

CHAPTER 97-67

Committee Substitute for Senate Bill No. 1112

An act relating to dentistry; amending s. 466.001, F.S.; revising purpose and providing additional legislative intent; providing applicability of the section to certain contracts; amending s. 466.003, F.S.; expanding the definition of “dentistry”; amending s. 466.028, F.S.; revising and providing grounds for disciplinary action; providing penalties; providing applicability of the section to certain contracts; amending s. 466.0285, F.S.; expanding provisions relating to proprietorship by nondentists, including applicability thereof to certain entities; providing penalties; providing that contracts and arrangements entered into or undertaken in violation of the section are void; providing applicability of the section to certain contracts; providing an effective date.

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

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

466.001 Legislative purpose and intent.—The legislative purpose for enacting this chapter is to ensure that every dentist or dental hygienist practicing in this state meets minimum requirements for safe practice without undue clinical interference by persons not licensed under this chapter. It is the legislative intent that dental services be provided only in accordance with the provisions of this chapter and not be delegated to unauthorized individuals. It is the further legislative intent that dentists and dental hygienists who fall below minimum competency or who otherwise present a danger to the public shall be prohibited from practicing in this state. All provisions of this chapter relating to the practice of dentistry and dental hygiene shall be liberally construed to carry out such ~~this~~ purpose and intent.

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

466.003 Definitions.—As used in this chapter:

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

- (a) The taking of an impression of the human tooth, teeth, or jaws directly or indirectly and by any means or method.;
- (b) Supplying artificial substitutes for the natural teeth or furnishing, supplying, constructing, reproducing, or repairing any prosthetic denture, bridge, appliance, or any other structure designed to be worn in the human mouth except on the written work order of a duly licensed dentist.;
- (c) The placing of an appliance or structure in the human mouth or the adjusting or attempting to adjust the same.;
- (d) Delivering the same to any person other than the dentist upon whose work order the work was performed.;
- (e) Professing to the public by any method to furnish, supply, construct, reproduce, or repair any prosthetic denture, bridge, appliance, or other structure designed to be worn in the human mouth.;
- (f) Diagnosing, prescribing, or treating or professing to diagnose, prescribe, or treat disease, pain, deformity, deficiency, injury, or physical condition of the human teeth or jaws or oral-maxillofacial region.;
- (g) Extracting or attempting to extract human teeth.;
- (h) Correcting or attempting to correct malformations of teeth or of jaws.;
- (i) Repairing or attempting to repair cavities in the human teeth.

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

466.028 Grounds for disciplinary action; action by the board.—

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

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

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

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

Section 4. Section 466.0285, Florida Statutes, is amended to read:

466.0285 Proprietorship by nondentists.—

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

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

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

(c) Direct, control, or interfere with a dentist's clinical judgment. To direct, control, or interfere with a dentist's clinical judgment may not be interpreted to mean dental services contractually excluded, the application of alternative benefits that may be appropriate given the dentist's prescribed course of treatment, or the application of contractual provisions and scope of coverage determinations in comparison with a dentist's prescribed treatment on behalf of a covered person by an insurer, health maintenance organization, or a prepaid limited health service organization.

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

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

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

- (b) The patient records of a dentist;
 - (c) Policies and decisions relating to pricing, credit, refunds, warranties, and advertising; and
 - (d) Decisions relating to office personnel and hours of practice.
- (3) Any person who violates this section ~~commits is guilty of~~ a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
- (4) Any contract or arrangement entered into or undertaken in violation of this section shall be void as contrary to public policy. This section applies to contracts entered into or renewed on or after October 1, 1997.

Section 5. This act shall take effect October 1, 1997.

Became a law without the Governor's approval May 16, 1997.

Filed in Office Secretary of State May 12, 1997.