

**HEALTH REGULATION AND LICENSING ADMINISTRATION
&
PROFESSIONAL BOARDS**

BOARD OF DENTISTRY
AUTHORITY FOR GUIDANCE

July 21, 2010

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POLICY NO.

GUIDANCE DOCUMENT

MANAGEMENT REQUIRES LICENSURE WHEN EXCEEDING BUSINESS RELATIONSHIP

Policy

The Board of Dentistry will require a manager of a dental practice to have a license to practice dentistry, under the Practice of Dentistry Amendment Act of 2009, D.C. Official Code § 3-1201.02(5) (2001), when a manager has more than a business relationship with a dentist and exercises substantial control over the dentist’s professional judgment and activities.

Analysis

Pursuant to D.C. Official Code § 3-1201.02(5): **“Practice of dentistry means: ‘(J) To be a manager, proprietor, operator, or conductor of a business or place where dental or dental-hygiene services are performed’”**

There is no legislative history on the definition of the term “manager” under the Practice of Dentistry Amendment Act. However, other jurisdictions with similar statutory language have reviewed the issue of what is meant by the term “manager,” and have determined that whether a violation of the statute exists is based on the extent of control that managers have over dentists during the course of business. The Office of the Maryland Attorney General issued an opinion concluding that licensure would not be required for managers when they exercise control within the bounds of “an arms-length business relationship.”¹ Similarly, the New Jersey Supreme Court prohibited unlicensed management of “employments, discharges, salaries, [and] procurement of supplies and office finance.”² Other states such as Illinois and Washington prohibited unlicensed management of finances, administration, setting fees, and directing patient flow.³ These were activities that exceeded an arms-length business relationship, thereby intruding upon the professional judgment of dentists themselves.

The District of Columbia Board of Dentistry takes the position that substantial control over the daily activities of patient care to the extent that it influences the professional judgment of dentists warrants licensure, and that lay interference with the professional autonomy of dentists is a violation of the statute.

¹ Melvin J. Slan, D.D.S. *Health Occupations—Dentists—Ownership, Management, or Conduct of a Dental Office. Maryland State Board of Dental Examiners*. 81 OAG 74, 78-79 (1996).

² *Id.* at 77 n.4 (quoting *Taber v. State Board of Registration and Examination in Dentistry*, 63 A.2d 535, 537 (N.J. 1949)).

³ *Id.* at 77-78 (citing *People v. Boyden*, 129 N.E.2d 37 (Ill. 1995); *State v. Boren*, 219 P.2d 566 (Wash., 1950)).

Determining whether managerial control is strictly a business relationship is fact-specific. For example, a lessor who imposes lease obligations on a dentist does not fall within the statutory meaning of a manager so long as the lease does not impose obligations on the “professional activities” of the dentist.⁴

When determining whether a manager of a dental practice should be licensed according to statute, the Board will consider on a case-by-case basis the relationship of the manager’s activities with the professional autonomy of the dentist.

⁴ *Id.*