

SESSION OF 2011

**SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2241**

As Amended by House Committee on  
Health and Human Services

**Brief\***

HB 2241, as amended, would enact new law to allow the franchise practice of dentistry and revise portions of the Dental Practices Act pertaining to definitions and oversight functions of the Kansas Dental Board. Under current law, licensed dentists are prohibited from entering into arrangements with unlicensed proprietors and specifically prohibited from the franchise practice of dentistry. Under the bill, a “dental franchisor” would be defined as any person or entity who provides dental practice management services, or dental material or equipment necessary for dental practice management, to a licensed dentist under an agreement for compensation. A person or entity entering into an agreement with a licensed dentist for dental office administrative services must register with the Kansas Dental Board.

The bill would make the following specific changes to the Act:

**Definitions**

- Revise the definition of “proprietor” in which language prohibiting specific arrangements involving licensed dental practitioners is replaced with language prohibiting all arrangements between an unlicensed proprietor and a licensed dentist.

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\*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org>

- Add a definition for “dental franchisor.”
- Add a definition for “licensed dentist.”

### **Oversight by the Kansas Dental Board**

- Add a new category of disciplinary action available to the Kansas Dental Board, specifically, to limit the license of a dentist.
- Delete the requirement to have the name of a professional dental practice approved by the Kansas Dental Board and instead require that the name may not misrepresent the dentist to the public.
- Add a new section of law requiring any unlicensed person or entity (term excludes a professional corporation or limited liability company composed of dentists) entering into an agreement with a licensed dentist to provide office administrative services to register with the Kansas Dental Board. Any person or entity required to register would have 30 days to complete the registration. The 30 days would begin on either the date of execution of the contract or agreement or 30 days from July 1, 2011, depending upon whether the contract or agreement existed prior to July 1, 2011. This new section includes language permitting the Kansas Dental Board to inspect the contract or agreement.

### **Dental Franchises**

- Delete language prohibiting the franchise practice of dentistry.
- Revise language to permit the division of fees between a licensed dentist and a dental franchisor.

- Add a new section of law that would do the following:
  - Prohibit any contract or agreement involving a licensed dentist from containing language that would permit specified functions to be controlled by a person or entity other than a licensed dentist.
  - Permit a person or entity, acting on behalf of a licensed dentist, to perform or arrange for office administrative services.
  - Specify the parties which would be allowed to enter into agreements with a licensed dentist, professional corporation or limited liability company owned by a licensed dentist.
  - Hold dental franchisors responsible for injury to the public while indemnifying them from actions by a dentist that violate the Dental Practices Act.
- Make technical changes.

### **Background**

The bill was introduced at the request of Comfort Dental, a dental franchisor. Testimony in favor of the bill was heard from representatives of Comfort Dental and the Kansas Dental Association. The proponents testified that the dental franchise arrangement would help attract more dentists to Kansas to help alleviate the state's current shortage of dentists. The representative from Comfort Dental also testified that the dental franchise arrangement would lower the cost of dental care, due to the purchasing power of the franchise, and would improve access to dental care. There was no testimony opposing the bill at the House Committee hearing. Neutral testimony was heard from the General Counsel to the Kansas Dental Board who recommended changes to specific language in the bill.

The House Committee on Health and Human Services amended the original bill to:

- Add a definition of “dental franchisor.”

- Add language permitting the Kansas Dental Board to limit the licenses of dentists.
- Replace language to permit the division of fees between a licensed dentist and a dental franchisor.
- Add language providing protections for both the public and franchisors.
- Make technical changes including changes to conform with the recodification of the criminal code regarding the crime of assisted suicide.

The fiscal note indicated that passage of the original bill would have no fiscal effect on operations of the Kansas Dental Board.