

SECOND REGULAR SESSION

HOUSE BILL NO. 1420

91ST GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE SHIELDS.

Read 1st time January 10, 2002, and 1000 copies ordered printed.

TED WEDEL, Chief Clerk

3527L.01I

AN ACT

To repeal sections 332.051, 332.071, 332.081, 332.111, and 332.121, RSMo, and to enact in lieu thereof six new sections relating to non-profit-corporations that provide dental services, with penalty provisions.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Sections 332.051, 332.071, 332.081, 332.111, and 332.121, RSMo, are
2 repealed and six new sections enacted in lieu thereof, to be known as sections 332.051, 332.071,
3 332.081, 332.111, 332.121, and 332.332, to read as follows:

332.051. 1. The board shall establish and maintain an office at Jefferson City, Missouri,
2 where its records and files shall be kept.

3 2. Investigators employed by the board shall, among other duties, have the power in the
4 name of the board to investigate alleged violations of this chapter including the right to inspect,
5 on order of the board, dental offices, including records, dental laboratories, dental equipment and
6 instruments, **and not-for-profit corporations licensed to practice dentistry in this state,**
7 **including patient records, records of the not-for-profit corporation, and locations where**
8 **not-for-profit corporations practice dentistry,** with respect to violations of the provisions of
9 this chapter.

332.071. A person or other entity "practices dentistry" within the meaning of this chapter
2 who:

3 (1) Undertakes to do or perform dental work or dental services or dental operations or
4 oral surgery, by any means or methods, gratuitously or for a salary or fee or other reward, paid

EXPLANATION — Matter enclosed in bold faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

5 directly or indirectly to the person or to any other person or entity;

6 (2) Diagnoses or professes to diagnose, prescribes for or professes to prescribe for, treats
7 or professes to treat, any disease, pain, deformity, deficiency, injury or physical condition of
8 human teeth or adjacent structures or treats or professes to treat any disease or disorder or lesions
9 of the oral regions;

10 (3) Attempts to or does replace or restore a part or portion of a human tooth;

11 (4) Attempts to or does extract human teeth or attempts to or does correct malformations
12 of human teeth or jaws;

13 (5) Attempts to or does adjust an appliance or appliances for use in or used in connection
14 with malposed teeth in the human mouth;

15 (6) Interprets or professes to interpret or read dental radiographs;

16 (7) Administers an anesthetic in connection with dental services or dental operations or
17 dental surgery;

18 (8) Undertakes to or does remove hard and soft deposits from or polishes natural and
19 restored surfaces of teeth;

20 (9) Uses or permits to be used for the person's benefit or for the benefit of any other
21 person or other entity the following titles or words in connection with the person's name:
22 "Doctor", "Dentist", "Dr.", "D.D.S.", or "D.M.D.", or any other letters, titles, degrees or
23 descriptive matter which directly or indirectly indicate or imply that the person is willing or able
24 to perform any type of dental service for any person or persons, or uses or permits the use of for
25 the person's benefit or for the benefit of any other person or other entity any card, directory,
26 poster, sign or any other means by which the person indicates or implies or represents that the
27 person is willing or able to perform any type of dental services or operation for any person;

28 (10) Directly or indirectly owns, leases, operates, maintains, manages or conducts an
29 office or establishment of any kind in which dental services or dental operations of any kind are
30 performed for any purpose; but this section shall not be construed to prevent owners or lessees
31 of real estate from lawfully leasing premises to those who are qualified to practice dentistry
32 within the meaning of this chapter;

33 (11) Constructs, supplies, reproduces or repairs any prosthetic denture, bridge, artificial
34 restoration, appliance or other structure to be used or worn as a substitute for natural teeth,
35 except when one, not a registered and licensed dentist, does so pursuant to a written uniform
36 laboratory work order, in the form to be prescribed by the board and copies of which shall be
37 retained by the nondentist for two years, of a dentist registered and currently licensed in Missouri
38 and which the substitute in this subdivision described is constructed upon or by use of casts or
39 models made from an impression furnished by a dentist registered and currently licensed in
40 Missouri;

41 (12) Attempts to or does place any substitute described in subdivision (11) of this section
42 in a human mouth or attempts to or professes to adjust any substitute or delivers any substitute
43 to any person other than the dentist upon whose order the work in producing the substitute was
44 performed;

45 (13) Advertises, solicits, or offers to or does sell or deliver any substitute described in
46 subdivision (11) of this section or offers to or does sell the person's services in constructing,
47 reproducing, supplying or repairing the substitute to any person other than a registered and
48 licensed dentist in Missouri;

49 (14) Undertakes to do or perform any physical evaluation of a patient in the person's
50 office or in a hospital, clinic, or other medical or dental facility prior to or incident to the
51 performance of any dental services, dental operations, or dental surgery;

52 **(15) Reviews examination findings, x-rays, or other patient data to make**
53 **judgements or decisions about the dental care of a patient in this state.**

332.081. 1. No person, **corporation, or entity** shall practice dentistry in Missouri as
2 defined in section 332.071 unless and until the board has issued to the person a certificate
3 certifying that the person has been duly registered as a dentist in Missouri and unless and until
4 the board has issued to the person a license, to be renewed each period as provided in this
5 chapter, to practice dentistry in Missouri; but nothing in this chapter shall be so construed as to
6 make it unlawful for a legally qualified and licensed physician or surgeon, who does not practice
7 dentistry as a specialty, from extracting teeth, or to make it unlawful for a dentist licensed in a
8 state other than Missouri from making a clinical demonstration before a meeting of dentists in
9 Missouri, or to make it unlawful for dental students in any accredited dental school to practice
10 dentistry under the personal direction of instructors, or to make it unlawful for any duly
11 registered and licensed dental hygienist in Missouri to practice as a dental hygienist as defined
12 in section 332.091, or to make it unlawful for dental assistants, certified dental assistants or
13 expanded functions dental assistants to be delegated duties as defined in section 332.093, or to
14 make it unlawful for persons to practice dentistry in the United States armed services or in or for
15 the United States Public Health Service, or in or for the United States Veterans Bureau, or to
16 make it unlawful to teach in an accredited dental school, or to make it unlawful for a duly
17 qualified anesthesiologist or anesthetist to administer an anesthetic in connection with dental
18 services or dental surgery.

19 2. No corporation shall practice dentistry as defined in section 332.071 unless that
20 corporation is organized **as a not-for-profit corporation under the provisions of chapter 355,**
21 **RSMo, and has the status of an organization under 26 U.S.C. Section 501(c)(3), or is**
22 **organized** under the provisions of chapter 356, RSMo.

23 **3. A not-for-profit corporation organized under the provisions of chapter 355,**

24 **RSMo, and qualifying as an organization under 26 U.S.C. Section 501(c)(3) shall:**

25 **(1) Only provide dental services to Medicaid recipients and individuals who have**
26 **income below two hundred percent of the federal poverty level unless mandated by federal**
27 **law;**

28 **(2) Only practice dentistry in this state so long as at least ninety percent of the**
29 **corporation's patient census consists of Medicaid recipients or patients with an income**
30 **below two hundred percent of the federal poverty level unless mandated by law;**

31 **(3) Only employ dentists and dental hygienists licensed in this state and dental**
32 **assistants to render dental services; and**

33 **(4) Be organized for health purposes only.**

34 **4. No not-for-profit corporation organized under the provisions of chapter 355,**
35 **RSMo, and qualifying as an organization under 26 U.S.C. Section 501(c)(3) or any other**
36 **person may direct or interfere or attempt to direct or interfere with a licensed dentist's**
37 **professional judgment and competent practice of dentistry.**

38 **5. A not-for-profit corporation organized under the provisions of chapter 355,**
39 **RSMo, and qualifying as an organization under 26 U.S.C. Section 501(c)(3) may apply for**
40 **a license to practice dentistry in this state so long as the corporation applies for licensure**
41 **in writing on forms provided by the Missouri dental board.**

42 **6. Any not-for-profit corporation that obtains a license to practice dentistry in this**
43 **state is subject to discipline pursuant to section 332.321. If the board concludes that a not-**
44 **for-profit corporation has committed an act or is engaging in a course of conduct that**
45 **would be grounds for disciplinary action, the board may file a complaint before the**
46 **administrative hearing commission. The board may refuse to issue or renew the license of**
47 **a not-for-profit corporation for one or any combination of causes stated in subsection 2 of**
48 **section 332.321. The board shall notify the applicant in writing of the reasons for the**
49 **refusal and shall advise the applicant of their right to file a complaint with the**
50 **administrative hearing commission as provided by chapter 621, RSMo.**

51 **7. The board shall promulgate rules and regulations to ensure not-for-profit**
52 **corporations are rendering care to the patient population as set forth herein, including**
53 **requirements for not-for-profit corporations to report patient census data to the board.**

54 **8. All not-for-profit corporations organized and operated as migrant, community,**
55 **or homeless health centers pursuant to 42 U.S.C. Section 254(b) or 254(c), or federally**
56 **qualified health centers pursuant to 42 U.S.C. Section 13996(d), or as otherwise authorized**
57 **herein, shall practice dentistry in accordance with the law of this state, except as**
58 **specifically preempted by federal law.**

332.111. Any person [who], corporation, or entity that practices dentistry as defined

2 in section 332.071 [who] **that** is not a duly registered and currently licensed dentist in Missouri
3 as hereinafter provided, or any person who practices as a dental hygienist as defined in section
4 332.091 who is not a duly registered and currently licensed dental hygienist in Missouri as
5 hereinafter provided is guilty of a class A misdemeanor.

332.121. 1. Upon application by the board and the necessary burden having been met,
2 a court of general jurisdiction may grant an injunction, restraining order or other order as may
3 be appropriate to enjoin a person, **corporation**, or firm **or other entity** from:

4 (1) Offering to engage or engaging in the performance of any acts or practices for which
5 a certificate of registration or authority, permit or license is required by this chapter upon a
6 showing that such acts or practices were performed or offered to be performed without a
7 certificate of registration or authority, permit or license; [or]

8 (2) Engaging in any practice or business authorized by a certificate of registration or
9 authority, permit or license issued pursuant to this chapter upon a showing that the holder
10 presents a substantial probability of serious danger to the health, safety or welfare of any resident
11 of this state or client or patient of the licensee; **or**

12 (3) **Directing, interfering with, or attempting to direct or interfere with licensed**
13 **dentist's professional judgement or competent practice of dentistry.**

14 2. Any such action shall be commenced either in the county in which the defendant
15 resides or in the county in which such conduct occurred.

16 3. Any action brought under this section shall be in addition to and not in lieu of any
17 penalty provided by this chapter and may be brought concurrently with other actions to enforce
18 this chapter.

332.332. 1. **Upon unanimous consent of the members of the board participating in**
2 **the vote, the president or secretary of the board shall administer oaths, subpoena witnesses,**
3 **issue subpoenas duces tecum and require production of documents and records.**
4 **Subpoenas, including subpoena duces tecum, shall be served by a person authorized to**
5 **serve subpoenas of courts of record. In lieu of requiring attendance of a person to produce**
6 **original documents in response to a subpoena duces tecum, the board may require sworn**
7 **copies of such documents to be filed with it or delivered to its designated representative.**

8 2. **The board may enforce its subpoenas, including subpoenas duces tecum, by**
9 **applying to a circuit court of Cole County, the county of the investigation, hearing, or**
10 **proceeding, or any county where the person resides or may be found, for an order upon**
11 **any person who shall fail to obey a subpoena to show cause why such subpoena should not**
12 **be enforced, which such order and a copy of the application thereof shall be served upon**
13 **the person in the same manner as a summons in a civil action and if the circuit court shall,**
14 **after a hearing, determine that the subpoena should be sustained and enforced, such court**

15 **shall proceed to enforce the subpoena in the same manner as though the subpoena had**
16 **been issued in a civil case in the circuit court.**