17:48D- 2 et al

LEGISLATIVE HISTORY CHECKLIST

NJSA: 17:48D-2 et al. (Dental plan organizations - regulates finders and consultants)

LAWS OF: 1983 CHAPTER: 24

Bill No.: A557

Sponsor(s): Villane

Date Introduced: Pre-filed

Committee: Assembly: Banking and Insurance Committee

Senate: Labor, Industry and Professions

Amended during passage: Yes // Amendments during passage denoted by asterisks

Date of Passage: Assembly: May 24, 1982

Senate: Dec. 6, 1982

Date of Approval: Jan. 25, 1983

Following statements are attached if available:

Sponsor statement:		Yes	//
Committee statement:	Assembly	Yes	//
	Senate	Yes	//
Fiscal Note:		///	No
Veto Message:		///	No
Message on Signing:		///	No

Following were printed:

Reports:	Yes	//
Hearings:	///	No

Report, referred to in statements:

974.90 I62 1981 New Jersey. Commission of Investigation. Report and recommendations... on organized crime infiltration of dental care plan organizations. June, 1981. Trenton, 1981.

CHAPTER 24 LAWS OF N. J. 1983
APPROVED 1-25-83

[OFFICIAL COPY REPRINT]

ASSEMBLY, No. 557

STATE OF NEW JERSEY

PRE-FILED FOR INTRODUCTION IN THE 1982 SESSION

By Assemblyman VILLANE

AN ACT to amend and supplement the "Dental Plan Organization Act," approved February 27, 1980 (P. L. 1979, c. 478).

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. Section 2 of P. L. 1979, c. 478 (C. 17:48D-2) is amended to read as follows:

2. In this act, unless the context otherwise requires:

a. "Commissioner" means the Commissioner of Insurance;

b. "Dental plan" means any contractual arrangement for dental services provided directly or arranged for or administered directly on a prepaid or postpaid individual or group capitation basis;

c. "Dental plan organization" means any person who undertakes to provide directly or to arrange for or administer one or more dental plans providing dental services;

d. "Dental services" means services included in the practice of dentistry as defined in R. S. 45:6-19**[.]***;*

e. "Enrollee" means an individual and his dependents who are enrolled in a dental plan organization;

f. "Evidence of coverage" means any certificate, agreement or contract issued to an enrollee setting out the dental services to which the enrollee is entitled**[.]***;*

g. "Consultant" means a person who holds himself out as an advisor or renders advice on the organization, financing, administration or operation of a dental plan to any employer, union, trust fund or dental plan organization;

h. "Finder" means a person who brings together a dental plan

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.
Matter printed in italics *thus* is new matter.
Matter enclosed in asterisks or stars has been adopted as follows:
***—Assembly committee amendments adopted May 17, 1982.**

organization with an employer, union or trust fund for the purpose of establishing a contractual relationship to provide dental services, or facilities or equipment related to the operation of the dental plan or dental plan organization.

2. Section 3 of P. L. 1979, c. 478 (C. 17:48D-3) is amended to read as follows:

3. a. No person may establish, operate or administer a dental plan organization, or sell or offer to sell, or solicit offers to purchase, or receive advance or periodic consideration in conjunction with any dental plan organization, utilizing in the aggregate the services of more than one full-time equivalent dentist without obtaining and maintaining a certificate of authority pursuant to this act.

b. Within 90 days after the effective date of this act, every dental plan organization utilizing in the aggregate the services of more than one full-time equivalent dentist shall submit an application for a certificate of authority to the commissioner. A dental plan organization may continue to operate until the commissioner acts upon the application. If the application is denied, the dental plan organization shall be treated as if its certificate of authority has been revoked.

c. An application for a certificate of authority shall be in a form prescribed by the commissioner, shall be verified by an officer or authorized representative of the dental plan organization and shall include the following:

(1) All basic organizational documents of the dental plan organization such as the articles of incorporation, articles of association, partnership agreement, trade name certificate, trust agreement, shareholder agreement or other applicable documents and all amendments to those documents;

(2) The bylaws, rules and regulations or similar documents regulating the conduct or the internal affairs of the dental plan organization;

(3) The names, addresses and official positions of the persons who are responsible for the conduct of the affairs of the dental plan organization, including all members of the board of directors, board of trustees, executive committee or other governing board or committee, the principal officers in the case of a corporation and the partners or members in the case of a partnership or association;

(4) All contracts *or agreements* made between any dentist and the dental plan organization;

(5) All contracts *or agreements* made between [any dentist and] any person listed in paragraph (3) of this subsection *and* any *dentist*, consultant, *finder* or [any] business manager;

(6) A description of the dental plan organization, its dental plan or plans, facilities and personnel;

(7) The form of the evidence of coverage to be issued to the enrollees;

(8) The form of any group contract which is issued to employers, unions, trustees or others;

(9) [Financial statements showing the dental plan organization's assets, liabilities and sources of financial support. If the dental plan organization's financial affairs are audited by independent certified public accountants, a copy of the most recent regular certified financial statement shall satisfy this requirement unless the commissioner determines that additional or more recent financial information is required for the proper administration of this act.]

A financial statement prepared by an independent certified public accountant setting forth the applicant's present or anticipated assets, liabilities and sources of funds. The statement shall set forth the terms and conditions of all current liabilities and any outstanding loans made from the funds of the applicant, and shall be attested to by the applicant or an authorized officer thereof. If the commissioner requires an audit of the financial records of the applicant by an independent certified public accountant, the financial statement shall be prepared and certified by the certified public accountant having conducted the audit;

(10) The proposed method of marketing the plan, a financial plan with a 3 year projection of the initial operating results and a statement of the sources of working capital and any other sources of funding;

(11) A power of attorney duly executed by the dental plan organization if not domiciled in this State, appointing the commissioner, the commissioner's successors in office and duly authorized deputies as the true and lawful attorney of the dental plan organization in and for this State, upon whom lawful process in any legal action or proceeding against the dental plan organization on a cause of action arising in this State may be served;

(12) A description of the geographic area or areas to be served;

(13) A description of the procedures and programs to be implemented to achieve an effective dental plan as required in section 5. a. (2) of this act; and

(14) Such other information as the commissioner may require.

d. The dental plan organization shall pay a fee of $100.00 to the commissioner upon filing an application for a certificate of authority.

e. The commissioner shall act on an application for a certificate of authority within 90 days following receipt of the application or the operative date of this amendatory and supplementary act, whichever is later.

3. Section 5 of P. L. 1979, c. 478 (C. 17:48D–5) is amended to read as follows:

5. a. The commissioner shall issue a certificate of authority if he is satisfied that the following conditions are met:

(1) The persons responsible for conducting the affairs of the dental plan organization are competent and trustworthy and are professionally capable of providing, arranging for or administering the services offered by the plan;

(2) The dental plan organization constitutes an appropriate mechanism to achieve an effective dental plan, as determined by the commissioner;

(3) The dental plan organization has demonstrated the potential to provide dental services in a manner that will assure both availability and accessibility of adequate personnel and facilities;

(4) The dental plan organization has arrangements for an ongoing quality of dental care assurance program;

(5) The dental plan organization has a procedure to establish and maintain uniform systems of cost accounting and reports and audits that meet the requirements of the commissioner;

(6) The dental plan organization is financially responsible and may reasonably be expected to meet its obligations to enrollees. In making this determination the commissioner shall consider:

(a) The financial soundness of the dental plan's arrangements for services and the schedule of charges used;

(b) Any arrangement with an insurer or medical or dental service corporation for continuation of coverage in the event of discontinuance of the plan on an indemnity basis through a group vehicle to the end of the period for which premiums were paid to the discontinued dental plan organization; and

(c) The sufficiency of an agreement with dentists for the provision of dental services.

(7) A general surplus is maintained as required in section 6 of this act;

(8) A contingent surplus is accumulated and maintained as required in section 7 of this act; [and]

(9) The condition or methods of operation of the dental plan organization are not such as would render its operations hazardous to its enrollees or the public[.]*; and*

(10) The persons responsible for conducting the affairs of the

dental plan organization are (a) of good moral character, and (b) have not been convicted, within 7 years of the filing of the application for a certificate of authority, of a crime listed in N. J. S. 2C:41-1 or, at any time, of engaging in a pattern of racketeering activity, as defined in N. J. S. 2C:41-1 and 2C:41-2.

b. When the commissioner disapproves an application for a certificate of authority he shall notify the dental plan organization in writing of the reasons for the disapproval.

c. A certificate of authority shall expire 1 year following the date of issuance or previous renewal. If the dental plan organization remains in compliance with this act and has paid a renewal fee of $100.00, its certificate shall be renewed.

4. Section 13 of P. L. 1979, c. 478 (C. 17:48D-13) is amended to read as follows:

13. a. Every dental plan organization annually on or before March 1 shall file with the commissioner a report covering its activities for the preceding calendar year.

b. The reports shall be on forms prescribed by the commissioner and shall include:

(1) A financial statement of the dental plan organization[, including its balance sheet, receipts and disbursements for the preceding year certified by a certified public accountant] *prepared by an independent certified public accountant and attested to by an officer of the dental plan organization, which statement shall include full disclosure of all assets and liabilities of the dental plan organization, the terms and conditions thereof, and the sources and disposition of all funds. If the dental plan organization's records have been audited by an independent certified public accountant, the financial statement shall be certified by the certified public accountant having conducted the audit*;

(2) Any significant modification of information submitted with the application for a certificate of authority;

(3) The number of persons who became enrollees during the year, the number of enrollees as of the end of the year and the number of enrollments terminated during the year;

(4) A description of the enrollee complaint system including the procedures of the complaint system, the total number of written complaints handled through the system, a summary of causes underlying the complaints filed, and the number, amount and disposition of malpractice claims settled during the year by the dental plan organization and any of the dentists used by it; and

(5) Any other information relating to the performance of the dental plan organization as required by the commissioner.

5. Section 16 of P. L. 1979, c. 478 (C. 17:48D–16) is amended to read as follows:

16. a. The commissioner may suspend or revoke any certificate of authority issued to a dental plan organization pursuant to this act if he finds that any of the following conditions exist:

(1) The dental plan organization is operating in a manner significantly contrary to that described in sections 3 and 4 of this act;

(2) The dental plan organization issues an evidence of coverage which does not comply with the requirements of section 9 of this act;

(3) The dental plan organization does not provide or arrange for an effective dental plan as determined by the commissioner;

(4) The dental plan organization can no longer be expected to meet its obligations to enrollees;

(5) The dental plan organization, or any authorized person on its behalf, has advertised or merchandised its services in an untrue or misleading manner;

(6) The dental plan organization has failed to comply with this act or any rules and regulations promulgated thereunder**[.]**;

(7) Any person responsible for conducting the affairs of the dental plan organization is (a) not of good moral character, or (b) has been convicted, within 7 years of the filing of the application for a certificate of authority, of a crime listed in N. J. S. 2C:41–1 or, at any time, of engaging in a pattern of racketeering activity, as defined in N. J. S. 2C:41–1 and 2C:41–2.

b. When the commissioner has cause to believe that grounds for the suspension or revocation of a certificate of authority exist, he shall notify the dental plan organization in writing, specifically stating the grounds for suspension or revocation. A hearing on the matter shall be granted by the commissioner within 20 days after a request in writing by the dental plan organization. After the hearing, or upon failure of the dental plan organization to appear at the hearing, the commissioner shall take action on his findings.

c. If the commissioner suspends the certificate of authority, the dental plan organization shall not accept any additional enrollees or engage in any advertising or solicitation during the period of the suspension.

d. If the commissioner revokes the certificate of authority, the dental plan organization shall proceed to dissolve its structure immediately following the effective date of the order of revocation, and shall conduct no further business except as may be essential to the orderly conclusion of the affairs of the dental plan organiza-

tion. The commissioner by written order, however, may permit such further operation of the dental plan organization as he finds to be in the best interest of enrollees to the end that enrollees shall be afforded the greatest practical opportunity to obtain continuing dental plan coverage.

e. Notwithstanding the provisions of subsections c. and d. of this section, a dental plan organization which has had its certificate of authority suspended or revoked, or has suffered an adverse decision by the commissioner, shall be entitled to a hearing pursuant to the "Administrative Procedure Act," P. L. 1968, c. 410 (C. 52:14B–1 et seq.).

6. Section 18 of P. L. 1979, c. 478 (C. 17:48D–18) is amended to read as follows:

18. Any dental plan organization which violates any provisions of this act, or neglects, fails or refuses to comply with any of the requirements of this act,[except the failure to file an annual report and the failure to reply in writing to inquiries of the commissioner,] shall be liable for a civil penalty of [no] *not less than $500.00 nor* more than [$1,000.00] *$10,000.00* for each violation. The penalty may be sued for and recovered by the commissioner in a summary proceeding pursuant to the "Penalty Enforcement Law" (N. J. S. 2A:58–1 et seq.).

A purposeful or knowing misstatement or omission of material fact required to be supplied to the commissioner is a crime of the fourth degree.

7. (New section) No person shall be employed as a consultant by an employer, union, trust fund or dental plan organization or applicant except in accordance with the provisions of this section.

A consultant entering into a contract or agreement to provide consulting services on a dental plan, shall provide a copy of the contract or agreement to the commissioner for his approval. In addition to the contract or agreement, the consultant shall provide the commissioner with a list of all sources and amounts of income received from consulting work within the preceding 5 years, and income received or anticipated to be received in the year the contract or agreement is submitted for approval, and such other information as may be required by the commissioner.

No person shall be employed as a consultant who:

a. Within 7 years of his employment as a consultant has been convicted of a crime listed in N. J. S. 2C:41–1; or

b. At any time has been convicted of engaging in a pattern of racketeering activity, as defined in N. J. S. 2C:41–1 and 2C:41–2.

In accordance with standards established by the commissioner,

the commissioner may disapprove the contract or agreement within 90 days following receipt thereof.

Any person employed as a consultant on the operative date of this act shall, within 30 days thereof, satisfy the requirements of this section. Unless the commissioner disapproves the contract or agreement as herein provided, the consultant shall continue to render consulting services under the terms and conditions of the contract or agreement insofar as its terms and conditions are not inconsistent with the provisions of this act.

8. (New section) A consultant shall be a fiduciary of the employer, union, trust fund or dental plan organization with which employed and shall not be entitled to:

a. Any compensation in excess of the amount specified in the contract or agreement for consulting services; or

b. *[To any]* **Any** compensation whatsoever, either as a consultant or in any other capacity, from any person associated with the dental plan, other than with whom the contract or agreement for consulting services has been entered into.

9. (New section) A dental plan organization, employer, union or trust fund shall report **to the commissioner** the name and address of, and the amount of any fee paid to a finder within 30 days of the use or employment of the finder or within 30 days of the operative date of this act, whichever is later.

10. This act shall take effect immediately but shall remain inoperative for 60 days following enactment.

ASSEMBLY, No. 557

STATE OF NEW JERSEY

PRE-FILED FOR INTRODUCTION IN THE 1982 SESSION

By Assemblyman VILLANE

AN ACT to amend and supplement the "Dental Plan Organization Act," approved February 27, 1980 (P. L. 1979, c. 478).

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. Section 2 of P. L. 1979, c. 478 (C. 17:48D–2) is amended to read as follows:

2. In this act, unless the context otherwise requires:

a. "Commissioner" means the Commissioner of Insurance;

b. "Dental plan" means any contractual arrangement for dental services provided directly or arranged for or administered directly on a prepaid or postpaid individual or group capitation basis;

c. "Dental plan organization" means any person who undertakes to provide directly or to arrange for or administer one or more dental plans providing dental services;

d. "Dental services" means services included in the practice of dentistry as defined in R. S. 45:6–19**[.]***;*

e. "Enrollee" means an individual and his dependents who are enrolled in a dental plan organization;

f. "Evidence of coverage" means any certificate, agreement or contract issued to an enrollee setting out the dental services to which the enrollee is entitled**[.]***;*

g. "Consultant" means a person who holds himself out as an advisor or renders advice on the organization, financing, administration or operation of a dental plan to any employer, union, trust fund or dental plan organization;

h. "Finder" means a person who brings together a dental plan organization with an employer, union or trust fund for the purpose of establishing a contractual relationship to provide dental services, or facilities or equipment related to the operation of the dental plan or dental plan organization.

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

2. Section 3 of P. L. 1979, c. 478 (C. 17:48D-3) is amended to read as follows:

3. a. No person may establish, operate or administer a dental plan organization, or sell or offer to sell, or solicit offers to purchase, or receive advance or periodic consideration in conjunction with any dental plan organization, utilizing in the aggregate the services of more than one full-time equivalent dentist without obtaining and maintaining a certificate of authority pursuant to this act.

b. Within 90 days after the effective date of this act, every dental plan organization utilizing in the aggregate the services of more than one full-time equivalent dentist shall submit an application for a certificate of authority to the commissioner. A dental plan organization may continue to operate until the commissioner acts upon the application. If the application is denied, the dental plan organization shall be treated as if its certificate of authority has been revoked.

c. An application for a certificate of authority shall be in a form prescribed by the commissioner, shall be verified by an officer or authorized representative of the dental plan organization and shall include the following:

(1) All basic organizational documents of the dental plan organization such as the articles of incorporation, articles of association, partnership agreement, trade name certificate, trust agreement, shareholder agreement or other applicable documents and all amendments to those documents;

(2) The bylaws, rules and regulations or similar documents regulating the conduct or the internal affairs of the dental plan organization;

(3) The names, addresses and official positions of the persons who are responsible for the conduct of the affairs of the dental plan organization, including all members of the board of directors, board of trustees, executive committee or other governing board or committee, the principal officers in the case of a corporation and the partners or members in the case of a partnership or association;

(4) All contracts *or agreements* made between any dentist and the dental plan organization;

(5) All contracts *or agreements* made between [any dentist and] any person listed in paragraph (3) of this subsection *and* any *dentist*, consultant, *finder* or [any] business manager;

(6) A description of the dental plan organization, its dental plan or plans, facilities and personnel;

(7) The form of the evidence of coverage to be issued to the enrollees;

(8) The form of any group contract which is issued to employers, unions, trustees or others;

(9) [Financial statements showing the dental plan organization's assets, liabilities and sources of financial support. If the dental plan organization's financial affairs are audited by independent certified public accountants, a copy of the most recent regular certified financial statement shall satisfy this requirement unless the commissioner determines that additional or more recent financial information is required for the proper administration of this act.]

A financial statement prepared by an independent certified public accountant setting forth the applicant's present or anticipated assets, liabilities and sources of funds. The statement shall set forth the terms and conditions of all current liabilities and any outstanding loans made from the funds of the applicant, and shall be attested to by the applicant or an authorized officer thereof. If the commissioner requires an audit of the financial records of the applicant by an independent certified public accountant, the financial statement shall be prepared and certified by the certified public accountant having conducted the audit;

(10) The proposed method of marketing the plan, a financial plan with a 3 year projection of the initial operating results and a statement of the sources of working capital and any other sources of funding;

(11) A power of attorney duly executed by the dental plan organization if not domiciled in this State, appointing the commissioner, the commissioner's successors in office and duly authorized deputies as the true and lawful attorney of the dental plan organization in and for this State, upon whom lawful process in any legal action or proceeding against the dental plan organization on a cause of action arising in this State may be served;

(12) A description of the geographic area or areas to be served;

(13) A description of the procedures and programs to be implemented to achieve an effective dental plan as required in section 5. a. (2) of this act; and

(14) Such other information as the commissioner may require.

d. The dental plan organization shall pay a fee of $100.00 to the commissioner upon filing an application for a certificate of authority.

e. The commissioner shall act on an application for a certificate of authority within 90 days following receipt of the application or

the operative date of this amendatory and supplementary act, whichever is later.

3. Section 5 of P. L. 1979, c. 478 (C. 17:48D-5) is amended to read as follows:

5. a. The commissioner shall issue a certificate of authority if he is satisfied that the following conditions are met:

(1) The persons responsible for conducting the affairs of the dental plan organization are competent and trustworthy and are professionally capable of providing, arranging for or administering the services offered by the plan;

(2) The dental plan organization constitutes an appropriate mechanism to achieve an effective dental plan, as determined by the commissioner;

(3) The dental plan organization has demonstrated the potential to provide dental services in a manner that will assure both availability and accessibility of adequate personnel and facilities;

(4) The dental plan organization has arrangements for an ongoing quality of dental care assurance program;

(5) The dental plan organization has a procedure to establish and maintain uniform systems of cost accounting and reports and audits that meet the requirements of the commissioner;

(6) The dental plan organization is financially responsible and may reasonably be expected to meet its obligations to enrollees. In making this determination the commissioner shall consider:

(a) The financial soundness of the dental plan's arrangements for services and the schedule of charges used;

(b) Any arrangement with an insurer or medical or dental service corporation for continuation of coverage in the event of discontinuance of the plan on an indemnity basis through a group vehicle to the end of the period for which premiums were paid to the discontinued dental plan organization; and

(c) The sufficiency of an agreement with dentists for the provision of dental services.

(7) A general surplus is maintained as required in section 6 of this act;

(8) A contingent surplus is accumulated and maintained as required in section 7 of this act; [and]

(9) The condition or methods of operation of the dental plan organization are not such as would render its operations hazardous to its enrollees or the public[.]*; and*

(10) The persons responsible for conducting the affairs of the dental plan organization are (a) of good moral character, and (b) have not been convicted, within 7 years of the filing of the

application for a certificate of authority, of a crime listed in N. J. S. 2C:41-1 or, at any time, of engaging in a pattern of racketeering activity, as defined in N. J. S. 2C:41-1 and 2C:41-2.

b. When the commissioner disapproves an application for a certificate of authority he shall notify the dental plan organization in writing of the reasons for the disapproval.

c. A certificate of authority shall expire 1 year following the date of issuance or previous renewal. If the dental plan organization remains in compliance with this act and has paid a renewal fee of $100.00, its certificate shall be renewed.

4. Section 13 of P. L. 1979, c. 478 (C. 17:48D-13) is amended to read as follows:

13. a. Every dental plan organization annually on or before March 1 shall file with the commissioner a report covering its activities for the preceding calendar year.

b. The reports shall be on forms prescribed by the commissioner and shall include:

(1) A financial statement of the dental plan organization[, including its balance sheet, receipts and disbursements for the preceding year certified by a certified public accountant] *prepared by an independent certified public accountant and attested to by an officer of the dental plan organization, which statement shall include full disclosure of all assets and liabilities of the dental plan organization, the terms and conditions thereof, and the sources and disposition of all funds. If the dental plan organization's records have been audited by an independent certified public accountant, the financial statement shall be certified by the certified public accountant having conducted the audit*;

(2) Any significant modification of information submitted with the application for a certificate of authority;

(3) The number of persons who became enrollees during the year, the number of enrollees as of the end of the year and the number of enrollments terminated during the year;

(4) A description of the enrollee complaint system including the procedures of the complaint system, the total number of written complaints handled through the system, a summary of causes underlying the complaints filed, and the number, amount and disposition of malpractice claims settled during the year by the dental plan organization and any of the dentists used by it; and

(5) Any other information relating to the performance of the dental plan organization as required by the commissioner.

5. Section 16 of P. L. 1979, c. 478 (C. 17:48D-16) is amended to read as follows:

16. a. The commissioner may suspend or revoke any certificate of authority issued to a dental plan organization pursuant to this act if he finds that any of the following conditions exist:

(1) The dental plan organization is operating in a manner significantly contrary to that described in sections 3 and 4 of this act;

(2) The dental plan organization issues an evidence of coverage which does not comply with the requirements of section 9 of this act;

(3) The dental plan organization does not provide or arrange for an effective dental plan as determined by the commissioner;

(4) The dental plan organization can no longer be expected to meet its obligations to enrollees;

(5) The dental plan organization, or any authorized person on its behalf, has advertised or merchandised its services in an untrue or misleading manner;

(6) The dental plan organization has failed to comply with this act or any rules and regulations promulgated thereunder[.];

(7) Any person responsible for conducting the affairs of the dental plan organization is (a) not of good moral character, or (b) has been convicted, within 7 years of the filing of the application for a certificate of authority, of a crime listed in N. J. S. 2C:41-1 or, at any time, of engaging in a pattern of racketeering activity, as defined in N. J. S. 2C:41-1 and 2C:41-2.

b. When the commissioner has cause to believe that grounds for the suspension or revocation of a certificate of authority exist, he shall notify the dental plan organization in writing, specifically stating the grounds for suspension or revocation. A hearing on the matter shall be granted by the commissioner within 20 days after a request in writing by the dental plan organization. After the hearing, or upon failure of the dental plan organization to appear at the hearing, the commissioner shall take action on his findings.

c. If the commissioner suspends the certificate of authority, the dental plan organization shall not accept any additional enrollees or engage in any advertising or solicitation during the period of the suspension.

d. If the commissioner revokes the certificate of authority, the dental plan organization shall proceed to dissolve its structure immediately following the effective date of the order of revocation, and shall conduct no further business except as may be essential to the orderly conclusion of the affairs of the dental plan organization. The commissioner by written order, however, may permit such further operation of the dental plan organization as he finds

to be in the best interest of enrollees to the end that enrollees shall be afforded the greatest practical opportunity to obtain continuing dental plan coverage.

e. Notwithstanding the provisions of subsections c. and d. of this section, a dental plan organization which has had its certificate of authority suspended or revoked, or has suffered an adverse decision by the commissioner, shall be entitled to a hearing pursuant to the "Administrative Procedure Act," P. L. 1968, c. 410 (C. 52:14B–1 et seq.).

6. Section 18 of P. L. 1979, c. 478 (C. 17:48D–18) is amended to read as follows:

18. Any dental plan organization which violates any provisions of this act, or neglects, fails or refuses to comply with any of the requirements of this act,[except the failure to file an annual report and the failure to reply in writing to inquiries of the commissioner,] shall be liable for a civil penalty of [no] *not less than $500.00 nor* more than [$1,000.00] *$10,000.00* for each violation. The penalty may be sued for and recovered by the commissioner in a summary proceeding pursuant to the "Penalty Enforcement Law" (N. J. S. 2A:58–1 et seq.).

A purposeful or knowing misstatement or omission of material fact required to be supplied to the commissioner is a crime of the fourth degree.

7. (New section) No person shall be employed as a consultant by an employer, union, trust fund or dental plan organization or applicant except in accordance with the provisions of this section.

A consultant entering into a contract or agreement to provide consulting services on a dental plan, shall provide a copy of the contract or agreement to the commissioner for his approval. In addition to the contract or agreement, the consultant shall provide the commissioner with a list of all sources and amounts of income received from consulting work within the preceding 5 years, and income received or anticipated to be received in the year the contract or agreement is submitted for approval, and such other information as may be required by the commissioner.

No person shall be employed as a consultant who:

a. Within 7 years of his employment as a consultant has been convicted of a crime listed in N. J. S. 2C:41–1; or

b. At any time has been convicted of engaging in a pattern of racketeering activity, as defined in N. J. S. 2C:41–1 and 2C:41–2.

In accordance with standards established by the commissioner, the commissioner may disapprove the contract or agreement within 90 days following receipt thereof.

21 Any person employed as a consultant on the operative date of this
22 act shall, within 30 days thereof, satisfy the requirements of this
23 section. Unless the commissioner disapproves the contract or agree-
24 ment as herein provided, the consultant shall continue to render
25 consulting services under the terms and conditions of the contract
26 or agreement insofar as its terms and conditions are not inconsis-
27 tent with the provisions of this act.

1 8. (New section) A consultant shall be a fiduciary of the employer,
2 union, trust fund or dental plan organization with which employed
3 and shall not be entitled to:

4 a. Any compensation in excess of the amount specified in the
5 contract or agreement for consulting services; or

6 b. To any compensation whatsoever, either as a consultant or
7 in any other capacity, from any person associated with the dental
8 plan, other than with whom the contract or agreement for consulting
9 services has been entered into.

1 9. (New section) A dental plan organization, employer, union or
2 trust fund shall report the name and address of, and the amount
3 of any fee paid to a finder within 30 days of the use or employment
4 of the finder or within 30 days of the operative date of this act,
5 whichever is later.

1 10. This act shall take effect immediately but shall remain in-
2 operative for 60 days following enactment.

STATEMENT

This bill regulates finders' and consultants' relationships with dental plan organizations. The bill's provisions are based on the Report and Recommendations of the State of New Jersey Commission of Investigation on *Organized Crime Infiltration of Dental Care Plan Organizations* (1981). The purpose of these provisions as stated in the Report (p. 362-3) is to prohibit "practices bared by the SCI's probe . . . by setting more stringent standards of professional conduct for dental plan organizations and removing the veil of secrecy that has cloaked the financial operations of such groups." The report goes on to note that "[t]hese recommendations require full disclosure and close inspection of financial transactions of dental plan organizations and also address their alliances with consultants, finders and other entities and individuals."

ASSEMBLY BANKING AND INSURANCE COMMITTEE

STATEMENT TO

ASSEMBLY, No. 557

with Assembly committee amendments

STATE OF NEW JERSEY

DATED: MAY 17, 1982

Assembly Bill No. 577 establishes more stringent standards of financial accountability and professional conduct for dental plan organizations, dental plan consultants and finders pursuant to the "Dental Plan Organization Act." The provisions of this bill are based on the Report and Recommendations of the State of New Jersey Commission of Investigation on *Organized Crime Infiltration of Dental Plan Organizations (1981)*. The Commission's recommendations address both the problem of organized crime's penetration of the dental plan industry, as well as certain self-dealing business practices within the industry.

Section 2 of the bill concerns the kinds of information that must be included by an applicant for a certificate of authority to operate a dental plan organization. It:

a. requires submission of all agreements (written and oral) entered into by the applicant with certain designated parties;

b. specifies more clearly the kinds of financial information to be contained in the financial statement;

c. directs the Commissioner of Insurance to act on an application for a certificate of authority within 90 days following its receipt, or, in the case of applications pending before this bill's enactment, 90 days from the act's effective date.

Section 3 requires that persons responsible for conducting the affairs of dental plan organizations be of good moral character, not have been convicted of certain designated crimes within 7 years of the filing of an application, or at any time of having engaged in a pattern of racketeering. Section 3 deals with applicants for a certificate of authority. Section 5 extends these same provisions to certified organizations.

Section 4 more clearly specifies the kinds of information that must be included in the annual financial statement filed by the denetal plan organization with the commissioner.

Section 6:

a. increase the civil penalty for any violation of the provisions of the "Dental Plan Organization Act" to not less than $500.00 nor more than $10,000.00; and

b: makes a crime of the fourth degree a purposeful or knowing misstatement or omission of material fact required to be provided the commissioner.

Section 7 subjects a contract or agreement for the rendering of consulting services on a dental plan to prior review and approval of the Commissioner of Insurance. Section 7 requires submission to the commissioner, of information on the professional background and income sources of the consultant subject to the agreement. It also prohibits the hiring as consultants of persons convicted of certain designated crimes within 7 years of their employment as consultants, or who have at any time been convicted of engaging in a pattern of racketeering activity.

The provisions of section 7 apply to consulting contracts or agreements entered into prior and subsequent to the operative date of the act.

Section 8 imposes a fiduciary responsibility on the dental plan consultant; requires that the consultant's compensation be limited to that in the contract or agreement; and prohibits receipt by the consultant of any moneys, for any other purpose, from any other person associated with the dental plan.

Section 9 requires a dental plan organization, employer, union or trust fund paying a finder's fee to report such fee.

The existing law does not regulate consultants or finders.

The committee intends that the anti-racketeering provisions of this bill be broadly construed in conjunction with the State's recently enacted anti-racketeering statute, P. L. 1981, c. 167.

The Assembly committee amendments involve technical changes made to sections 8 and 9 of the bill.

SENATE LABOR, INDUSTRY AND PROFESSIONS COMMITTEE

STATEMENT TO

ASSEMBLY, No. 557

[Official Copy Reprint]

STATE OF NEW JERSEY

DATED: NOVEMBER 8, 1982

This bill establishes more stringent standards of financial accountability and professional conduct for dental plan organizations and dental plan consultants and finders pursuant to the "Dental Plan Organization Act."

This bill:

a. Regulates "consultants" and "finders" who are connected in any way with dental plan organizations, including full disclosure of fees and other compensation pledged or paid;

b. Requires the commissioner to act within 90 days upon receipt of any application by a dental plan organization for a certificate of authority to operate. Applications submitted prior to the implementation of this bill would have to be acted upon within 90 days of the effective date of this act;

c. Requires the submission of financial statements prepared by an independent certified public accountant and attested to by an applicant showing a dental plan organization's assets, liabilities and sources of financial support. Terms and conditions of liabilities also would be required;

d. Requires that persons responsible for conducting the affairs of dental plan organizations be of good moral character, not have been convicted of certain designated crimes within seven years of the filing of an application, or at any time of having engaged in a pattern of racketeering. Section 3 of the bill applies these provisions to applicants and section 5 to persons with a certificate of authority;

e. Requires annual reports that contain detailed financial statements prepared by a certified public accountant and attested to by an officer of the dental plan organization;

f. Increases the range of civil penalties for violating the provisions of the law from up to $1,000.00 to from $500.00 to $10,000.00;

g. Adds a criminal penalty provision making a purposeful or knowing misstatement or omission of material fact required to be supplied to the commissioner a crime of the fourth degree;

h. Requires consultants to submit to the commissioner information on their sources and amounts of income received from consulting and prohibits the employment of persons, as consultants, convicted of certain designated crimes within seven years of their employment as consultants, or who have at any time been convicted of engaging in a pattern of racketeering activity;

i. Imposes a fiduciary responsibility on consultants; requires that consultant's compensation be limited to that in the contract; and prohibits receipt by the consultant of any moneys, for any other purposes, from any person associated with the dental plan; and

j. Requires a dental plan organization, employer, union or trust fund paying a finder's fee to report such fee.

The provisions of this bill are based on the report and recommendations of the State Commission of Investigation in *Organized Crime Infiltration of Dental Care Plan Organizations* (1981). The SCI's investigation focused on certain closed-panel dental care programs sponsored by professional and business entrepreneurs under contracts utilizing union health and welfare funds ostensibly for the benefit of union members.

JANUARY 25, 1983

A-557, sponsored by Assemblyman Anthony M. Villane, R-Monmouth, to establish more stringent standards of financial accountability and professional conduct for dental plan organizations and dental plan consultants.

A-1495, sponsored by Assemblyman Walter Kavanaugh, R-Somerset, to permit members of volunteer fire companies and first aid, rescue and emergency squads to participate in drills without fear of lawsuits for accidental damage.

A-725, sponsored by Assemblyman Walter M. D. Kern, R-Bergen, to permit the use of alternative waste treatment systems by structures generating less than 2,000 gallons per day of water-carried sanitary sewage. The alternative systems are required by homeowners who are unable to use traditional septic systems because of the characteristics of their property.

AJR-44, sponsored by Senator Gormley, to memorialize the U. S. Congress to enact legislation authorizing New Jersey to register and regulate labor organizations which represent employees of the casino gaming industry.

# # #