

1 chapter and not be delegated to unauthorized individuals. It
2 is the further legislative intent that dentists and dental
3 hygienists who fall below minimum competency or who otherwise
4 present a danger to the public shall be prohibited from
5 practicing in this state. All provisions of this chapter
6 relating to the practice of dentistry and dental hygiene shall
7 be liberally construed to carry out such ~~this~~ purpose and
8 intent.

9 Section 2. Subsection (3) of section 466.003, Florida
10 Statutes, is amended to read:

11 466.003 Definitions.--As used in this chapter:

12 (3) "Dentistry" means the healing art which is
13 concerned with the examination, diagnosis, treatment planning,
14 and care of conditions within the human oral cavity and its
15 adjacent tissues and structures. It includes the performance
16 or attempted performance of any dental operation, or oral or
17 oral-maxillofacial surgery and any procedures adjunct thereto,
18 including physical evaluation directly related to such
19 operation or surgery pursuant to hospital rules and
20 regulations. It also includes dental service of any kind
21 gratuitously or for any remuneration paid, or to be paid,
22 directly or indirectly, to any person or agency. The term
23 "dentistry" shall also include the following:

24 (a) The taking of an impression of the human tooth,
25 teeth, or jaws directly or indirectly and by any means or
26 method.†

27 (b) Supplying artificial substitutes for the natural
28 teeth or furnishing, supplying, constructing, reproducing, or
29 repairing any prosthetic denture, bridge, appliance, or any
30 other structure designed to be worn in the human mouth except
31 on the written work order of a duly licensed dentist.†

1 (c) The placing of an appliance or structure in the
2 human mouth or the adjusting or attempting to adjust the
3 same.~~†~~

4 (d) Delivering the same to any person other than the
5 dentist upon whose work order the work was performed.~~†~~

6 (e) Professing to the public by any method to furnish,
7 supply, construct, reproduce, or repair any prosthetic
8 denture, bridge, appliance, or other structure designed to be
9 worn in the human mouth.~~†~~

10 (f) Diagnosing, prescribing, or treating or professing
11 to diagnose, prescribe, or treat disease, pain, deformity,
12 deficiency, injury, or physical condition of the human teeth
13 or jaws or oral-maxillofacial region.~~†~~

14 (g) Extracting or attempting to extract human teeth.~~†~~

15 (h) Correcting or attempting to correct malformations
16 of teeth or of jaws.~~†~~ ~~and~~

17 (i) Repairing or attempting to repair cavities in the
18 human teeth.

19 (j) Directing, controlling, or interfering with a
20 dentist's clinical judgment.

21 Section 3. Subsection (3) is added to section 466.026,
22 Florida Statutes, to read:

23 466.026 Prohibitions; penalties; injunctive relief.--

24 (3) It is hereby declared to be a public nuisance for
25 any person or entity to practice dentistry without a license
26 issued pursuant to this chapter. Any person or entity
27 residing in a county in which such nuisance occurs may file an
28 action in the circuit court to enjoin an unlicensed person or
29 entity from practicing dentistry.

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1 Section 4. Paragraphs (h), (r), and (z) of subsection
2 (1) of section 466.028, Florida Statutes, are amended, and
3 paragraph (kk) is added to said subsection, to read:

4 466.028 Grounds for disciplinary action; action by the
5 board.--

6 (1) The following acts shall constitute grounds for
7 which the disciplinary actions specified in subsection (2) may
8 be taken:

9 (h) Being employed by any corporation, organization,
10 group, or person other than a dentist or a professional
11 corporation or limited liability company ~~association~~ composed
12 of dentists. ~~however,~~ A dentist may be retained as an
13 independent contractor employed by a corporation, managed care
14 organization, or group for purposes of providing services to
15 the employees and members of such corporation, managed care
16 organization, or group and to members of their immediate
17 families, provided the dentist does not delegate the
18 responsibility for rendering clinical judgment to a person who
19 is not licensed pursuant to this chapter. ~~and~~ A corporation
20 may also retain employ a dental hygienist if it has retained
21 ~~employed~~ a dentist to provide supervision pursuant to this
22 chapter.

23 (r) Prescribing, procuring, ordering, dispensing,
24 administering, supplying, selling, or giving any drug which is
25 a Schedule II an amphetamine or a Schedule II sympathomimetic
26 amine drug or a compound thereof ~~designated as a Schedule II~~
27 ~~controlled substance~~, pursuant to chapter 893, to or for any
28 person except for the clinical investigation of the effects of
29 such drugs or compounds when an investigative protocol
30 therefor is submitted to, and reviewed and approved by, the
31 board before such investigation is begun.

1 (z) Delegating professional responsibilities,
2 including the exercise of clinical judgment, to a person who
3 is not qualified by training, experience, or licensure to
4 perform them.

5 (kk) Allowing any person other than another dentist or
6 a professional corporation or limited liability company
7 composed of dentists to direct, control, or interfere with a
8 dentist's clinical judgment; however, this paragraph may not
9 be construed to limit a patient's right of informed consent.

10 Section 5. Section 466.0285, Florida Statutes, is
11 amended to read:

12 466.0285 Proprietorship by nondentists.--

13 (1) No person other than a dentist licensed pursuant
14 to this chapter, nor any entity other than a professional
15 corporation or limited liability company composed of dentists,
16 may:

17 (a) Employ a dentist or dental hygienist in the
18 operation of a dental office.

19 (b) Control the use of any dental equipment or
20 material while such equipment or material is being used for
21 the provision of dental services, whether those services are
22 provided by a dentist, a dental hygienist, or a dental
23 assistant.

24 (c) Direct, control, or interfere with a dentist's
25 clinical judgment.

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27 Any lease agreement, rental agreement, or other arrangement
28 between a nondentist and a dentist whereby the nondentist
29 provides the dentist with dental equipment or dental materials
30 shall contain a provision whereby the dentist expressly
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1 maintains complete care, custody, and control of the equipment
2 or practice.

3 (2) The purpose of this section is to prevent a
4 nondentist from influencing or otherwise interfering with the
5 exercise of a dentist's independent professional judgment. In
6 addition to the acts specified in subsection (1), no person
7 who is not a dentist licensed pursuant to this chapter nor any
8 entity that is not a professional corporation or limited
9 liability company composed of dentists shall enter into a
10 relationship with a licensee pursuant to which such unlicensed
11 person or such entity exercises control over the following:

12 (a) The selection of a course of treatment for a
13 patient, the procedures or materials to be used as part of
14 such course of treatment, and the manner in which such course
15 of treatment is carried out by the licensee;

16 (b) The patient records of a dentist;

17 (c) Policies and decisions relating to pricing,
18 credit, refunds, warranties, and advertising; and

19 (d) Decisions relating to office personnel and hours
20 of practice.

21 (3) Any person who violates this section commits is
22 ~~guilty of~~ a felony of the third degree, punishable as provided
23 in s. 775.082, s. 775.083, or s. 775.084.

24 (4) This section does not prevent an insurer of dental
25 care from retaining a dentist to render independent advice to
26 the insurer concerning the application of the insurer's
27 contractual scope of coverage in comparison with a dentist's
28 prescribed treatment on behalf of an insured.

29 (5) Any contract or arrangement entered into or
30 undertaken in violation of this section shall be void as
31 contrary to public policy.

1 Section 6. This act shall take effect October 1, 1997.

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HOUSE SUMMARY

Revises the purpose of chapter 466, F.S., relating to regulation of dentistry, dental hygiene, and dental laboratories, and provides additional legislative intent with respect to clinical practice interference by nonlicensees. Provides that only a dentist or a professional corporation or limited liability company composed of dentists may direct, control, or interfere with a dentist's clinical judgment. Declares the practice of dentistry without a license issued pursuant to chapter 466, F.S., to be a public nuisance and provides for injunctive relief with respect to any such practice.

Corrects language in a provision relating to the use or prescribing of certain Schedule II controlled substances in the practice of dentistry as a ground for disciplinary action.

See bill for details.