AN ACT concerning the Kansas dental practices act; relating to proprietor arrangements with licensees of dentistry; amending K.S.A. 65-1424 and K.S.A. 2010 Supp. 65-1435 and 65-1436 and repealing the existing sections.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 65-1424 is hereby amended to read as follows:

65-1424. (a) The term "proprietor" as used in this act includes any person who:

(1) "Proprietor" means any person who:

(a) employs dentists or dental hygienists in the operation of a dental office; or

(b) places in possession of a dentist or dental hygienists or other agent such dental material or equipment as may be necessary for the management of a dental office on the basis of a lease or any other agreement for compensation.

(b) The estate or agent for a deceased or substantially disabled

(2) "Dental franchisor" means any person or entity, pursuant to a written agreement, who provides a licensed dentist any dental practice management consulting services, which may include marketing or advertising services, signage or branding consulting, or places in possession of a licensed dentist such dental material or equipment as may be necessary for the management of a dental office on the basis of a lease or any other agreement for compensation.

(c) retains the ownership or control of dental equipment or material or office and makes the same available in any manner for the use by dentists or dental hygienists or other agents except that nothing in this subsection (c) shall apply to bona fide sales of dental equipment or material secured by a chattel mortgage or retain title agreement.

A licensee of dentistry who enters into any of the above described arrangements any arrangement with an unlicensed proprietor may have such license limited, suspended or revoked by the board.

(b) The estate or agent for a deceased or substantially disabled
dentist may employ dentists, for a period of not more than one year, to
provide service to patients until the practice can be sold.

Sec. 2. K.S.A. 2010 Supp. 65-1435 is hereby amended to read as
follows: 65-1435. (a) Except as otherwise provided in this section, it
shall be unlawful for any person or persons to practice or offer to
practice dentistry under any name except such person's own name,
which shall be the name used on the license granted to such person as a
dentist as provided in the Kansas dental practices act.

(b) A licensed dentist may use the name of any association,
corporation, clinic, trade name or business name in connection with the
practice of dentistry, as defined in the Kansas dental practices act,
except that such name may not misrepresent the dentist to the public
as determined by the Kansas dental board.
(c) Nothing herein contained shall be construed to prevent two or
more licensed dentists:
(1) From associating together for the practice of dentistry, each in
such person's own proper name; or
(2) from associating together for the practice of dentistry, each as
owners, in a professional corporation, organized pursuant to the
professional corporation law of Kansas, or, each as owners, in a limited
liability company organized pursuant to the Kansas revised limited
liability company act, and using a name that may or may not contain
the proper name of any such person or persons except that such name
may not misrepresent the dentist to the public if such name has been
approved by the board and from employing nonowning licensees; or
(3) from associating together with persons licensed to practice
medicine and surgery in a clinic or professional association under a
name that may or may not contain the proper name of any such person
or persons and may contain the word "clinic."
(d) It shall be unlawful, and a licensee may have a license
suspended or revoked, for any licensee to conduct a dental office in the
name of the licensee, or to advertise the licensee's name in connection
with any dental office or offices, or to associate together for the
practice of dentistry with other licensed dentists in a professional
corporation or limited liability company, under a name that may or may
not contain the proper name of any such person or persons or to
associate together with persons licensed to practice medicine and
surgery in a clinic or professional association under a name that may or
may not contain the proper name of any such person or persons and
may contain the word "clinic," unless such licensee is personally
present in the office operating as a dentist or personally overseeing
such operations as are performed in the office or each of the offices
during a majority of the time the office or each of the offices is being
operated.

(e) Nothing in this section shall be construed to permit the
franchise practice of dentistry.

(f) The violation of any of the provisions of this section by any
dentist shall subject such dentist to suspension or revocation of a
license.

(g) Notwithstanding the provisions of subsections (d) and (e), a licensee shall be permitted to own two dental offices in
addition to the licensee's primary office location under the following
conditions:

1. The licensee's secondary dental office is located within a 125
mile radius of the licensee's primary office; and
2. The licensee's secondary dental office is located in a county
with a population of less than 10,000 according to the 2000 United
States census.

Sec. 3. K.S.A. 2010 Supp. 65-1436 is hereby amended to read as
follows: 65-1436. (a) The Kansas dental board may refuse to issue the
license under the Kansas dental practices provided for in this act, or
may take any of the actions with respect to any dental or dental hygiene
license as set forth in subsection (b), whenever it is established, after
notice and opportunity for hearing in accordance with the provisions of
the Kansas administrative procedure act, that any applicant for a dental
or dental hygiene license or any licensed dentist or dental hygienist
practicing in the state of Kansas has:

1. Committed fraud, deceit or misrepresentation in obtaining any
license, money or other thing of value;
2. Habitually used intoxicants or drugs which have rendered such
person unfit for the practice of dentistry or dental hygiene;
3. Been determined by the board to be professionally
incompetent;
4. Committed gross, wanton or willful negligence in the practice
of dentistry or dental hygiene;
5. Employed, allowed or permitted any unlicensed person or
persons to perform any work in the licensee's office which constitutes
the practice of dentistry or dental hygiene under the provisions of the
Kansas dental practices this act;
(6) willfully violated the laws of this state relating to the practice of dentistry or dental hygiene or the rules and regulations of the secretary of health and environment or of the board regarding sanitation;
(7) engaged in the division of fees, or agreed to split or divide the fee received for dental service with any person for bringing or referring a patient without the knowledge of the patient or the patient's legal representative, except:
   (A) The division of fees between dentists practicing in a partnership and sharing professional fees;
   (B) the division of fees between, or in case of, one licensed dentist employing another; or
   (C) the division of fees between a licensed dentist and a proprietor as defined in K.S.A. 65-1424, and amendments thereto dental franchisor;
(8) committed complicity in association with or allowed the use of the licensed dentist's name in conjunction with any person who is engaged in the illegal practice of dentistry;
(9) been convicted of a felony or a misdemeanor involving moral turpitude in any jurisdiction and the licensee fails to show that the licensee has been sufficiently rehabilitated to warrant the public trust;
(10) prescribed, dispensed, administered or distributed a prescription drug or substance, including a controlled substance, in an excessive, improper or inappropriate manner or quantity outside the scope of practice of dentistry or in a manner that impairs the health and safety of an individual;
(11) prescribed, purchased, administered, sold or given away prescription drugs, including a controlled substance, for other than legal and legitimate purposes;
(12) violated or been convicted of any federal or state law regulating possession, distribution or use of any controlled substance;
(13) failed to pay license fees;
(14) used the name "clinic," "institute" or other title that may suggest a public or semipublic activity except that the name "clinic" may be used as authorized in K.S.A. 65-1435, and amendments thereto;
(15) committed, after becoming a licensee, any conduct which is detrimental to the public health, safety or welfare as defined by rules and regulations of the board;
engaged in a misleading, deceptive, untrue or fraudulent misrepresentation in the practice of dentistry or on any document connected with the practice of dentistry by knowingly submitting any misleading, deceptive, untrue or fraudulent misrepresentation on a claim form, bill or statement, including the systematic waiver of patient co-payment or co-insurance;

(17) failed to keep adequate records;

(18) the licensee has had a license to practice dentistry revoked, suspended or limited, has been censured or has had other disciplinary action taken, has had an application for license denied, or voluntarily surrendered the license after formal proceedings have been commenced by the proper licensing authority or another state, territory or the District of Columbia or other country, a certified copy of the record of the action of the other jurisdiction being conclusive evidence thereof;

(19) failed to furnish the board, or its investigators or representatives any information legally requested by the board; or

(20) assisted suicide in violation of K.S.A. 21-3406, prior to its repeal, or section 42 of chapter 136 of the 2010 Session Laws of Kansas K.S.A. 21-3406, and amendments thereto, as established by any of the following:

(A) A copy of the record of criminal conviction or plea of guilty for a felony in violation of K.S.A. 21-3406, prior to its repeal, or section 42 of chapter 136 of the 2010 Session Laws of Kansas K.S.A. 21-3406, and amendments thereto;

(B) a copy of the record of a judgment of contempt of court for violating an injunction issued under K.S.A. 60-4404, and amendments thereto;

(C) a copy of the record of a judgment assessing damages under K.S.A. 60-4405, and amendments thereto.

(b) Whenever it is established, after notice and opportunity for hearing in accordance with the provisions of the Kansas administrative procedure act, that a licensee is in any of the circumstances or has committed any of the acts described in subsection (a), the Kansas dental board may take one or any combination of the following actions with respect to the license of the licensee:

(1) Revoke the license;

(2) suspend the license for such period of time as may be determined by the board;

(3) restrict the right of the licensee to practice by imposing
limitations upon dental or dental hygiene procedures which may be
performed, categories of dental disease which may be treated or types
of patients which may be treated by the dentist or dental hygienist.
Such restrictions shall continue for such period of time as may be
determined by the board, and the board may require the licensee to
provide additional evidence at hearing before lifting such restrictions;

or

(4) grant a period of probation during which the imposition of one
or more of the actions described in subsections (b)(1) through (b)(3)
will be stayed subject to such conditions as may be imposed by the
board including a requirement that the dentist or dental hygienist
refrain from any course of conduct which may result in further
violation of the dental practice act or the dentist or dental hygienist
complete additional or remedial instruction. The violation of any
provision of the dental practice act or failure to meet any condition
imposed by the board as set forth in the order of the board will result in
immediate termination of the period of probation and imposition of
such other action as has been taken by the board.

(c) As used in this section, "professionally incompetent" means:

(1) One or more instances involving failure to adhere to the
applicable standard of dental or dental hygienist care to a degree which
constitutes gross negligence, as determined by the board;

(2) repeated instances involving failure to adhere to the applicable
standard of dental or dental hygienist care to a degree which constitutes
ordinary negligence, as determined by the board; or

(3) a pattern of dental or dental hygienist practice or other
behavior which demonstrates a manifest incapacity or incompetence to
practice dentistry.

(d) In addition to or in lieu of one or more of the actions described
in subsections (b)(1) through (b)(4) or in subsection (c) of K.S.A. 65-
1444, and amendments thereto, the board may assess a fine not in
excess of $10,000 against a licensee. All fines collected pursuant to this
subsection shall be remitted to the state treasurer in accordance with the
provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt
of each such remittance, the state treasurer shall deposit the entire
amount in the state treasury and of the amount so remitted, an amount
equal to the board's actual costs related to fine assessment and
enforcement under this subsection, as certified by the president of the
board to the state treasurer, shall be credited to the dental board fee
fund and the balance shall be credited to the state general fund.

(e) The board, upon its own motion or upon the request of any licensee who is a party to a licensure action, may require a physical or mental examination, or both, of such licensee either prior to a hearing to be held as a part of a licensure action or prior to the termination of any period of suspension or the termination of any restrictions imposed upon the licensee as provided in subsection (b).

New Sec. 4. (a) Any person who is not licensed as a dentist under the Kansas dental practices act, nor any entity that is not a professional corporation or limited liability company composed of dentists which enter into an agreement with a dentist to provide dental office administrative services shall register with the Kansas dental board.

(b) (1) The registration shall include the company name, contact information and responsible person of such person or entity along with the address and licensed dentist practice owner names for which administrative services are being provided.

(2) Such registered person or entity shall provided updated information to the Kansas dental board within 30 days. Any person or entity required to register pursuant to this section shall have 30 days from the execution of any contract or agreement with a dentist or professional corporation or limited liability company to complete the registration.

(c) Any such person or entity required to register pursuant to this section operating under a contract or agreement executed prior to the effective date of this section shall be subject to the provisions of this section and shall have 30 days from the effective date of this section to complete the registration. A copy of all contracts or agreements providing for dental office administrative services shall be maintained by the registered dental office administrative services company and shall be subject to inspection during regular business hours at any time by the Kansas dental board.

New Sec. 5. (a) As used in this section, "licensed dentist" means a dentist licensed under the Kansas dental practices act.

(b) No person who is a licensed dentist or any entity that is not a professional corporation or limited liability company owned by a licensed dentist shall enter into or continue to maintain a contract or agreement with a licensed dentist in which such contract or agreement allows or provides for the following functions to be controlled by any
person or entity other than a licensed dentist pursuant to this section:

(1) Providing dental treatment to patients;
(2) the decision to accept individual patients for treatment;
(3) the direction or delegation of all professional dental services;
(4) the ownership of dental charts or patient records;
(5) except as provided in subsection (d), the ownership of dental
equipment or dental materials; and
(6) the supervision of clinical dental staff.

c) It shall not be a violation of this section for a person or entity
to act on behalf of a licensed dentist to perform or arrange for others to
perform office administrative services including, but not limited to:
(1) Purchasing, billing or tax preparation;
(2) compliance or quality assurance programs;
(3) legal advice or representation;
(4) payroll, advertising, training, recruiting, recordkeeping,
programming or other similar functions under the direction or with the
consent or approval of a licensed dentist or professional corporation or
limited liability company owned by a licensed dentist.

d) Nothing in this section shall prohibit a licensed dentist,
professional corporation or limited liability company owned by a
licensed dentist from entering into real estate lease, equipment lease or
lease purchase agreement or bona fide sale of dental equipment or
material secured by a chattel mortgage or retain title agreements with
equipment manufacturers, landlords, lending institutions, leasing
companies, dental franchisors or persons or entities providing dental
office administrative services or similar commercial financing
transactions.

e) No contract or provision in any such agreement shall
require either party to indemnify the other party for negligence,
tentional acts or omissions that constitute a violation of K.S.A.
65-1422 et seq., and amendments thereto.

Sec. 6. K.S.A. 65-1424 and K.S.A. 2010 Supp. 65-1435 and 65-
1436 are hereby repealed.

Sec. 7. This act shall take effect and be in force from and after its
publication in the statute book.