

Stricken language would be deleted from and underlined language would be added to present law.

State of Arkansas  
90th General Assembly  
Regular Session, 2015

# A Bill

HOUSE BILL 1491

By: Representatives D. Whitaker, Leding

## For An Act To Be Entitled

AN ACT TO ALLOW A NONPROFIT HOSPITAL TO OPERATE A  
DENTAL CLINIC; AND FOR OTHER PURPOSES.

### Subtitle

TO ALLOW A NONPROFIT HOSPITAL TO OPERATE  
A DENTAL CLINIC.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code § 4-29-401(b), concerning definitions under the Dental Corporation Act, is amended to add an additional subdivision to read as follows:

(4) "Nonprofit hospital" means a corporation that is:

(A) Organized and existing under the Arkansas Nonprofit Corporation Act of 1993, § 4-33-101 et seq.;

(B) Recognized by the Internal Revenue Service as exempt from federal taxation under 26 U.S.C. § 501(c)(3);

(C) A private foundation as defined under 26 U.S.C. § 509(a)(1); and

(D) Operating as a hospital as defined under 26 U.S.C. § 170(b)(1)(A)(iii).

SECTION 2. Arkansas Code § 4-29-402(a), concerning the application of the Arkansas Business Corporation Act, is amended to read as follows:

(a)(1)(A) The Except as provided in subdivision (a)(2) of this section, the Arkansas Business Corporation Act of 1987, § 4-27-101 et seq., shall be applicable apply to such corporations a corporation, including their



its organization, except that the required number of incorporators of a dental corporation shall be one (1) or more; and

(B) they The incorporators shall enjoy the powers and privileges and be subject to the duties, restrictions, and liabilities of other corporations, except so far as the same may be limited or enlarged by this subchapter.

(2) The Arkansas Business Corporation Act , § 4-27-101 et seq., does not apply to a nonprofit hospital as defined in this subchapter.

SECTION 3. Arkansas Code § 4-29-404 is amended to read as follows:

4-29-404. Formation of corporation – Employee licensing required.

(a)(1) One (1) or more persons A person licensed pursuant to under the Arkansas Dental Practice Act, § 17-82-101 et seq., may ~~associate to~~ form a corporation pursuant to under the Arkansas Business Corporation Act ~~of 1987,~~ § 4-27-101 et seq., to own, operate, and maintain an establishment for the study, diagnosis, and treatment of dental ailments and injuries and to promote dental and scientific research and knowledge.

(2) However, treatment, consultation, or advice may be given by ~~employees~~ an employee of the corporation only if ~~they are~~ the employee is licensed pursuant to under the Arkansas Dental Practice Act, § 17-82-101 et seq.

(b) A nonprofit hospital may own, operate, and maintain an establishment for the study, diagnosis, and treatment of dental ailments and injuries and to promote dental and scientific research and knowledge subject to the requirements of subsection (c) of this section.

(c)(1)(A) A nonprofit hospital shall register with the Arkansas State Board of Dental Examiners before operating a dental clinic or providing dental services.

(B) A nonprofit hospital registering a dental clinic shall provide to the board:

(i) The name of the nonprofit hospital;

(ii) A copy of the nonprofit hospital's determination letter from the Internal Revenue Service recognizing the exempt status of the nonprofit hospital under 26 U.S.C. § 501(c)(3);

(iii) Sites and locations where dental services are to be provided by the nonprofit hospital; and

(iv) The identity of all persons employed by or under contract with the nonprofit hospital who are required to be licensed under the Arkansas Dental Practice Act, § 17-82-101 et seq.

(C) A nonprofit hospital shall:

(i) Register each location it owns, operates, or maintains; and

(ii) Designate a licensed dentist who maintains a supervisory position for the registered locations of the nonprofit hospital's dental clinics.

(2) A person shall not practice dentistry, as defined in § 17-82-102, at any dental clinic that is owned, operated, or maintained by a nonprofit hospital unless the person is a dentist or dental hygienist licensed under the Arkansas Dental Practice Act, § 17-82-101 et seq.

(3)(A) A nonprofit hospital authorized by the board to provide dental services shall not direct or interfere or attempt to direct or interfere with a licensed dentist's or dental hygienist's professional clinical judgment and competent practice of dentistry.

(B) This subsection does not make it unlawful for a nonprofit hospital to enforce employment contracts, corporate policy and procedure manuals, quality improvement, or assurance requirements.

SECTION 4. Arkansas Code § 4-29-405(a), concerning a corporate name under the Arkansas Dental Practice Act, is amended to read as follows:

(a)(1) The A corporate name shall contain the names of one (1) or more of the shareholders or, when a nonprofit hospital, the name as registered with the Arkansas State Board of Dental Examiners.

(2) However, the name of a person who is not employed by the corporation shall not be included in the corporate name, except that the name of a deceased shareholder may continue to be included in the corporate name for one (1) year following the ~~decease~~ death of the shareholder.

SECTION 5. Arkansas Code § 4-29-406 is amended to read as follows:

4-29-406. Officers, directors, and shareholders.

(a)(1) All of the officers, directors, and shareholders of a corporation subject to this subchapter shall at all times be persons licensed pursuant to under the Arkansas Dental Practice Act, § 17-82-101 et seq.

(2) ~~No~~ A person who is not ~~se~~ licensed shall not have any part in the ownership, management, or control of the corporation, nor may any proxy to vote any shares of the corporation be given to a person who is not ~~se~~ licensed.

(b) This section does not apply to a nonprofit hospital registered by the Arkansas State Board of Dental Examiners under this subchapter.

SECTION 6. Arkansas Code § 4-29-408(c)(2), concerning a certificate of registration under the Arkansas Dental Practice Act, is amended to read as follows:

~~(2)(A) If the board finds that the incorporators, officers, directors, and shareholders are each licensed pursuant to the Arkansas Dental Practice Act, § 17-82-101 et seq., and if no disciplinary action is pending before the board against any of them, and if it appears that the corporation will be conducted in compliance with law and the regulations of the board,~~ The board shall issue ~~upon payment of a registration fee of twenty-five dollars (\$25.00)~~ a certificate of registration, upon payment of a registration fee of twenty-five dollars (\$25.00), if the board finds:

(i) Each incorporator, officer, director, and shareholder is licensed under the Arkansas Dental Practice Act, § 17-82-101 et seq., or if a nonprofit hospital, that the requirements under § 4-29-404(c) are met;

(ii) No disciplinary action is pending before the board against any of the incorporators, officers, directors, or shareholders;  
and

(iii) That the corporation will comply with rules promulgated by the board.

(B) which A certificate of registration shall remain effective until January 1 following the date of the registration.

SECTION 7. Arkansas Code § 17-82-103(a), concerning the scope of duties of employment of hygienists, is amended to read as follows:

(a) ~~Licensed dentists~~ A licensed dentist or a nonprofit hospital registered by the Arkansas State Board of Dental Examiners may employ a licensed dental hygienists hygienist to act as ~~an assistants~~ assistant and to perform the acts, services, and practices described in § 17-82-102

consistently with ~~the provisions of~~ subsection (b) of this section.

SECTION 8. Arkansas Code § 17-82-104(b)(2), concerning unlawful practices by a dentist or dental hygienist, is amended to read as follows:

(2) ~~However, the phrase As used in this subsection, “any person” as used in this subsection shall not apply to~~ does not include:

(A) ~~a~~ A patient’s dental insurer, ~~or~~ dental HMO, or a patient’s designated utilization review organization; or

(B) A nonprofit hospital as defined in the Dental Corporation Act, § 4-29-401 et seq.

SECTION 9. Arkansas Code § 17-82-105 is amended to read as follows:  
17-82-105. Sales of dental services or appliances.

(a)(1) ~~Any~~ A person other than a licensed dentist or a nonprofit hospital registered under the Dental Corporation Act, § 4-29-401 et seq., who sells or delivers or offers to sell or deliver to the general public the services of construction, repair, reproduction, duplication, alteration, adjustment, cleaning, polishing, refinishing, or processing in any other manner of any artificial or prosthetic tooth or teeth, bridge, crown, denture, restoration, appliance, device, structure, or material or orthodontic appliance or material to be worn or used in the mouth is subject to the penalties and liabilities prescribed in § 17-82-301(b) and (c).

(2) This section does not prohibit selling or delivering or offering to sell or deliver any ~~of such~~ articles referred to in subdivision (a)(1) of this section to a licensed dentist or a nonprofit hospital registered under the Dental Corporation Act, § 4-29-401 et seq.

(b) ~~Any~~ A licensed dentist or nonprofit hospital registered under the Dental Corporation Act, § 4-29-401 et seq., who employs or engages the services of a dental laboratory or dental laboratory technician or any other person, firm, or corporation to perform any of the operations or to fabricate any of the appliances or devices referred to in subsection (a) of this section shall furnish that person, firm, or corporation with a written work authorization which shall contain:

(1) The name and address of the person, firm, or corporation to which the work authorization is directed;

(2) The patient’s name or an identification number. If a number

is used, the patient's name shall be written upon the duplicate copy of the work authorization retained by the dentist or the nonprofit hospital;

- (3) The date on which the work authorization was written;
- (4) A description of the work to be done, including diagrams, if necessary;
- (5) A specification of the type and quality of materials to be used; and
- (6) The signature of the dentist and the number of his or her license to practice dentistry.

(c) ~~The~~ A person, firm, or corporation receiving a work authorization from a licensed dentist or a nonprofit hospital shall retain the original work authorization and the dentist or the nonprofit hospital shall retain a duplicate copy for ~~a period of~~ two (2) years.

(d) ~~Any~~ A licensed dentist or a nonprofit hospital shall be guilty of a Class A misdemeanor and the Arkansas State Board of Dental Examiners may revoke or suspend the license of that dentist or the certificate of registration of the nonprofit hospital if that dentist or nonprofit hospital:

- (1) Employs or engages the services of ~~any~~ a person, firm, or corporation to construct or repair, extraorally, prosthetic dentures, bridges, or other dental appliances without first providing the person, firm, or corporation with a written work authorization;
- (2) Fails to retain a duplicate copy of the work authorization for two (2) years; or
- (3) ~~Commits any violation of~~ Violates this section.

(e) Any person, firm, or corporation shall be guilty of a Class A misdemeanor if that person, firm, or corporation:

- (1) Furnishes ~~such~~ services a service to ~~any~~ a licensed dentist or a registered nonprofit hospital without first obtaining a written work authorization from the dentist or the registered nonprofit hospital;
- (2) Fails to retain the original work authorization for two (2) years; or
- (3) ~~Commits any violation of~~ Violates this section.

SECTION 10. Arkansas Code § 17-82-601 is amended to read as follows:

17-82-601. Definitions.

As used in this subchapter:

(1) "Dental home" means a licensed primary dental care provider or a nonprofit hospital registered by the Arkansas State Board of Dental Examiners under the Dental Corporation Act, § 4-29-401 et seq., who has an ongoing relationship with a patient, including without limitation:

(A) Comprehensive oral health care that is continuously accessible;

(B) Coordinated;

(C) Family-centered; and

(D) Provided in compliance with policies of the American Dental Association beginning not later than one (1) year of age;

(2) "Mobile dental facility" means a self-contained, intact facility in which dentistry and dental hygiene are practiced and that may be moved, towed, or transported from one (1) location to another; and

(3) "Operator" means an individual licensed to practice dentistry in this state or a nonprofit hospital registered by the board under the Dental Corporation Act, § 4-29-401 et seq.