

CERTIFICATION OF ENROLLMENT

SUBSTITUTE SENATE BILL 5752

Chapter 177, Laws of 2009

61st Legislature
2009 Regular Session

DENTISTS--DISCIPLINARY PROCEEDINGS--COST RECOVERY

EFFECTIVE DATE: 07/26/09

Passed by the Senate March 3, 2009
YEAS 48 NAYS 0

BRAD OWEN

President of the Senate

Passed by the House April 13, 2009
YEAS 96 NAYS 2

FRANK CHOPP

Speaker of the House of Representatives

Approved April 22, 2009, 11:47 a.m.

CERTIFICATE

I, Thomas Hoemann, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SUBSTITUTE SENATE BILL 5752** as passed by the Senate and the House of Representatives on the dates hereon set forth.

THOMAS HOEMANN

Secretary

FILED

April 23, 2009

CHRISTINE GREGOIRE

Governor of the State of Washington

**Secretary of State
State of Washington**

SUBSTITUTE SENATE BILL 5752

Passed Legislature - 2009 Regular Session

State of Washington 61st Legislature 2009 Regular Session

By Senate Health & Long-Term Care (originally sponsored by Senators Marr, Pflug, Hobbs, and Keiser)

READ FIRST TIME 02/10/09.

1 AN ACT Relating to cost recovery in disciplinary proceedings
2 involving dentists; and adding a new section to chapter 18.32 RCW.

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

4 NEW SECTION. **Sec. 1.** A new section is added to chapter 18.32 RCW
5 to read as follows:

6 (1) In any disciplinary case pertaining to a dentist where there is
7 a contested hearing, if the commission or its hearing panel makes the
8 finding requisite for, and imposes upon the dentist, a disciplinary
9 sanction or fine under RCW 18.130.160, unless it determines to waive
10 the assessment of a hearing fee, it shall assess against the licensee
11 a partial recovery of the state's hearing expenses as follows:

12 (a) The partial recovery hearing fee must be:

13 (i) An amount equal to six thousand dollars for each full hearing
14 day in the proceeding and one-half of that amount for any partial
15 hearing day; and

16 (ii) A partial recovery of investigative and hearing preparation
17 expenses in an amount as found to be reasonable reimbursement under the
18 circumstances but no more than ten thousand dollars;

1 (b) Substantiation of investigative and hearing preparation
2 expenses for purposes of (a) of this subsection may be by affidavit or
3 declaration descriptive of efforts expended, which are reviewable in
4 the hearing as would be a cost bill;

5 (c) The commission or its hearing panel may waive the partial
6 recovery hearing fee if it determines the assessment of the fee (i)
7 would create substantial undue hardship for the dentist, or (ii) in all
8 the circumstances of the case, including the nature of the charges
9 alleged, it would be manifestly unjust to assess the fee.
10 Consideration of the waiver must be applied for and considered during
11 the hearing itself. This may be in advance of the decision related to
12 RCW 18.130.160.

13 (2) If the dentist seeks judicial review of the disciplinary action
14 and there was a partial recovery hearing fee assessed, then unless the
15 license holder achieves a substantial element of relief, the reviewing
16 trial court or appellate court shall further impose a partial cost
17 recovery fee in the amount of twenty-five thousand dollars at the
18 superior court level, twenty-five thousand dollars at the court of
19 appeals level, and twenty-five thousand dollars at the supreme court
20 level. Application for waiver may be made to the court at each level
21 and must be considered by the court under the standards stated in
22 subsection (1)(c) of this section.

23 (3) In any disciplinary case pertaining to a dentist where the case
24 is resolved by agreement prior to completion of a contested hearing,
25 the commission shall assess against the dentist a partial recovery of
26 investigative and hearing preparation expenses in an amount as found to
27 be reasonable reimbursement in the circumstances but no more than ten
28 thousand dollars, unless it determines to waive this fee under the
29 standards stated in subsection (1)(c) of this section.

30 (4) In any stipulated informal disposition of allegations
31 pertaining to a dentist as contemplated under RCW 18.130.172, the
32 potential dollar limit of reimbursement of investigative and processing
33 costs may not exceed two thousand dollars per allegation.

34 (5) Should the dentist fail to pay any agreed reimbursement or
35 ordered cost recovery under the statute, the commission may seek
36 collection of the amount in the same manner as enforcement of a fine
37 under RCW 18.130.165.

1 (6) All fee recoveries and reimbursements under this statute must
2 be deposited to the health professions account for the portion of it
3 allocated to the commission. The fee recoveries shall be fully
4 credited in reduction of actual or projected expenditures used to
5 determine dentist license renewal fees.

6 (7) The authority of the commission under this section is in
7 addition to all of its authorities under RCW 18.130.160, elsewhere in
8 chapter 18.130 RCW, or in this chapter.

Passed by the Senate March 3, 2009.

Passed by the House April 13, 2009.

Approved by the Governor April 22, 2009.

Filed in Office of Secretary of State April 23, 2009.