

SENATE BILL REPORT

SB 6318

As of January 25, 2016

Title: An act relating to ownership, maintenance, and operation of an office within the practice of dentistry.

Brief Description: Concerning ownership, maintenance, and operation of an office within the practice of dentistry.

Sponsors: Senators Baumgartner, Conway, Litzow and Hobbs.

Brief History:

Committee Activity: Health Care: 1/25/16.

SENATE COMMITTEE ON HEALTH CARE

Staff: Evan Klein (786-7483)

Background: Practice of Dentistry. Dentists are licensed and regulated in Washington by the Dental Quality Assurance Commission. The practice of dentistry is defined as:

- representing oneself as being able to diagnose, treat, or remove stains and concretions from teeth; or 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, or 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;
- owning, maintaining, or operating an office for the practice of dentistry;
- 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.

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.

Summary of Bill: Agency Agreements. A person does not own, maintain, or operate an office within the definition of the practice of dentistry, if they provide services to a licensed dentist or a group practice of licensed dentists and have an agency agreement set out in writing. The agency agreement must:

- cover all of the services to be provided to the dentist or dental group;
- set out whether the services will be provided on a full-time basis or not;
- be for a term of at least one year;
- set in advance, the aggregate compensation to be paid over the term of the agreement;
- ensure that services performed under the agreement do not involve the counseling or promotion of a business arrangement that violates any state or federal law; and
- not exceed the amount of services which are reasonably necessary for accomplishing the commercially reasonable business purpose of the service.

The equity interests in a group practice of dentists that is party to an agency agreement must be held by licensed dentists who practice in the group.

Management and Lease Agreements. A person also does not own, maintain, or operate an office within the definition of the practice of dentistry if:

1. the person is party to a management or other personal services agreement with a licensed dentist or a group practice of licensed dentists; and
2. who leases space or equipment to the dentist or group of dentists, and:
 - a. sets the lease agreement out in writing, signed by the parties;
 - b. ensures the lease covers all of the premises or equipment leased between the parties;
 - c. sets a lease term of at least one year;
 - d. sets the aggregate rental charge in advance; and
 - e. only leases an aggregate amount of space or equipment as is reasonably necessary to accomplish the commercially reasonable business purpose of the rental.

A person is presumed to have been operating an office for the licensed practice of dentistry if, within two years of the termination of a management or personal service agreement, the person:

- terminates a space or lease agreement with the same dentist or group practice of dentists without the dentist or group practice's consent;
- enters into a new management, service, space, or equipment agreement with a different dentist or group of dentists in the same location.

Whistleblower. Any employee, contractor, or health care professional who reports, in good faith, the unlicensed practice of dentistry by a person who is party to a management or personal service agreement with a dentist is determined to be a whistleblower, and is afforded whistleblower protections.

Appropriation: None.

Fiscal Note: Not requested.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony: PRO: This is the lowest regulatory burden established to maintain consumer protections in WA. Many dentists have heard troubling stories about DSOs. Dentists want patients protected. This bill allows DSOs to function without compromising patient care and safety.

CON: Clinical group care business models, that are not DSOs, also benefit from this bill. This type of regulation is unprecedented in the dentistry profession. The DQAC has concerns about the parameters of this bill. This bill would disrupt existing models and cause greater access issues in Washington. Dentists should be in control of who they decide to contract with. Compliance with the Safe Harbor act, which is voluntary, is not required under federal law. The consumer protection act inclusion in this bill is not intended to regulate business-to-business transactions.

OTHER: There is a need to protect franchise models, such as Comfort Dental. This model provides a lot of benefit for students, including students dealing with expansive student debt.

Persons Testifying: PRO: Brad Tower, Dr. Cindy Pualy, Emily Studebaker, Carrie Tellefson, Washington State Dental Association.

CON: Matthew Sinnott, Willamette Dental Group; Jennifer Bryant, Lisa Thatcher, Deputy General Counsel with Pacific Dental Services.

OTHER: Amber Lewis, Comfort Dental; Graig Bears, Comfort Dental.

Persons Signed In To Testify But Not Testifying: No one.