

By: Nelson

S.B. No. 151

A BILL TO BE ENTITLED

AN ACT

relating to the practice of dentistry, including the regulation of dental service organizations; providing an administrative penalty.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subtitle D, Title 3, Occupations Code, is amended by adding Chapter 268 to read as follows:

CHAPTER 268. REGULATION OF DENTAL SERVICE ORGANIZATIONS

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 268.001. DEFINITIONS. In this chapter:

(1) "Dental service agreement" means an agreement between a dental service organization and a dentist under which the dental service organization will:

(A) provide services related to the nonclinical business aspects of a dental practice, including arranging or providing financing, performing billing or payroll tasks, processing patient insurance claims, scheduling or otherwise interacting with patients, and performing other administrative tasks;

(B) supervise or manage the employees or contractors of the dentist; or

(C) employ or otherwise contract with a dentist in the dentist's capacity as a dentist.

(2) "Dental service organization" means an entity that:

1 (A) is owned wholly or partly by a person who is
2 not a dentist; and

3 (B) under a dental service agreement, provides or
4 offers to provide services to a dentist or employs or otherwise
5 contracts with a dentist in the dentist's capacity as a dentist.

6 (3) "Dentist" means a person licensed to practice
7 dentistry under this subtitle.

8 Sec. 268.002. APPLICATION TO CERTAIN BUSINESS ENTITIES.

9 For purposes of this chapter, an entity is considered to be owned by
10 a person if the entity is the person's sole proprietorship, or if
11 the entity is a partnership, corporation, limited liability
12 company, or other business entity in which the person is a partner,
13 shareholder, director, member, manager, or officer.

14 Sec. 268.003. EXEMPTION FROM REGISTRATION. An entity is
15 not required to obtain a certificate of registration under this
16 chapter if the services provided by the entity to a dentist consist
17 only of:

18 (1) leasing of office space;

19 (2) financing, either through a loan, lease-purchase,
20 or other financing arrangement, of an office or equipment used in a
21 dental practice;

22 (3) utility, security, or janitorial services;

23 (4) providing or administering insurance coverage of
24 any type;

25 (5) offering or providing a direct or indirect prepaid
26 dental plan;

27 (6) serving as administrator or executor of the estate

1 of a dentist or acting for a dentist adjudicated to be mentally
2 incompetent as provided by Section 260.001; or

3 (7) other services provided under a type of agreement
4 that has been exempted by board rule.

5 Sec. 268.004. EFFECT OF CHAPTER. This chapter does not
6 affect or change the practice of dentistry as described by Section
7 251.003, authorize a person to practice dentistry who is not
8 licensed to practice dentistry under Section 256.001, or authorize
9 a person not licensed to practice dentistry under Section 256.001
10 to employ, contract with, or otherwise control another in the
11 practice of dentistry.

12 [Sections 268.005-268.050 reserved for expansion]

13 SUBCHAPTER B. POWERS AND DUTIES OF BOARD

14 Sec. 268.051. GENERAL POWERS AND DUTIES OF BOARD. The board
15 shall:

16 (1) administer this chapter; and

17 (2) adopt rules the board determines are necessary or
18 advisable to administer this chapter.

19 Sec. 268.052. FEES. (a) The board shall set the fees for
20 the issuance or renewal of a certificate of registration under this
21 chapter in amounts reasonable and necessary to cover the costs of
22 administering this chapter, except that the amount of the
23 application or renewal fee must equal or exceed the amount of the
24 dental application or renewal fee set by the board under Section
25 254.004.

26 (b) A holder of a certificate of registration that provides
27 services at more than one location shall annually pay a separate fee

1 for each location at which it provides services. The amount of the
2 fee under this subsection must be equal to the amount of the fee
3 paid by the certificate holder under Subsection (a).

4 [Sections 268.053-268.100 reserved for expansion]

5 SUBCHAPTER C. REGISTRATION AND RENEWAL REQUIREMENTS

6 Sec. 268.101. CERTIFICATE OF REGISTRATION REQUIRED. A
7 person may not act as a dental service organization unless the
8 person holds a certificate of registration issued under this
9 chapter.

10 Sec. 268.102. APPLICATION; APPLICATION FEE. (a) An
11 applicant for a certificate of registration under this chapter
12 must:

13 (1) apply to the board on a form and under rules
14 adopted by the board; and

15 (2) submit with the application a nonrefundable
16 application fee in an amount set by the board.

17 (b) The board by rule shall specify the information that
18 must be included on an application submitted to the board. The
19 rules must require each application to include:

20 (1) a written statement that the dental service
21 organization will comply with, and will not violate, Chapters 251,
22 258, 259, 262, 265, and 266 and board rules adopted under those
23 chapters;

24 (2) a list of each dental office or clinic within this
25 state at which the dental service organization will provide
26 services;

27 (3) a copy of each dental service agreement into which

1 the dental service organization has entered;

2 (4) a financial statement showing the dental service
3 organization's assets and liabilities for the preceding fiscal
4 year; and

5 (5) the name and address of each person who owns at
6 least 10 percent of the dental service organization and, if an owner
7 is not an individual, the name and address of each individual owning
8 at least 10 percent of that owner.

9 (c) The chief executive officer of the dental service
10 organization or an individual holding an equivalent position must
11 sign the application.

12 Sec. 268.103. TERM OF CERTIFICATE OF REGISTRATION. A
13 certificate of registration expires on the first anniversary of the
14 date of issuance.

15 Sec. 268.104. RENEWAL OF CERTIFICATE OF REGISTRATION. (a)
16 The holder of a certificate of registration who is otherwise
17 eligible to renew the certificate may renew an unexpired
18 certificate by paying the required renewal fee to the board before
19 the expiration date of the certificate.

20 (b) If a person's certificate of registration has been
21 expired for 90 days or less, the person may renew the certificate by
22 paying to the board a fee in an amount equal to one and one-half
23 times the required renewal fee.

24 (c) If the person's certificate of registration has been
25 expired for longer than 90 days but less than one year, the person
26 may renew the certificate by paying to the board a fee in an amount
27 equal to two times the required registration renewal fee.

1 (d) If the person's certificate of registration has been
2 expired for one year or longer, the person may not renew the
3 certificate. The person may obtain a new certificate of
4 registration by complying with the requirements and procedures for
5 obtaining an original certificate of registration.

6 (e) The board by rule may establish additional renewal
7 requirements.

8 [Sections 268.105-268.150 reserved for expansion]

9 SUBCHAPTER D. PROVISION OF SERVICES BY REGISTRATION HOLDER

10 Sec. 268.151. LIMITATIONS ON DENTAL SERVICE AGREEMENTS.

11 (a) A dental service organization may not enter into a dental
12 service agreement if the agreement:

13 (1) places limitations on communications between a
14 dentist and a patient concerning matters that are clinical in
15 nature and relate to the patient's care;

16 (2) establishes any standards, protocols, or practice
17 guidelines that conflict with generally accepted standards of care
18 within the dental profession; or

19 (3) authorizes the dental service organization to:

20 (A) select or influence the selection of specific
21 diagnostic examinations, treatments, or practices provided to a
22 patient;

23 (B) penalize or in any way discipline a dentist
24 for reporting a violation of a law regulating the practice of
25 dentistry or a board rule;

26 (C) limit or restrict access to or control of
27 supplies, instruments, or equipment considered reasonably

1 necessary by a dentist to provide diagnosis and treatment to a
2 patient; or

3 (D) impose a maximum or other standardized time
4 for the performance of a specific dental procedure or establish a
5 quota for a certain number of dental procedures to be performed
6 within a specified period.

7 (b) Each dental service agreement that a dental service
8 organization enters into with a dentist must state the limitations
9 set forth in Subsection (a) and that:

10 (1) the dentist is entitled to exercise the dentist's
11 independent professional judgment over all qualitative and
12 quantitative aspects of the delivery of dental care to a patient;

13 (2) the records of a diagnosis made and treatment
14 performed for and on a patient are the property of the dentist
15 performing the dental service and the records may only be
16 transferred in compliance with Subchapter C, Chapter 258, and board
17 rules; and

18 (3) each patient will be assigned to an individual
19 dentist to ensure continuity of treatment.

20 Sec. 268.152. EFFECT ON DENTIST RESPONSIBLE FOR TRAINING.
21 This chapter does not limit the ability of a dentist who is
22 responsible for training or supervising another dentist to
23 reasonably limit treatments or practices as a part of the training
24 or supervision of the dentist based on the competency to perform the
25 specific treatments or practices of the dentist being trained.

26 Sec. 268.153. NOTIFICATION OF CHANGE OF INFORMATION. (a)
27 The holder of a certificate of registration shall timely notify the

1 board of:

2 (1) any change of address of the person's place of
3 business;

4 (2) any change in the locations of the dental offices
5 or clinics at which the dental service organization provides
6 services;

7 (3) any change of owners or managers of the dental
8 service organization; and

9 (4) any change of the person's mailing address.

10 (b) Notification under Subsection (a) is timely if the board
11 receives the notice not later than the 60th day after the date the
12 change occurs.

13 [Sections 268.154-268.200 reserved for expansion]

14 SUBCHAPTER E. DISCIPLINARY ACTIONS; ENFORCEMENT

15 Sec. 268.201. GROUNDS FOR DISCIPLINARY ACTION. The board
16 may refuse to issue a certificate of registration, impose an
17 administrative penalty on a person who holds a certificate of
18 registration, suspend or revoke a person's certificate of
19 registration, or probate any portion of the suspension if, after a
20 hearing, the board determines that the applicant or certificate of
21 registration holder:

22 (1) has violated, aided another person in violating,
23 or required or allowed a person under the direction or control of
24 the person to violate:

25 (A) this chapter or a board rule adopted under
26 this chapter; or

27 (B) a law regulating the practice of dentistry,

1 including a law that regulates:

2 (i) a plan to provide, arrange for, pay for,
3 or reimburse any part of the cost of dental care services; or

4 (ii) the business of insurance;

5 (2) has committed fraud, been deceptive or dishonest,
6 or made a misrepresentation in:

7 (A) operating a dental service organization,
8 including in making patient referrals; or

9 (B) obtaining or seeking to obtain a certificate
10 of registration under this chapter;

11 (3) has employed or permitted a person not licensed to
12 practice dentistry to practice dentistry in an office that is
13 subject to the person's control or management; or

14 (4) holds a license or certificate to practice
15 dentistry or provide dental services under a dental service
16 agreement in another state and that state, based on an act by the
17 person that is the same as an act described in this section:

18 (A) reprimands the person; or

19 (B) suspends or revokes the person's license or
20 certificate or places the person on probation.

21 Sec. 268.202. PROCEDURES FOR DISCIPLINARY ACTION. The
22 board shall follow the procedures under Chapter 263 in a complaint
23 or disciplinary action under this chapter.

24 Sec. 268.203. INJUNCTION. The board may apply for a
25 restraining order or injunction to enforce this chapter or a board
26 rule adopted under this chapter.

27 SECTION 2. Chapter 254, Occupations Code, is amended by

1 adding Section 254.0091 to read as follows:

2 Sec. 254.0091. ASSISTANCE BY STATE AND LOCAL OFFICIALS. At
3 the board's request, the attorney general or the district attorney
4 or county attorney of the county in which a violation of state law
5 regulating the practice of dentistry is alleged to have occurred
6 shall take appropriate action to enforce this subtitle.

7 SECTION 3. Section 256.002(a), Occupations Code, is amended
8 to read as follows:

9 (a) An applicant for a license to practice dentistry must:

- 10 (1) be an individual who is at least 21 years of age;
11 (2) be of good moral character; and
12 (3) present proof of:

13 (A) graduation from a dental school accredited by
14 the Commission on Dental Accreditation of the American Dental
15 Association; or

16 (B) graduation from a dental school that is not
17 accredited by the commission and successful completion of training
18 in an American Dental Association approved specialty in an
19 education program accredited by the commission that consists of at
20 least two years of training as specified by the Council on Dental
21 Education.

22 SECTION 4. Subchapter B, Chapter 258, Occupations Code, is
23 amended by adding Section 258.055 to read as follows:

24 Sec. 258.055. PRACTICE OF DENTISTRY ON CERTAIN CHILDREN.

25 (a) Before performing a dental treatment or procedure on a child
26 younger than 18 years of age, a dentist must inform the child's
27 parent or guardian that the parent or guardian may be present in the

1 treatment room during the treatment or procedure.

2 (b) If a parent or guardian of a child younger than 18 years
3 of age has informed the dentist that the parent or guardian desires
4 to be present in the treatment room during the child's treatment or
5 procedure, the dentist may not perform the treatment or procedure
6 without the parent or guardian present unless the dentist
7 determines in the dentist's professional judgment that the presence
8 of the parent or guardian in the treatment room is likely to have an
9 adverse effect on the treatment or the child.

10 (c) In this section, "parent or guardian" includes a person
11 authorized by law to consent for the medical or dental treatment of
12 a child younger than 18 years of age.

13 SECTION 5. Not later than December 1, 2013, the State Board
14 of Dental Examiners shall adopt rules necessary to implement
15 Chapter 268, Occupations Code, as added by this Act.

16 SECTION 6. (a) Except as provided by Subsection (b) of this
17 section, this Act takes effect September 1, 2013.

18 (b) Section 268.101, Occupations Code, as added by this Act,
19 takes effect February 1, 2014.