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UNITED STATES OF AMERICA  
FEDERAL TRADE COMMISSION  
SAN FRANCISCO REGIONAL OFFICE

APR 1 1987

March 30, 1987

The Honorable Bill Bradley  
California State Assembly  
State Capitol  
Sacramento, CA 95814

Re: Assembly Bill 471

Dear Assemblyman Bradley:

The Federal Trade Commission's San Francisco Regional Office, and its Bureaus of Consumer Protection, Competition, and Economics<sup>1</sup> are pleased to respond to your request for comments on Assembly Bill 471, which would repeal existing restrictions on the number of branch offices that a dentist may operate. For the reasons discussed below, we strongly support the passage of this bill. Repeal of branch office restrictions could lead to lower prices and increased availability of dental care for California consumers.

The Federal Trade Commission seeks to promote the national policy of encouraging competition among members of licensed professions to the maximum extent compatible with other legitimate state and federal goals. For several years, the Commission staff has been investigating the effects of state-imposed restrictions on the business practices of professionals, including dentists, lawyers, optometrists, and physicians. Our goal is to identify and encourage the removal of restrictions that impede competition and increase costs without providing countervailing benefits to consumers.

Current law<sup>2</sup> regulates the number of offices a dentist may maintain. The law permits a dentist to operate more than one branch office, but only if he is in personal attendance at each

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<sup>1</sup>These comments represent the views of the staff of the Federal Trade Commission and do not necessarily represent the views of the Federal Trade Commission or any individual Commissioner. The Commission has, however, voted to authorize the staff to present these comments to you.

<sup>2</sup>Cal. Bus. & Prof. Code Section 1658.

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of the offices at least fifty percent of the time the office is open.<sup>3</sup> The applicable section has been construed to allow a dentist to maintain only one branch office.<sup>4</sup> Assembly Bill 471 would delete these restrictions and allow interested dentists to establish more than one branch office.

Proponents of restrictions limiting the number of offices a dentist may own or operate argue that dentistry involves a personal relationship between a dentist and his patient. They believe that permitting a dentist to own or operate a large number of offices will erode this personal relationship and result in the lowering of dental care quality. We question, however, whether the current statutory scheme actually furthers this goal.<sup>5</sup>

The existing statute requires personal attendance only in the event a dentist owns two offices. The requirement of personal attendance does not apply if a dentist owns only one office. Accordingly, a dentist may expand within the same building by hiring a number of dentists to perform the actual work. Indeed, the one-office dentist need never see a patient or even be in attendance at the office. In terms of personal involvement, there may be no distinction between the single office practitioner and the multi-office practitioner.

More important, the existing statute may harm consumers in a number of ways. First, by limiting dentists to two offices it may unduly deter the establishment of high-volume practices. Such practices often realize significant cost savings, which can result in lower prices for consumers. For example, dental practices with multiple branch offices may be able to more efficiently use mass media advertising to attract a large volume of patients. This increased volume may enable these firms to realize certain economies of scale, such as more efficient use of their employees and equipment. High-volume firms may also be able to obtain quantity discounts on purchases of dental materials and supplies. The net result of these savings may be

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<sup>3</sup>Cal. Bus. & Prof. Code Section 1658.1.

<sup>4</sup>39 Op. Att'y. Gen. 230 (1962). For example, Section 1658.1 has been interpreted to prohibit so-called "pyramiding" through separate partnerships, *i.e.*, dentists affiliating to open multiple branch offices to circumvent the statute. *Id.*

<sup>5</sup>Of the seventeen "healing arts" governed by the California Business & Professions Code, only dentists and optometrists are limited by law as to the number of offices an individual practitioner may operate.

lower prices and increased availability of dental care for consumers.

Second, the current law may prevent dentists from allocating their time among a number of locations, no one of which has a sufficient volume of patients to support a full-time dentist. As a result, consumers in the areas served by those offices may be deprived of local dental care altogether.

Finally, by imposing financial hardship on recent dental school graduates, the current law may inhibit new entry into the dental services market. As the cost of establishing a dental practice rises, recent graduates may find it difficult to open a practice of their own. If multiple offices are allowed, however, more experienced dentists would presumably hire newcomers to help staff some of the branch offices, thus allowing them to gain the experience necessary to start their own practices.

The new law would not only avoid these problems, but would provide other benefits as well. Studies have shown that prices for professional goods and services are lower where "commercial" (i.e., non-traditional) practices exist than where they are restricted or prohibited.<sup>6</sup> Studies have also provided evidence that restrictions on commercial practices raise prices, but do not necessarily maintain or enhance quality of services.<sup>7</sup> We are not aware of any studies indicating that the operation of multiple branch offices results in lower quality dental care. Given this evidence, we anticipate that the proposed removal of restrictions on branch offices will lead to lower prices and an increase in consumer welfare, without any corresponding diminution in quality.

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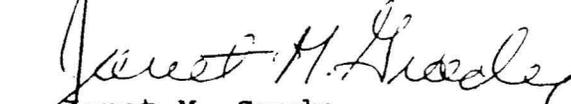
<sup>6</sup>Cleveland Regional Office and Bureau of Economics, Federal Trade Commission, Improving Consumer Access to Legal Services: The Case for Removing Restrictions on Truthful Advertising (1984); Bureau of Economics, Federal Trade Commission, Effects of Restrictions on Advertising and Commercial Practice in the Professions: The Case of Optometry (1980); Benham and Benham, Regulating through the Professions: A Perspective on Information Control, 18 J. L. & Econ. 421 (1975); Benham, The Effects of Advertising on the Price of Eyeglasses, 15 J. L. & Econ. 337 (1972).

<sup>7</sup>Bureau of Economics, Federal Trade Commission, Effects of Restrictions on Advertising and Commercial Practice in the Professions: The Case of Optometry (1980); Cady, Restricted Advertising and Competition: The Case of Retail Drugs (1976); McChesney and Muris, The Effects of Advertising on the Quality of Legal Services, 65 A.B.A.J. 1503 (1979); Muris and McChesney, Advertising and the Price and Quality of Legal Services: The Case for Legal Clinics, 1979 Am. B. Found. Research J. 179 (1979).

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For the foregoing reasons, we strongly support the passage of AB 471. We would be happy to answer any questions you may have regarding these comments, or provide any other assistance you may find helpful.

Very truly yours,

  
Janet M. Grady  
Regional Director