

By the Committee on Health Care Standards & Regulatory Reform and Representatives Thrasher, Morrioni, Culp, Wise, Brooks, Jacobs, Bitner, Bradley, Stafford, Fasano, Horan, Kelly, Gay, Trovillion, Brennan, Chestnut, D. Prewitt, Stabins and Sublette

1                                   A bill to be entitled  
2           An act relating to dentistry; amending s.  
3           466.001, F.S.; revising purpose and providing  
4           additional legislative intent; amending s.  
5           466.028, F.S.; revising and providing grounds  
6           for disciplinary action; providing penalties;  
7           amending s. 466.0285, F.S.; expanding  
8           provisions relating to proprietorship by  
9           nondentists, including applicability thereof to  
10          certain entities; providing penalties;  
11          providing that contracts and arrangements  
12          entered into or undertaken in violation of the  
13          section are void; providing applicability of  
14          the act to certain contracts; providing an  
15          effective date.

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17 Be It Enacted by the Legislature of the State of Florida:

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19           Section 1. Section 466.001, Florida Statutes, is  
20 amended to read:

21           466.001 Legislative purpose and intent.--The  
22 legislative purpose for enacting this chapter is to ensure  
23 that every dentist or dental hygienist practicing in this  
24 state meets minimum requirements for safe practice without  
25 undue clinical interference by persons not licensed under this  
26 chapter. It is the legislative intent that dental services be  
27 provided only in accordance with the provisions of this  
28 chapter and not be delegated to unauthorized individuals. It  
29 is the further legislative intent that dentists and dental  
30 hygienists who fall below minimum competency or who otherwise  
31 present a danger to the public shall be prohibited from

1 practicing in this state. All provisions of this chapter  
2 relating to the practice of dentistry and dental hygiene shall  
3 be liberally construed to carry out such ~~this~~ purpose and  
4 intent.

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

8 466.028 Grounds for disciplinary action; action by the  
9 board.--

10 (1) The following acts shall constitute grounds for  
11 which the disciplinary actions specified in subsection (2) may  
12 be taken:

13 (h) Being employed by any corporation, organization,  
14 group, or person other than a dentist or a professional  
15 corporation or limited liability company ~~association~~ composed  
16 of dentists to practice dentistry; ~~however, a dentist may be~~  
17 ~~employed by a corporation or group for purposes of providing~~  
18 ~~services to the employees and members of such corporation or~~  
19 ~~group and to members of their immediate families, and a~~  
20 ~~corporation may employ a hygienist if it has employed a~~  
21 ~~dentist to provide supervision pursuant to this chapter.~~

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

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1        (kk) Allowing any person other than another dentist or  
2 a professional corporation or limited liability company  
3 composed of dentists to direct, control, or interfere with a  
4 dentist's clinical judgment; however, this paragraph may not  
5 be construed to limit a patient's right of informed consent.  
6 To "direct, control, or interfere with a dentist's clinical  
7 judgment" may not be interpreted to mean dental services  
8 contractually excluded, the application of alternative  
9 benefits that may be appropriate given the dentist's  
10 prescribed course of treatment, or the application of  
11 contractual provisions and scope-of-coverage determinations in  
12 comparison with a dentist's prescribed treatment on behalf of  
13 a covered person by an insurer, a health maintenance  
14 organization, or a prepaid limited health service  
15 organization.

16            Section 3. Section 466.0285, Florida Statutes, is  
17 amended to read:

18            466.0285 Proprietorship by nondentists.--

19            (1) No person other than a dentist licensed pursuant  
20 to this chapter, nor any entity other than a professional  
21 corporation or limited liability company composed of dentists,  
22 may:

23            (a) Employ a dentist or dental hygienist in the  
24 operation of a dental office.

25            (b) Control the use of any dental equipment or  
26 material while such equipment or material is being used for  
27 the provision of dental services, whether those services are  
28 provided by a dentist, a dental hygienist, or a dental  
29 assistant.

30            (c) Direct, control, or interfere with a dentist's  
31 clinical judgment. To "direct, control, or interfere with a

1 dentist's clinical judgment" may not be interpreted to mean  
2 dental services contractually excluded, the application of  
3 alternative benefits that may be appropriate given the  
4 dentist's prescribed course of treatment, or the application  
5 of contractual provisions and scope-of-coverage determinations  
6 in comparison with a dentist's prescribed treatment on behalf  
7 of a covered person by an insurer, a health maintenance  
8 organization, or a prepaid limited health service  
9 organization.

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11 Any lease agreement, rental agreement, or other arrangement  
12 between a nondentist and a dentist whereby the nondentist  
13 provides the dentist with dental equipment or dental materials  
14 shall contain a provision whereby the dentist expressly  
15 maintains complete care, custody, and control of the equipment  
16 or practice.

17 (2) The purpose of this section is to prevent a  
18 nondentist from influencing or otherwise interfering with the  
19 exercise of a dentist's independent professional judgment. In  
20 addition to the acts specified in subsection (1), no person  
21 who is not a dentist licensed pursuant to this chapter nor any  
22 entity that is not a professional corporation or limited  
23 liability company composed of dentists shall enter into a  
24 relationship with a licensee pursuant to which such unlicensed  
25 person or such entity exercises control over the following:

26 (a) The selection of a course of treatment for a  
27 patient, the procedures or materials to be used as part of  
28 such course of treatment, and the manner in which such course  
29 of treatment is carried out by the licensee;

30 (b) The patient records of a dentist;

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1 (c) Policies and decisions relating to pricing,  
2 credit, refunds, warranties, and advertising; and

3 (d) Decisions relating to office personnel and hours  
4 of practice.

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

8 (4) Any contract or arrangement entered into or  
9 undertaken in violation of this section shall be void as  
10 contrary to public policy.

11 Section 4. This act shall take effect October 1, 1997,  
12 and shall apply to contracts entered into or renewed on or  
13 after October 1, 1997.

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