

SHB 1514 - H AMD 53

By Representative Jenkins

1 Strike everything after the enacting clause and insert the
2 following:

3 "Sec. 1. RCW 18.32.010 and 1994 sp.s. c 9 s 202 are each amended
4 to read as follows:

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

14 (1) "Clinical" means the practice of dentistry as defined in RCW
15 18.32.020 (1) and (2). "Clinical" does not include the provision of
16 services specified in RCW 18.32.030(11).

17 (2) "Commission" means the Washington state dental quality
18 assurance commission.

19 (3) "Dental practice" means a business operation that engages in
20 the clinical practice of dentistry that does not include the
21 activities specified in RCW 18.32.030.

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

25 (5) "Professional entity" means a professional corporation or
26 other entity that is wholly owned by one or more dentists licensed

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1 under this chapter and that is authorized to engage in the clinical
2 practice of dentistry in this state.

3 (6) "Secretary" means the secretary of health.

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5 **Sec. 2.** RCW 18.32.020 and 2011 c 336 s 477 are each amended to
6 read as follows:

7 A person practices dentistry, within the meaning of this
8 chapter, who (1) represents himself or herself as being able to
9 diagnose, treat, remove stains and concretions from teeth, operate
10 or prescribe for any disease, pain, injury, deficiency, deformity,
11 or physical condition of the human teeth, alveolar process, gums, or
12 jaw, or (2) offers or undertakes by any means or methods to
13 diagnose, treat, remove stains or concretions from teeth, operate or
14 prescribe for any disease, pain, injury, deficiency, deformity, or
15 physical condition of the same, or take impressions of the teeth or
16 jaw, or (3) owns, maintains, or operates an office for the practice
17 of dentistry, or (4) engages in any of the practices included in the
18 curricula of recognized and approved dental schools or colleges, or
19 (5) professes to the public by any method to furnish, supply,
20 construct, reproduce, or repair any prosthetic denture, bridge,
21 appliance, or other structure to be worn in the human mouth.

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

27 X-ray diagnosis as to the method of dental practice in which the
28 diagnosis and examination is made of the normal and abnormal
29 structures, parts, or functions of the human teeth, the alveolar
30 process, maxilla, mandible or soft tissues adjacent thereto, is
31 hereby declared to be the practice of dentistry. Any person other
32 than a regularly licensed physician or surgeon who makes any
33 diagnosis or interpretation or explanation, or attempts to diagnose
34 or to make any interpretation or explanation of the registered

1 shadow or shadows of any part of the human teeth, alveolar process,
2 maxilla, mandible or soft tissues adjacent thereto by the use of X-
3 ray is declared to be engaged in the practice of dentistry,
4 medicine, or surgery.

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

10 The functions and activities permitted in RCW 18.32.030(11) do
11 not constitute the practice of dentistry, as defined in subsection
12 (3) of this section. No corporation other than a professional
13 entity may engage in the practice of dentistry, except as permitted
14 pursuant to RCW 18.32.675.

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16 **Sec. 3.** RCW 18.32.030 and 2012 c 23 s 7 are each amended to
17 read as follows:

18 The following practices, acts, and operations are excepted from
19 the operation of the provisions of this chapter:

20 (1) The rendering of dental relief in emergency cases in the
21 practice of his or her profession by a physician or surgeon,
22 licensed as such and registered under the laws of this state, unless
23 the physician or surgeon undertakes to or does reproduce lost parts
24 of the human teeth in the mouth or to restore or to replace in the
25 human mouth lost or missing teeth;

26 (2) The practice of dentistry in the discharge of official
27 duties by dentists in the United States federal services on federal
28 reservations, including but not limited to the armed services, coast
29 guard, public health service, veterans' bureau, or bureau of Indian
30 affairs;

31 (3) Dental schools or colleges approved under RCW 18.32.040, and
32 the practice of dentistry by students in accredited dental schools
33 or colleges approved by the commission, when acting under the
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1 direction and supervision of Washington state-licensed dental school
2 faculty;

3 (4) The practice of dentistry by licensed dentists of other
4 states or countries while appearing as clinicians at meetings of the
5 Washington state dental association, or component parts thereof, or
6 at meetings sanctioned by them, or other groups approved by the
7 commission;

8 (5) The use of roentgen and other rays for making radiographs or
9 similar records of dental or oral tissues, under the supervision of
10 a licensed dentist or physician;

11 (6) The making, repairing, altering, or supplying of artificial
12 restorations, substitutions, appliances, or materials for the
13 correction of disease, loss, deformity, malposition, dislocation,
14 fracture, injury to the jaws, teeth, lips, gums, cheeks, palate, or
15 associated tissues or parts; providing the same are made, repaired,
16 altered, or supplied pursuant to the written instructions and order
17 of a licensed dentist which may be accompanied by casts, models, or
18 impressions furnished by the dentist, and the prescriptions shall be
19 retained and filed for a period of not less than three years and
20 shall be available to and subject to the examination of the
21 secretary or the secretary's authorized representatives;

22 (7) The removal of deposits and stains from the surfaces of the
23 teeth, the application of topical preventative or prophylactic
24 agents, and the polishing and smoothing of restorations, when
25 performed or prescribed by a dental hygienist licensed under the
26 laws of this state;

27 (8) A qualified and licensed physician and surgeon or
28 osteopathic physician and surgeon extracting teeth or performing
29 oral surgery pursuant to the scope of practice under chapter 18.71
30 or 18.57 RCW;

31 (9) The performing of dental operations or services by
32 registered dental assistants and licensed expanded function dental
33 auxiliaries holding a credential issued under chapter 18.260 RCW
34 when performed under the supervision of a licensed dentist, or by

1 other persons not licensed under this chapter if the person is
2 licensed pursuant to chapter 18.29, 18.57, 18.71, or 18.79 RCW as it
3 applies to registered nurses and advanced registered nurse
4 practitioners, each while acting within the scope of the person's
5 permitted practice under the person's license: PROVIDED HOWEVER,
6 That such persons shall in no event perform the following dental
7 operations or services unless permitted to be performed by the
8 person under this chapter or chapters 18.29, 18.57, 18.71, 18.79 as
9 it applies to registered nurses and advanced registered nurse
10 practitioners, and 18.260 RCW:

11 (a) Any removal of or addition to the hard or soft tissue of the
12 oral cavity;

13 (b) Any diagnosis of or prescription for treatment of disease,
14 pain, deformity, deficiency, injury, or physical condition of the
15 human teeth or jaws, or adjacent structure;

16 (c) Any administration of general or injected local anaesthetic
17 of any nature in connection with a dental operation, including
18 intravenous sedation;

19 (d) Any oral prophylaxis;

20 (e) The taking of any impressions of the teeth or jaw or the
21 relationships of the teeth or jaws, for the purpose of fabricating
22 any intra-oral restoration, appliance, or prosthesis; (~~and~~)

23 (10) The performing of dental services described in RCW
24 18.350.040 by dental anesthesia assistants certified under chapter
25 18.350 RCW when working under the supervision and direction of an
26 oral and maxillofacial surgeon or dental anesthesiologist; and

27 (11) Performing functions that support but do not constitute the
28 clinical practice of dentistry in exchange for a fee not based on a
29 percentage of revenue, including:

30 (a) Ownership or leasehold of any assets used by a dental
31 practice, including real property, furnishings, and inventory, but
32 not including the dental practice or the dental records of patients;

33 (b) Employing or contracting for the services of personnel other
34 than licensed dentists, licensed dental hygienists, registered

1 dental assistants, licensed expanded function dental auxiliaries,
2 and certified dental anesthesia assistants; and
3 (c) Management of the business or administrative aspects of a
4 dental practice that do not include the clinical practice of
5 dentistry, including as a sole provider of such management services.

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

9 A person that is not licensed under this chapter or an entity
10 that is not a professional entity practices dentistry in violation
11 of this chapter if the person or entity:

12 (1) Employs or contracts for the services of a licensed dentist,
13 licensed dental hygienist, registered dental assistant, licensed
14 expanded function dental auxiliary, or certified dental anesthesia
15 assistant for the clinical practice of dentistry;

16 (2) Owns a dental practice or dental patient records; or

17 (3) Interferes with a licensed dentist's independent clinical
18 judgment by:

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

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

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

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

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

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

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

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

14 (i) Limiting or imposing requirements on the advertising of a
15 dental practice if it would result in a violation of this chapter by
16 the dental practice; or

17 (j) Limiting or imposing requirements on communications with the
18 licensed dentist's patients that are clinical in nature.

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20 **Sec. 5.** RCW 18.32.655 and 1994 sp.s. c 9 s 222 are each amended
21 to read as follows:

22 The commission (~~shall~~):

23 (1) Shall require licensed dentists to keep and maintain a copy
24 of each laboratory referral instruction, describing detailed
25 services rendered, for a period to be determined by the commission
26 but not more than three years, and may require the production of all
27 such records for examination by the commission or its authorized
28 representatives; (~~and~~)

29 (2) Shall adopt, except as otherwise provided in this section,
30 reasonable rules requiring licensed dentists to make, maintain, and
31 produce for examination by the commission or its authorized
32 representatives such other records as may be reasonable and proper
33 in the performance of its duties and enforcing the provisions of
34 this chapter; and

1 (3) Relating only to a complaint, has the right, pursuant to RCW
2 18.130.050, to subpoena an agreement between a licensed dentist or a
3 professional entity and a vendor for in camera inspection by the
4 commission if the agreement is probative to the issue raised in the
5 complaint and believed to be in violation of section 4 of this act.
6 Agreements and other materials produced in connection with such an
7 examination by the commission are exempt from public disclosure
8 under chapter 42.56 RCW.

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10 **Sec. 6.** RCW 18.32.675 and 2003 c 53 s 124 are each amended to
11 read as follows:

12 (1) No corporation shall practice dentistry or shall solicit
13 through itself, or its agent, officers, employees, directors or
14 trustees, dental patronage for any dentists or dental surgeon
15 employed by any corporation: PROVIDED, That nothing contained in
16 this chapter shall prohibit a corporation from employing a dentist
17 or dentists to render dental services to its employees: PROVIDED,
18 FURTHER, That such dental services shall be rendered at no cost or
19 charge to the employees; nor shall it apply to corporations or
20 associations in which the dental services were originated and are
21 being conducted upon a purely charitable basis for the worthy poor,
22 nor shall it apply to corporations or associations furnishing
23 ~~((information or clerical))~~ real property, furnishings, inventory,
24 goods, or nonclinical services which can be furnished by persons not
25 licensed to practice dentistry, to any person lawfully engaged in
26 the practice of dentistry, when such dentist assumes full
27 responsibility for such ~~((information and))~~ real property,
28 furnishings, inventory, goods, or nonclinical services.

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

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33 Correct the title.

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EFFECT:

- Removes the provisions of the underlying bill.
- Exempts from the dentistry chapter of law performing functions that support, but do not constitute, the clinical practice of dentistry in exchange for a fee not based on a percentage of revenue, including:
 - o (1) Ownership or leasehold of any assets used by a dental practice, including real property, furnishings, and inventory, but not including the dental practice or patient records;
 - o (2) Employing or contracting for the services of personnel other than dentists, dental hygienists, dental assistants, expanded function dental auxiliaries, and dental anesthesia assistants; and
 - o (3) Management of the business or administrative aspects of a dental practice that do not include the clinical practice of dentistry.
- Prohibits a corporation other than a professional entity from engaging in the practice of dentistry. Permits a corporation or association to furnish real property, furnishings, inventory, goods, or nonclinical services.
- Provides that an unlicensed person or entity practices dentistry by:
 - o (1) Employing or contracting for the services of a dentist, dental hygienist, dental assistant, expanded function dental auxiliary, or dental anesthesia assistant for the clinical practice of dentistry;
 - o (2) Owning a dental practice or patient records; or
 - o (3) Interfering with a dentist's independent clinical judgment by:
 - (a) Limiting or imposing requirements on: the time a dentist spends with patients; the dentist's decisions regarding a course of treatment; the manner in which a dentist uses equipment or materials; the use of a laboratory or supplies, instruments, or equipment deemed reasonable necessary; professional training deemed reasonably necessary; referrals to other practitioners; advertising if it would violate the dentistry chapter; and clinical communications with patients; or
 - (b) Interfering with a dentist's right to access patient records or a dentist's decision to refund a payment.
- Grants the Dental Quality Assurance Commission the right, relating only to a complaint, to subpoena an agreement between a dentist or professional entity and a vendor for in camera inspection if the agreement is probative to the issue raised in the complaint and is believed to violate the section that prohibits certain actions by an unlicensed person or entity.

- Exempts these agreements from public disclosure.
- Defines "clinical" to mean offering, undertaking, or 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. Defines "dental practice" to mean a business operation that engages in the clinical practice of dentistry that does not include exempted activities, and "dental practice owner" to mean a dentist who owns a dental practice as a sole proprietor or a professional entity that owns a dental practice. Defines "professional entity" to mean a professional corporation or other entity that is wholly owned by licensed dentists and that is authorized to engage in the clinical practice of dentistry.

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