



DAVID STEFFEN

STATE REPRESENTATIVE • 4TH ASSEMBLY DISTRICT

**Prepared Testimony by Rep. David Steffen before the
Senate Committee on Agriculture, Small Business and Tourism
Assembly Bill 368: regulation of persons that own or operate dental practices
March 2, 2016**

Chairman Moulton and Committee Members,

Thank you for scheduling a public hearing for Assembly Bill 368 as amended by Substitute Amendment 1, which was passed by the full Assembly on February 16, 2016. This bipartisan legislation requires that owners or operators of a dental practice in Wisconsin are subject to the same provisions of the Dental Practice Act, as overseen by the Dentistry Examining Board (DEB). This bill ensures that all patients receiving dental care in our state are afforded the same protections, regardless of where they receive their dental services.

Wisconsin is one of only five states that allow non-dentists to own a dental practice. AB 368 does not prohibit non-dentist ownership of dental practices in our state, but rather levels the playing field between dentist and non-dentist owned practices. This bill requires that non-dentist owned practices also fall under the oversight of the DEB (as dentist-owned practices already do) and follow the Dental Practice Act. The items included in the Practice Act are outlined in statute, 447.07. 447.07 provides basic consumer protections for both the clinical and business aspects of dentistry.

Currently, because the DEB does not have oversight over non-dentist owners who violate the Dental Practice Act, the only recourse available to patients who are victim to violations is to contact their district attorney. Contacting a district attorney to handle these cases is inefficient and impractical, especially when there is already a mechanism in place (the DEB) to handle cases of this very nature.

Throughout the course of this process, my office has met several times with the opposition and made numerous amendments to the bill in order to address their concerns. These changes, outlined in Substitute Amendment 1, include: removal of additional rule-making authority by the DEB, a uniformity of rules requirement, language was added that states the DEB may not prohibit non-dentist ownership, clarifies that in the case of multiple non-dentist owners only the practice must be registered, and designates one seat on the DEB be reserved for a non-dentist owner of a practice. The language of this bill safeguards against the possibility of non-dentist owned practices receiving discriminatory treatment by the DEB.



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Several pieces of misinformation have been circulated surrounding this bill: that this is a solution in search of a problem, that this creates new regulations, that this opens the door to a rogue DEB determined to target non-dentist owned practices, that this will reduce access to care and drive up costs of services. The reality is that each of these claims are false. The reality is that examples of practice violations among non-dentist owned practices have been found (see Aspen Dental case). The reality is, since the DEB's inception over 140 years ago, there is not a single example of overreach, in fact, for over three decades Wisconsin has supported non-dentist owned practices as an important player in increasing access to quality dental care in our state. AB 368 recognizes the important role of non-dentist owned practices in our state by ensuring that all rules apply uniformly, regardless of ownership.

For the vast majority of practices that are already compliant with the Dental Practice Act, the effects of this bill on their daily operation will be no more than a simple registration with the DEB—a small price to pay for the peace of mind this bill offers to patients across our state.

Thank you for allowing me to testify, and I welcome your questions and input.



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What exactly does Wisconsin Statute 447.07 cover?

- Requires dentists/hygienists to renew license/certificates (447.07, 1)
- Unprofessional conduct (447.07, 3a)
- False/erroneous statements used to obtain a license (447.07, 3b)
- Individuals determined mentally incompetent by court (447.07, 3c)
- Work authorization compliance (447.07, 3d).
- Conviction of a crime related to the practice of dentistry/dental hygiene (includes employment discrimination laws) (447.07, 3e)
- Violation of federal or state statute/rule relating to dentistry/dental hygiene (items such as patient abandonment and denial of patient records are included here) (447.07 3f).
- Practice of dentistry under the influence of drugs/alcohol (447.07 3g).
- Conduct indicating inabilities, negligence, or lack of knowledge in applying dentistry/hygiene skills (447.07 3h).
- Compensation obtained fraudulently (447.07 3i).
- Employment of uncertified persons to perform services that require a properly licensed/certified individual (447.07 3j).
- Billing irregularities or fraudulent billing (447.07 3k)
- Violation of Chapter 450 (Pharmacy requirements) or Chapter 961 (Uniform Controlled Substances Act) (447.07 3l).
- Substantial misrepresentations to a client (447.07 3m).
- Violation of orders of the examining board (447.07 3n)
- False/deceptive advertisement (447.07 3o).
- Examining board may reinstate a license/certificate on terms/conditions deemed appropriate (447.07, 5).
- Examining board *may* assess a forfeiture against the licensee or certificate holder of no more than \$5,000 for each violation of 447.07 (3). (447.07, 7).

Ind. reaches settlement with Aspen Dental on ad claims

By Tony Edwards, Editor in Chief

October 22, 2015 -- The Indiana Attorney General's Office has reached a settlement agreement on October 22 with Aspen Dental Management (ADMI), resolving allegations that the company used deceptive advertising and other unfair tactics to promote services at Aspen Dental-branded practices in Indiana.

Aspen Dental Management must pay \$95,000 to the state of Indiana, \$15,000 of which will go to affected customers as restitution, according to the settlement filed in Marion County Circuit Court. Furthermore, Aspen agrees to reform its advertising techniques, which it began to do over the past year following the attorney general's investigation, according to a statement from the office of Indiana Attorney General Greg Zoller.

In a separate statement, Aspen Dental Management said it "cooperated fully" with the attorney general's office, but the company disagreed with its conclusions. The attorney general's office itself acknowledged that many of the issues were addressed by Aspen prior to settlement.

Advertising issues

The Indiana Attorney General's Office alleged that "Aspen Dental Management marketed free or discounted denture consultations, dentures, initial exams, and x-rays at Indiana practices without adequately disclosing limitations or qualifications for these offers," according to its statement.

"Misleading customers about the true cost of dental services is deceptive and unlawful, and this behavior placed unanticipated financial burden on Hoosiers."

— Indiana Attorney General's Office

The office received 73 consumer complaints against Aspen based on these advertising-related allegations. Many of the complainants were older than 60 years of age.

"Misleading customers about the true cost of dental services is deceptive and unlawful, and this behavior placed unanticipated financial burden on Hoosiers, many of which were senior citizens," Zoeller noted in the statement. "Today's settlement will protect customers of Aspen Dental-branded practices in Indiana and help ensure they have full information before making decisions about costly procedures."

According to the Aspen statement, however, this investigation was "primarily centered on advertising and marketing dating back to 2007 conducted on behalf of the 30 independently owned and operated Aspen Dental-branded practices in Indiana," which are not party to compliance agreement. The company stated that the main issues were clarity of disclaimers and disclosures related to advertised offers, most of which were resolved back in 2013.

Terms of settlement

Aspen is required to fully disclose the terms and limitations of its advertised promotions, stop advertising products or services as "free" that are not, and must provide training to employees at its affiliate dental clinics in Indiana on terms and conditions of third-party credit agreements so that full information is passed on to consumers, according to the terms of the settlement.

Additionally, Aspen Dental Management must pay \$95,000 to the state of Indiana, \$15,000 of which will be used to repay affected consumers, with the rest going toward state investigative costs and future consumer protection enforcement.

Aspen noted in its statement that the 73 complaints cited by the attorney general's office were received over a nine-year period during which Aspen Dental practices in Indiana saw more than 338,000 patients and recorded nearly 1.5 million patient visits.

The company stated that it shared the attorney general's "commitment to ensuring the clarity of all patient communications."

Aspen Dental Management is based in New York and licenses the Aspen Dental brand name to independently owned and operated dental practices across the U.S. It provides the practices with business and administrative support, including marketing services and customer billing. In Indiana, 30 dental practices across the state are licensed under the Aspen Dental brand. Individual dental practices are not part of this settlement.

Aspen Dental to pay nearly \$1M over deceptive advertising claims

By [DrBicuspid Staff](#)

December 22, 2014 -- Dental chain [Aspen Dental](#) has agreed to pay \$990,000 to settle allegations of deceptive advertising and marketing practices and also failing to give refunds to consumers for services not provided in Massachusetts, according to a [statement](#) from the state attorney general.

Aspen Dental Management and Aspen Dental Associates of New England allegedly ran misleading advertisements, unlawfully charged consumers for treatments weeks or months before they were rendered, and failed to provide refunds.

Aspen Dental responded via email to [DrBicuspid.com](#) that it "strongly disagrees with and denies the attorney general's allegations but cooperated fully and ultimately agreed to resolve the matter."

Under the terms of the agreement, Aspen Dental will pay at least \$770,000 in restitution to first-time customers that the state alleged were forced to pay for exams and x-rays that the company said would be free between September 2009 and December 2013. The company also will contact people who are eligible for refunds, and it will also pay Massachusetts \$220,000.

"We allege this dental company took advantage of its patients by deceptively marketing its services and unfairly charging in advance for dental treatments," Massachusetts Attorney General Martha Coakley stated. "Under this settlement affected consumers will get the relief they deserve, and Aspen will be prevented from continuing these unlawful practices in the commonwealth."

Aspen Dental also agreed to change its billing practices. Specifically, the company agreed to limit prepayments, provide accurate estimates of charges, and disclose details of financing agreements.

Aspen Dental agreed to the following:

- Provide good faith estimates of cost prior to services.
- Fully disclose and comply with its refund policy.
- Fully and accurately disclose all terms of any third-party financing arrangements they offer.
- Train office employees on making accurate disclosures.
- Not permit individuals who do not hold a valid license to practice dentistry in Massachusetts to have final decision-making authority over treatment plans.

Aspen Dental was named in a 2013 U.S. Senate committee [investigation](#) of five dental chains that allegedly used deceptive business models that gave managers rather than dentists control