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

SPONSOR HHHC **ORIGINAL DATE** 1/28/19 **LAST UPDATED** 3/11/19 **HB** cs/308/aHSEIC/aSJC/aSFl

SHORT TITLE Dental Therapists **SB**

ANALYST Chenier

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY19	**FY20**	**FY21**		
		$9.0	Recurring	Dental Board

(Parenthesis ( ) Indicate Revenue Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY19	FY20	FY21	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total		$13.7	$6.1	$25.9	Recurring	Other state funds/Dental Board
Total		Minimal to $58.6	Minimal to $58.6	Minimal to $117.2	Recurring	DOH/General Fund
Total		Significant	Significant	Significant	Recurring	PED/General Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

SIMILAR to 2018 HB 264.

SOURCES OF INFORMATION
LFC Files

Responses Received From
Public Education Department (PED)
Regulation and Licensing Department (RLD)
Human Services Department (HSD)
Department of Health (DOH)

SUMMARY

Synopsis of SFl Amendment

The Senate Floor amendment to the House Health and Human Services Committee Substitute for

House Bill 308 adds a new Section 18 to the bill that repeals the "Purpose" section of the Dental Health Practice Act. It then strikes the fourth SJC amendment, which deals with renumbering the sections of the act, and then renumbers them again to be in accord with the additional section added.

Synopsis of SJC Amendment

The Senate Judiciary Committee amendment to the House Health and Human Services Committee Substitute for House Bill 308 would strike Section 1, or the purpose section, of the Dental Healthcare Act establishing the duties and responsibilities of the Dental Board. However, Section 4 of the Dental Healthcare Act, details the powers and duties of the Dental Board and Section 1 is mostly duplicative.

Synopsis of the HSEIC Amendment

The House State Government, Elections and Indian Affairs Committee amendment to the House Health and Human Services Committee Substitute for House Bill 308 adds a subsection to the section indicating the locations where dental therapists may practice. The new subsection specifies that no requirement of state licensure or regulation will be added for dental therapists practicing in Indian Health Service, tribal health programs or otherwise on tribal lands.

Synopsis of Original Bill

The House Health and Human Services Committee Substitute for House Bill 308 amends the Dental Health Care Act (Section 61-5A-2 NMSA 1978) to license and establish dental therapists as a new type of dental practitioner. The bill also sets the scope of practice for dental therapists, places limits on where dental therapists can practice, and sets dental therapist licensure fees. In multiple sections of the law, the bill would add the profession of dental therapist and makes a technical change, either adding the term "dental therapist" or striking "dentist or dental hygienist" and using the term "licensee" as a catchall for dentist, dental hygienist, and dental therapist. The educational qualifications for licensure as a dental therapist are enumerated, to include a "dental post-graduate clinical experience", which would consist of 2000 hours of advanced training, except where the applicant was a dental hygienist with five or more years of experience, the requirement would be of 1500 hours. No one other than those licensed as a dental therapist under this act's provisions could practice as dental therapists, use the initials D.T. or perform the acts reserved to dental therapists under the act. Dentists could supervise no more than three dental therapists at one time.

The bill requires DOH to submit an annual report on dental professions and education, and every two years, a report on the status of the dental therapist licensure program.

The bill enumerates a long list of dental procedures in which a dental therapist may engage; it is meant to be an exclusive list; dental therapists are not to engage in other dental procedures not listed. Dental therapists would be empowered to practice in nonprofit community dental organizations, in Indian Health Service facilities, in federally qualified health centers (FQHCs) and "FQHC lookalikes, long-term care facilities, and in locations where dental therapists are trained.

Additionally, the bill would begin July 1, 2021, require students to obtain a dental examination and requires schools to provide extensive education to parents and guardians explaining the requirements for dental examination. PED would be required to collect data on compliance with this rule, to be presented beginning in July 2022.

The Department of Health would be directed to appoint a dental health professional to be director of DOH's office of oral health.

FISCAL IMPLICATIONS

PED stated that the bill requires the PED to oversee schools' assurance of compliance to the new dental examination requirements. No funds are provided to support additional PED staff or resources needed for such oversight.

RLD estimated $9 thousand in revenue in FY22. Dental Therapist programs are usually two-year programs. There is currently one program in the process of obtaining accreditation, in Minnesota. It will take at least two years before any revenue is generated by this licensure class. RLD estimates that there would be nine licenses, based on 30 percent of class B and class C counties in New Mexico [although the bill would now allow practice in certain settings within. All counties in New Mexico.]

RLD also stated that Rules committee meetings will be required and additional funds will be needed for court reporting and advertising. Every part of the rule will need to be opened to include dental therapists. For FY17 it will cost $6.1 thousand to conduct rule committee meetings. In FY18, it will cost $13.7 thousand to publish and advertise rule hearings, and every year after the board would need $6.1 to advertise and conduct further rule hearings.

HSD indicates that its Medicaid program already pays dentists and dental hygienists for services like those a dental therapist would perform. Although not mentioned by HSD, if dental therapists made dental procedures more available to children enrolled in Medicaid, costs would rise.

Section 20 of the bill ensures that the provision to establish a state dental director within DOH would not take effect until the end of FY20 and the majority of fiscal impact would not be experienced until FY21. DOH stated that there are no funds appropriated for DOH to conduct a dental therapist study, to conduct a statewide assessment of oral health care (FY18), or to employ a dental provider as state dental director.

SIGNIFICANT ISSUES

Dental therapy licensure currently exists only in Alaska and Minnesota within the United States. The program in Alaska, established in 2005, is described as follows:

> As part of a community-driven solution, Alaska Native Tribal Health Consortium introduced the first successful dental therapist workforce in the United States in 2004. Dental Health Aide Therapists (ADTEP's) provide culturally appropriate dental education and routine dental services in Alaska Native communities, usually their home village, within the scope of their training.

> ADTEPs make important improvements in oral health for Alaska Native people in rural areas of our state. This model of dental care increases preventative care that help reduce high levels of cavities and other dental issues that lead to oral diseases.
>
> Since 2004, they have expanded much-needed access to dental care and prevention services for more than 40,000 Alaska Native people living in 81 rural Alaska communities. In addition, we have formed a partnership with the Ilisgavik Tribal College and are now offering an Associate's Degree in Dental Therapy. (https://anthc.org/alaska-dental-therapy-education-programs/)

Dental therapists began being trained in Minnesota in 2009, and the first dental therapists licensed there began work in 2011. Six other states have established dental therapist programs, and are now at varying levels of having implemented them. The Kellogg Foundation has commissioned a study of dental therapists, their licensure around the world, and their effectiveness, published as "A Review of Global Literature on Dental Therapists." It is available at http://www.nationaloralhealthconference.com/docs/presentations/2012/05-01/David%20Nash.pdf.

RLD stated that the bill requires dental therapists to have received degrees from a Commission on Dental Accreditation (CODA) institution. There are currently no dental therapy education programs in the United States. Minnesota is the only state that currently licenses dental therapists, but the two training programs in the state, at Metropolitan State University and Normandale Community College, are not accredited by CODA. In practical terms, this means dental students in New Mexico applying for dental therapist licensure would still not comply with the bill after attending the two-year program in Minnesota. There are no accredited or non-accredited programs to train dental therapists at this point in New Mexico.
There are competency exams that are required for this licensure type. There is only one testing agency that offers the exams. Other regional examinations are in the development stages.

DOH provided the following information:

> HB308HSC is in response to Senate Memorial 136 (2015). The Memorial established a Dental Therapy Task Force to establish dental therapy legislation for the 2016 New Mexico Legislative Session. The task force was not able to submit the legislation to the legislature and was directed to prepare legislation for the 2017 Legislative Session. Interested parties in the development of this model are: Health Action New Mexico, NM Dental Hygiene Association, and the NM Dental Association. The establishment of a new midlevel provider type for New Mexico could address the NMDOH goal of increasing access to oral health care.
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> Tooth decay is the most prevalent chronic condition among children in the United States. "More than one-quarter of US preschoolers (28%) have experienced visible cavities well before entering school. The consequences of dental disease have taken a toll on children, their families, and communities. This has led policymakers to consider a variety of strategies to address the oral health burden among US children. A policy approach that has received increasing attention in recent years is the development of state laws that require or provide for some form of certification of a dental screening, examination, or assessment for school entry." The intent is to reduce the number of children entering school with tooth decay. According to the Association of State and Territorial Dental Directors, 10 states have enacted legislation requiring a dental examination. Each of the

states have varying requirements and none prohibit a student from entering school. http://www.aapd.org/assets/1/7/CDHP_StateLawsSchoolEntDentalScreening1008.pdf

Requiring a dental examination prior to enrolling in school is a challenge due to the travel distance required to access a dental provider for residents of rural and frontier New Mexico, the lack of Medicaid providers, and the lack of pediatric dentists. Also, immigrant populations without residency status, who lack Medicaid or adequate finances, are often unable to afford dental treatment. It is known that parents have trouble taking time off from work to take a child to a dental appointment. The Office of Oral Health has been in contact with Jayanth Kumar DDS, MPH, California Department of Health, Dental Director regarding the status of California's dental screening program. Dr. Kumar has reported that they have encountered numerous difficulties with children complying with the law; some of the difficulties encountered are described above.

HB308HSC would require NMDOH to conduct a statewide oral health assessment/analysis and make recommendations to the Legislature by October 1, 2020 and each year after. The report would study several issues affecting access such as: the state's dental loan repayment program, the feasibility of establishing a Bachelor of Arts degree recipient to matriculate directly to dental school for a doctor of dental science or doctor of dental surgery degrees; the status of the Medicaid program such as the status of reimbursement rates; dental health shortages and the number of dental health care practitioners participating in the rural health practitioner tax credit program.

DOH operates a dental public health program, which has been in existence since 1955. The Office of Oral Health conducts a school based prevention program targeting pre-school and elementary school aged children by providing free dental sealants and fluoride varnish (preventive agents). In FY16, the program provided services to over 15,000 low income or uninsured individuals; 6,370 elementary school aged children received dental sealants; 2,709 pre-school children participated in the fluoride varnish program; and 6,153 received preventive or treatment services by contractors.

PED notes that HB 308 requires PED "to promulgate rules that prescribe the requirements for the dental examinations by July 1, 2020. The cost of promulgating the rules is minimal. The PED is also required to provide extensive training statewide for parents and guardians explaining the requirements for the dental examinations for school enrollment and information regarding referrals to dental health care professionals that can perform the dental examinations in accordance with the Act. The PED would have to determine how to reach and communicate this information with families across the state prior to enrollment. Public Service Announcements social media, and partnering with health care professionals, clinics and parent organizations will need to be coordinated and the cost is indeterminate at this time since there are approximately 340,000 students enrolled in New Mexico schools."

HSD notes that it "provides reimbursement to dental hygienists working under a collaborative practice arrangement through the Medicaid program. Because a dental therapist practitioner would have to be licensed as a dental hygienist, HSD encourages the inclusion of such individuals working under a collaborative practice arrangement. As written, the bill does not allow for this possibility."

DISPARITIES ISSUES

DOH provided the following, with regard to 2018 HB 264:

> Tooth decay (cavities) is one of the most common chronic conditions in the United States. Untreated tooth decay can cause pain and infections that may lead to problems with eating, speaking playing and learning. 1 in 5 children aged 5 to 11 years have at least one untreated decayed tooth. 1 in 17 adolescents aged 12 to 19 years have at least one untreated decayed tooth. The percentage of children and adolescents aged 5 to 19 years with untreated tooth decay is twice as high for those from low-income families compared with children from higher income households.
> https://www.cdc.gov/oralhealth/basics/childrens-oral-health/index.html
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> Oral health disparities exist for many racial and ethnic groups, by socioeconomic status, gender, age, and geographic location. Some social factors that can contribute to these differences are lifestyle behaviors such as tobacco use, alcohol frequency use, and poor dietary choices. The economic factors that often relate to poor oral health include access to health services and an individual's ability to get and keep dental insurance.
> https://www.cdc.gov/oralhealth/oral_health_disparities/index.htm

TECHNICAL ISSUES

This bill may conflict with Article IV, Section 16 of the New Mexico Constitution which states in part," no bill embracing more than one subject shall be passed except general appropriation bills and bills for the codification or revision of the laws." This bill establishes dental therapists as a new type of provider and also changes the public school code to require schools to emphasize the importance of dental examinations or require such examinations.

The definition of practitioner for Dental Therapist is not added to the NM Controlled Substances Act. Controlled Substances will not be administered, dispensed, or prescribed.

Section 15 makes it mandatory that "students shall not enroll in school" without having had a dental examination or a parent's signed form stating that he/she does not wish to have one despite having been told of the importance of doing so. "Student" is not defined (age, type of school), and it is not stated whether this requirement would be made once at the onset of schooling, each year, or at some other interval. PED also notes that the bill does not make clear whether an additional dental exam would be required if a child changed schools between mandatory dental exams.

ALTERNATIVES

The two separate goals of this legislation – establishing the dental therapist profession in New Mexico and mandating dental examinations before school enrollment – could be divided into separate pieces of legislation.

The frequency of required dental examinations for school children could be specified.

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