materials for the provision of dental treatment;

(d) Limiting or imposing requirements on the use of a laboratory or the materials, supplies, instruments, or equipment deemed reasonably necessary by a dentist to provide diagnoses and treatment consistent with the standard of care;

(e) Limiting or imposing requirements for the professional training deemed reasonably necessary by a dentist to properly serve the dentist's patients;

(f) Limiting or imposing requirements on the referrals by a dentist to another licensed dentist specialist or any other practitioner the dentist determines is necessary;

(g) Interfering with a dentist's right to access patient records at any time;

(h) Interfering with a dentist's decision to refund any payment made by a patient for dental services performed by the dentist;

(i) Limiting or imposing requirements on the advertising of a dental practice if it would result in a violation of this chapter or RCW 18.130.020(12)(b) by the dental practice; or

(j) Limiting or imposing requirements on communications with a dentist's patients.

(2) For the purpose of this section, "dentist" means a dentist licensed under this chapter.

(3) Violations of this section shall be enforced pursuant to RCW 18.130.190, including the authority to issue subpoenas pursuant to RCW 18.130.050(4). Communication of complaints or information to a state agency pursuant to RCW 4.24.500 through 4.24.520 are covered by those provisions.

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

(1) The attending dentist, without reasonable cause, must not neglect, ignore, abandon, or refuse to complete the current procedure for a patient. If the dentist chooses to withdraw responsibility for a patient of record, the dentist shall:

(a) Advise the patient that termination of treatment is contemplated and that another dentist should be sought to complete the current procedure and for future care; and

(b) Advise the patient that the dentist will remain reasonably available under the circumstances for up to fifteen days from the date of such notice to render emergency care related to that current procedure.

(2) If a dentist provides dental services as an employee or contractor of another dentist or an entity authorized to render dental services pursuant to chapter 18.100, 25.05, or 25.15 RCW or to operate a dental office pursuant to RCW 18.32.675(1), the other dentist or entity shall be responsible for the continuing treatment of patients and a dentist who ceases to be an employee or contractor of such other dentist or entity is not deemed to have abandoned any patient, and is not obligated to advise any patient as provided in this section, with respect to which the continuing treatment responsibility is retained by the other dentist or entity. If an entity is responsible for the continuing treatment of patients, any licensed dentist who is the owner of the entity is considered the attending dentist responsible for ensuring compliance by the entity with this section.

(3) A dental practice owner who is discontinuing a dental practice or moving a dental practice to a new location must comply with the requirements of subsection (1) of this section, or must make reasonable arrangements for the transfer of the patient records of active patients of the dental practice, or copies of the records, to a licensed dentist or professional entity, or at the written request of any patient, transfer of the patient's records, or copies of the records, to the patient. An unlicensed person or entity shall not intentionally prevent a dental practice owner from complying with this subsection.

**Sec.**  RCW 18.32.091 and 1987 c 150 s 18 are each amended to read as follows:

No person, unless previously licensed to practice dentistry in this state, shall begin the practice of dentistry in this state without first applying to, and obtaining a license.

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