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SENATE BILL 655
House Committee Substitute Favorable 6/27/12
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Short Title: Dentistry Management Arrangements.

(Public)

Sponsors:

Referred to:

April 20, 2011

A BILL TO BE ENTITLED

AN ACT TO REQUIRE THAT DENTIST AGREEMENTS WITH MANAGEMENT COMPANIES CONFORM WITH THE DENTAL PRACTICE ACT AND TO ESTABLISH A TASK FORCE ON DENTAL MANAGEMENT ARRANGEMENT RULES.

The General Assembly of North Carolina enacts:

SECTION 1. Article 2 of Chapter 90 of the General Statutes is amended by adding a new section to read:

"§ 90-40.2. Management arrangements.

(a) The following definitions apply in this section:

- (1) Ancillary personnel. – Dental hygienists or dental assistants who assist licensed dentists in providing direct patient care.
- (2) Clinical. – Of or relating to the activities of a dentist as described in G.S. 90-29(b)(1)-(10).
- (3) Management arrangement. – Any one or more agreements or arrangements, alone or together, whether written or oral, between a management company and a dentist or professional entity whereby the management company provides services to assist in the development, promotion, delivery, financing, support, or administration of the dentist's or professional entity's dental practice.
- (4) Management company. – Any individual, business corporation, nonprofit corporation, partnership, limited liability company, limited partnership, or other legal entity that is not a professional entity or dentist which provides through one or more contractual arrangements any combination of management or business support services, including, but not limited to, accounting and financial services; collection, billing, and payment services; file and records maintenance; human resources services; assistance with the acquisition of fixed assets, including the locating and procurement of office space, facilities, and equipment; maintenance of offices, equipment, furniture, and fixtures; marketing and practice development; information technology; compliance with applicable federal, State, and local laws; and clerical services.
- (5) Professional entity. – A professional corporation, nonprofit corporation, partnership, professional limited liability company, professional limited partnership, or other entity or aggregation of individuals that is licensed or



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1 certified or otherwise explicitly permitted to practice dentistry under North
2 Carolina General Statutes.

3 (6) Unlicensed person. – Any person or entity other than a dentist licensed in
4 this State or registered professional entity authorized to provide dental
5 services under this Article.

6 (b) A management arrangement executed on or after January 1, 2013, is invalid unless
7 there appears on the instrument evidencing, directly above or below the space or spaces
8 provided for the signature of the parties, in such type size or distinctive marking that it appears
9 more clearly and conspicuously than anything else on the document:

10 "WARNING – YOU HAVE THE RIGHT AND ARE ENCOURAGED TO HAVE THIS
11 CONTRACT REVIEWED BY YOUR OWN LEGAL COUNSEL PRIOR TO SIGNING."

12 (c) No member of the Board shall be subject to examination in connection with any
13 investigation, inquiry, or interview related to the Board's review of any management
14 arrangement.

15 (d) For actions brought under G.S. 90-40.1, the venue shall be the superior court of any
16 county in which acts constituting unlicensed or unlawful practice of dentistry are alleged to
17 have been committed or in which there appear reasonable grounds to believe that they will be
18 committed, in the county where at least one defendant in the action resides, or in Wake County.

19 (e) If investigative information in the possession of the Board, its employees, or agents
20 indicates that a crime may have been committed, the Board may report the information to the
21 appropriate law enforcement agency or district attorney of the district in which the offense was
22 committed.

23 (f) The Board shall cooperate with and assist law enforcement agencies and the district
24 attorney conducting a criminal investigation or prosecution of a licensee or person engaged in
25 the unauthorized practice of dentistry, including a management company, by providing
26 information that is relevant to the criminal investigation or prosecution to the investigating
27 agency or district attorney. Information disclosed by the Board to an investigative agency or
28 district attorney remains confidential and may not be disclosed by the investigating agency
29 except as necessary to further the investigation.

30 (g) Nothing in this section shall affect the validity of any of the Board's rules or
31 regulations which were in effect as of the effective date of this section, except to the extent that
32 such rules or regulations directly conflict with the provisions of this section."

33 **SECTION 2.** G.S. 90-40.1(c) reads as rewritten:

34 "(c) The venue for actions brought under this section shall be the superior court of any
35 county in which such acts constituting unlicensed or unlawful practice of dentistry are alleged
36 to have been committed or in which there appear reasonable grounds to believe that they will
37 be ~~committed~~ committed, in the county where the defendants in such action ~~reside~~ reside, or
38 in Wake County."

39 **SECTION 3.(a)** The North Carolina State Board of Dental Examiners shall adopt
40 rules and conform existing rules to the requirements of G.S. 90-40.2, as enacted in Section 1 of
41 this act, after consideration of the documented recommendations of the task force established in
42 this section.

43 **SECTION 3.(b)** There is established within the North Carolina State Board of
44 Dental Examiners a task force on dental management arrangement rules. The task force shall
45 consist of six members as follows:

- 46 (1) A member of the North Carolina State Board of Dental Examiners.
- 47 (2) A member of the North Carolina Dental Society.
- 48 (3) A licensed dentist with a current management arrangement with a dental
49 service organization, as recommended by the Alliance for Access to Dental
50 Care.

- 1 (4) A manager from a dental service organization with a current management
2 arrangement with a North Carolina licensed dentist, as recommended by the
3 Alliance for Access to Dental Care.
4 (5) A licensed attorney with knowledge and experience of North Carolina
5 contract law who is not affiliated with the dental industry, as recommended
6 by the North Carolina Bar Association.
7 (6) A small business owner who is not affiliated with the dental industry, as
8 recommended by the North Carolina Chamber of Commerce.

9 The task force shall study and make recommendations on the review process for
10 dental management arrangements which shall include: the timing of Board decisions; separate
11 rules governing management arrangements that are being renewed or transferred, and the
12 continuity of patient care during review of renewed or transferred arrangements; and any other
13 matter necessary to clarify terms or procedures in statute or rule relating to management
14 arrangements. The task force shall report its findings and any recommendations for rules to be
15 adopted, as well as any statutory changes, to the Board by January 1, 2013, and shall terminate
16 upon filing the report. The Board shall submit a written report on the findings and
17 recommendations of the task force and the Board's proposed course of action to the General
18 Assembly by February 1, 2013.

19 **SECTION 4.** This act is effective when it becomes law.