

# SENATE BILL REPORT

## SSB 6411

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As Passed Senate, February 15, 2016

**Title:** An act relating to professional service corporations.

**Brief Description:** Expanding the eligibility of certain representatives and transferees to serve as directors, officers, and shareholders of professional service corporations.

**Sponsors:** Senate Committee on Law & Justice (originally sponsored by Senators Angel, Bailey, Rivers, Becker, Warnick and Padden).

**Brief History:**

**Committee Activity:** Law & Justice: 1/28/16, 2/03/16 [DPS].

Passed Senate: 2/15/16, 47-0.

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### SENATE COMMITTEE ON LAW & JUSTICE

**Majority Report:** That Substitute Senate Bill No. 6411 be substituted therefor, and the substitute bill do pass.

Signed by Senators Padden, Chair; O'Ban, Vice Chair; Pedersen, Ranking Minority Member; Darneille, Frockt, Pearson and Roach.

**Staff:** Melissa Burke-Cain (786-7755)

**Background:** Under current Washington laws certain professions must have a state license to practice in the state. Washington courts have determined that "practicing" a profession means either providing services directly or hiring other licensed professionals to provide professional services. As a general rule, a business entity may not hire licensed professionals to provide professional services unless authorized by legislation. Washington laws do authorize limited exceptions to this general rule. Washington's Professional Services Act (WPSA) authorizes professionals who are licensed to provide the same professional services to form a professional corporation for that purpose. A non-exclusive list of professions that may form professional corporations include: certified public accountants, chiropractors, dentists, osteopaths, physicians, podiatric physicians and surgeons, chiropodists, architects, veterinarians, and attorneys-at-law. Professional corporations may only render professional services through Washington-licensed practitioners. However, the WPSA does not prohibit a person who is licensed in a jurisdiction other than Washington from being a member of a professional corporation in this state organized to provide the same professional services.

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*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.*

Current law allows a foreign professional corporation to render professional services in Washington as long as it complies with chapter 23B.15 RCW - foreign corporations - and each individual practicing in the state is duly licensed or legally-authorized to practice in Washington. All directors of a corporation organized under chapter 18.100 RCW and all officers other than the secretary and the treasurer must be licensed to practice the same profession in Washington or in any other state where the corporation is incorporated unless subject to RCW 18.100.118.

Under RCW 18.100.118, a professional corporation's shares may be transferred to an administrator, executor, guardian, conservator, or receiver of the estate of a former shareholder. The transferee may continue on as a director, officer, or shareholder of the professional corporation for 12 months after the transfer. The transferee is not required to be licensed to practice the profession during the 12-month period.

**Summary of Substitute Bill:** A former shareholder's shares in a professional corporation may be transferred by operation of law, court decree, community property agreement, or as a distribution from the former shareholder's estate or trust. . A transferee who is not licensed to practice the profession in Washington may be a director, officer, or shareholder of the professional corporation for thirty-six months, but twelve months after the transfer the corporation must have at least one director and officer who is licensed in Washington to practice the profession.

**Appropriation:** None.

**Fiscal Note:** Not requested.

**Committee/Commission/Task Force Created:** No.

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

**Staff Summary of Public Testimony on First Substitute:** PRO: Small businesses that are professional corporations, for example veterinary practices, are pushed into a forced sale below the practice's value if the licensed professional who owns the practice dies or is disabled. The survivors, often a spouse or other family member may only continue to operate the practice for 12 months if they are not licensed to practice the profession. This bill would apply to many professions. The problem needs to be solved in a way that does not adversely affect other professions.

CON: The bill would help preserve the small business model. However, there may be unintended consequences to the bill. A professional services corporation can be used in a much broader sense and there is great potential for abuse. For example, one licensed professional could own multiple offices in the state and those offices could operate without any licensed professional present to ensure that patients or clients are properly served.

**Persons Testifying on First Substitute:** PRO: Senator Angel, prime sponsor.

CON: Brad Tower, Optometric Physicians of WA and WA State Dental Assn.

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