F I S C A L I M P A C T R E P O R T

SPONSOR Shendo & Roch **ORIGINAL DATE** 01/23/14 **LAST UPDATED** 02/06/14 **HB**

SHORT TITLE Dental Therapist Hygienist Act **SB** 76

ANALYST Weber

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY14	FY15	FY16	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total		$15.0	$15.0	$30.0	Recurring	General Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

SOURCES OF INFORMATION
LFC Files

Responses Received From
Regulation and Licensing Department (RLD)
Department of Health (DOH)

SUMMARY

Synopsis of Bill

Senate Bill 76 creates the Dental Therapist-Hygienist Act and establishes a new dental provider entitled the "dental therapist-hygienist". SB 76 would amend the NM Gross Receipts and Compensating Tax Act, the New Mexico Drug, Device and Cosmetic Act, the Public Assistance Act, the Health Maintenance Organization Law, the Nonprofit Health Care Plan Law and the Dental Health Care Act. The legislation:

- Establishes a new dental provider entitled the "dental therapist-hygienist", supervisory requirements and agreement guidelines with a sponsoring dentist in order to practice as a dental therapist. Scope of practice includes: (1) behavioral management, oral health instruction and disease prevention education, including nutritional counseling and dietary analysis; (2) diagnosis of dental disease and the formulation of an individualized treatment plan, including caries risk assessment; (3) preliminary charting of the oral cavity; (4) prescribing, exposing and interpreting radiographs; (5) mechanical polishing of teeth and restorations; (6) application of topical preventive or prophylactic agents, including fluoride varnishes and pit and fissure sealants; (7) pulp vitality testing; (8) application of desensitizing medication or resin; (9) fabrication of athletic mouthguards; (10) placement of temporary

restoration; (11) tissue conditioning and soft reline; (12) a traumatic restorative therapy; (13) dressing changes; (14) tooth reimplantation and stabilization of reimplanted teeth; (15) administration of local anesthetic and nitrous oxide; (16) extractions of primary teeth; (17) extractions of permanent teeth that have no impactions and no need of sectioning for removal; (18) emergency palliative treatment of dental pain; (19) placement and removal of space maintainers; (20) cavity preparation; (21) restoration of primary and permanent teeth; (22) placement of temporary crowns; (23) preparation and placement of pre-formed crowns; (24) pulpotomy of primary teeth; (25) indirect and direct pulp capping on primary and permanent teeth; (26) suture removal; (27) brush biopsies; (28) simple repairs and adjustments to removable prosthetic appliances; (29) re-cementing of permanent crowns; (30) prevention of potential orthodontic problems by early identification and appropriate referral; (31) prevention, identification and management of dental and medical emergencies and maintenance of current basic life-support certification; (32) prescribing, dispensing and administration of analgesics, anti-inflammatory medications and antibiotics only within the parameters of a dental therapist-hygienist management agreement; and (33) other related services as permitted by board rules.

- Establishes overall training and licensing requirements, supervisory authority, disciplinary actions and procedures; and reciprocity requirements for licensure from another state. To be licensed as a dental therapist-hygienist, an applicant shall have: (1) passed a written examination covering the laws and rules for practice in the state; and (2) submitted proof to the joint committee for its approval and recommendation:(a) of graduation and receipt of a degree from one of the following education programs developed in partnership with an accredited institution of higher education: 1) a dental therapy-hygiene education program that provides a competency-based curriculum; or 2) both a dental hygiene education program that has met the requirements for a dental hygiene education program pursuant to the Dental Health Care Act and a dental therapy education program that provides a competency-based dental therapy curriculum; (b) that the applicant: 1) has received a letter of recommendation from a person in the community or from the sponsoring entity in which the applicant plans to practice as part of the application process for the dental therapy-hygiene education program; and 2) maintains an ongoing relationship with the sponsoring entity, including one community prevention project in the supporting community during coursework; (c) of passage of a competency-based examination given by a nationally recognized regional testing agency if available or, if not available, by an institution of higher education with a dental therapy-hygiene education program that the applicant has passed following the applicant's completion of a dental therapy-hygiene educational program; and (d) after graduation from a dental therapist-hygiene competency-based education program, has completed a minimum of four hundred additional clinical hours under the indirect supervision of a dentist
- Establishes guidelines for temporary licensure of a "dental therapist-hygienist" practicing and in good standing from another state to practice in New Mexico.
- Establishes a joint committee and membership which includes a dental therapist advocate to regulate, license and discipline dental therapist-hygienists and unlicensed dental therapists.
- Creates sunset provisions for the Dental Therapist-Hygienist Act.

- Establishes general administrative guidelines for the licensing fees, renewal of licenses and other general procedures.
- Allows the dental therapist-hygienist to be eligible to participate in the NM Gross Receipts and Compensating Tax Act.
- Includes and provides the dental hygienist–therapist prescription authority.
- Amends the New Mexico Dental Health Care Act by including the dental hygienist – therapist in the policies and procedures governing the Dental Health Care Board.
- Includes the dental therapist-hygienist in the provisions of the Uniform Licensing Act, the Public Health Assistance Act, the Health Maintenance Organization and the Nonprofit Health Care Plan Act.

FISCAL IMPLICATIONS

RLD anticipates the following additional costs related to the new board:

With the addition of the Joint Committee meeting costs will rise. Current reimbursement per member is approximately $300.00 per member each meeting. Adding 13 members for four meetings per year would increase meeting costs approximately $15,000.00 per year. However, it is unclear if the joint committee members are the same persons as the existing board members. If so, the new costs may be less if the board and joint committee met simultaneously.

The bill does allow for reasonable fees that may offset some or all of the expenses. However, the number of potential applicants and practitioners is uncertain leaving the revenue forecast zero for the immediate future.

SIGNIFICANT ISSUES

RLD offers the following commentary:

There are many major concerns with the Scope of practice of the newly recommended Hygienist-Therapist:

- There are currently no dental therapy education programs.
- The competency exam to certify this hygienist-therapist would have to be the regular regional board exam taken by dentists since that is what their scope suggests.
- The definition and scope of practice includes diagnosis. One cannot perform diagnosis without the expanded scientific and clinical background that a dentist receives. One additional year and a 400 hour internship cannot prepare one to diagnose with all the myriad of considerations that must be considered.

There are several areas in the scope of practice that are major concerns:

- The education of a dental hygienist which is aimed at prevention and scaling and prophylaxis and an additional year cannot be sufficient to prepare for the scope of practice as proposed. Many of these areas require exhaustive diagnosis considerations and judgments to be made in mid-treatment that the hygienist/therapist education will not prepare the hygienist/therapist for. Specifically:

1. Tooth implantation and stabilization: This requires management of trauma situations requiring extensive training.

2. Administration of Nitrous Oxide: This requires a Dentist to have an additional certificate due to systemic considerations.
3. Extractions are often more complicated than initially thought but the problems do not appears until after the procedure is started. The result is a fully trained dentist must finish the procedure.
4. Emergency palliative treatment of pain requires advanced diagnosis.
5. Space maintenance and orthodontic referral requires extensive knowledge of orthodontics and requires a specialty license.
6. Prescribing antibiotics and anti-inflammatory requires *advanced pharmacology* which these practitioners will not have studied.
7. Diagnose and interpret radiographs- again this requires an extensive knowledge of dental pathology and radiology which this hygienist/therapist would not have.

Requiring an "advocate" on the Board is opposed to the Boards function to protect the public.

DOH reports that one of the major themes in the Surgeon General's report, "Oral Health in America", is that oral health is "essential to the general health and well-being of Americans…however not all Americans are achieving the same degree of oral health. The report found a significant disparity between racial and socioeconomic groups in regard to oral health and ensuing overall health issues." Based upon its findings the Surgeon General called for action to promote access for oral health care for all Americans, especially the disadvantaged and minority children found to be at risk for medical complications resulting from minimal oral health care and treatment.

Adult oral health care is critical in New Mexico and throughout the country. 66.9% of adults reported seeing a dental provider or clinic and 40% of those individuals aged 65%+ report having their teeth extracted. The New Mexico Oral Health Surveillance System NMOHSS Special Report on Children 2006 reports that of 2,136 3rd graders, 37.0% of these children had untreated tooth decay and that 64.6% of them had caries experience. The report also states that 43.2% of these students had dental sealants on their molars to protect them from further tooth decay

Access to care is largely affected by an overall shortage of dental providers in New Mexico, as well as a shortage of dental providers practicing in *rural/frontier* and underserved areas. The federal government has designated all or part of 32 counties as Dental Health Professional Shortage Areas. (http://hpsafind.hrsa.gov/HPSASearch.aspx)

The W.K. Kellogg Foundation released a report in April 2012 "that an extensive review of the literature documenting care provided by dental therapists and clinical outcomes worldwide indicates that they offer safe, effective dental care to children The report documents evidence that dental therapists can effectively expand access to dental care, especially for children, and that the care they provide is technically competent, safe and effective. In addition, the review also showed that the public values the role of dental therapists and there is strong patient and parental support for their work."
http://www.wkkf.org/news-and-media/article/2012/04/nash-report-is-evidence-that-dental-therapists-expand-access

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