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PUBLIC NOTICES

**LAW AND PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
STATE BOARD OF DENTISTRY**

**Notice of Action on Petition for Rulemaking
Corporate and/or Unlicensed Practice of Dentistry**

Petitioner: Arthur Meisel, Attorney at Law, on behalf of the New Jersey Dental Association.

Authority: N.J.S.A. 45:1-15.1.

Take notice that on September 26, 2013, the State Board of Dentistry (Board) received a petition for rulemaking from Arthur Meisel, Attorney at Law, on behalf of the New Jersey Dental Association requesting that the Board adopt a rule to establish regulatory guidance with respect to the corporate and/or unlicensed practice of dentistry in this State.

The petitioner notes that in June 2013, the United States Senate Committee on the Judiciary issued a Joint Staff Report on the Corporate Practice of Dentistry in the Medicaid Program (Joint Staff Report). It found that through the use of "fundamentally deceptive contracts that circumvent state laws passed to ensure licensed dentists own dental practices" companies "operate dental clinics under the guise of providing administrative and/or financial management support." The petitioner states that to address this issue the Senate Committee recommended that states "should enforce existing laws against the corporate practice of dentistry and, where appropriate, take enforcement action against those that violate the law."

The petitioner also notes that N.J.S.A. 45:6-12 prohibits the corporate practice of dentistry and that, in accordance with N.J.S.A. 45:6-19, a person who is a manager, proprietor, operator, or conductor of a place where dental operations are performed is considered to be practicing dentistry. In addition, the petitioner states that, except for a person in a closely-allied profession within the meaning of the Professional Services Corporation Act, N.J.S.A. 14:17-1 et seq., only a dentist licensed in New Jersey can have an ownership interest in, or receive profits from, a dental office in this State. The petitioner raised concerns about the commercial exploitation of the practice of dentistry, including not being subject to the Board's direct control and discipline.

The petitioner believes that the Board's rules need to reaffirm and clarify that non-licensees are not permitted to improperly use management companies or other devices to acquire or exercise dominion and control over licensed dentists and/or their dental practices. The petitioner requests the adoption of the below rule:

"Except as otherwise provided by law, every dental practice in New Jersey shall be wholly owned and controlled by one or more dentists duly licensed to practice dentistry in this State. Any contract made by, on behalf of, or for the benefit of a New Jersey dental practice shall provide that the owner or owners of the practice retain the absolute, unconditional right to make all final practice management and other decisions, including but not limited to those relating to compensation, hiring, firing, financing, borrowing, leasing, purchasing, claim submissions, billing, advertising, office policies and procedures, participation in and/or termination of all dental plans including Medicaid, and the establishment of patient fees and modification or waiver thereof."

A notice acknowledging receipt of the petition was filed with the Office of Administrative Law and was published in the New Jersey Register on November 18, 2013, at 45 N.J.R. 2406(b).

Take further notice that, at its November 6, 2013, meeting, the Board referred this matter to its Rules and Regulations Committee for further deliberation in order to review the petitioner's request in the context of the Joint Staff Report and the State's statutory and regulatory provisions governing the corporate practice of dentistry, and to develop a better understanding of the implications this request would have for licensees and patients.

A copy of this notice has been mailed to the petitioner pursuant to N.J.A.C. 1:30-4.2.