H-4364.1

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**SUBSTITUTE HOUSE BILL 1441**

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**State of Washington 64th Legislature 2016 Regular Session**

**By** House Appropriations (originally sponsored by Representatives Sawyer, Appleton, Gregerson, Robinson, S. Hunt, Reykdal, Fitzgibbon, Ormsby, Jinkins, and Pollet)

AN ACT Relating to dental health services in tribal settings; amending RCW 18.29.180, 18.32.030, and 18.260.110; adding a new section to chapter 18.350 RCW; adding a new section to chapter 74.09 RCW; and adding a new chapter to Title 70 RCW.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

NEW SECTION. **Sec.**  (1) The legislature finds that American Indians and Alaska Natives have very limited access to health care services and are disproportionately affected by oral health disparities. These disparities are directly attributed to the lack of dental health professionals in Indian communities. This has caused a serious access issue and backlog of dental treatment among American Indians and Alaska Natives. The legislature also finds that tribal leaders face a significant challenge in recruiting dental health professionals to work in Indian communities that results in further challenges in ensuring oral health care for tribal members.

(2) The legislature finds further that there is a strong history of government-to-government efforts with tribes in Washington to improve oral health among tribal members and to reduce the disproportionate number of American Indians and Alaska Natives affected by oral disease. One of the goals in the 2010-2013 American Indian health care delivery plan developed jointly by the department of health and the American Indian health commission is to improve the oral health of tribal members and the ability of tribes to provide comprehensive dental services in their communities. A critical objective to achieving that goal is "to explore options for the use of trained/certified expanded function personnel in order to increase oral health care services in tribal communities."

(3) The legislature finds further that sovereign tribal governments are in the best position to determine which strategies can effectively extend the ability of dental health professionals to provide care for children and others at risk of oral disease and increase access to oral health care for tribal members. The legislature does not intend to prescribe the general practice of dental health aide therapists in the state.

NEW SECTION. **Sec.**  (1) Dental health aide therapist services are authorized by this chapter under the following conditions:

(a) The person providing services is certified as a dental health aide therapist by:

(i) A federal community health aide program certification board; or

(ii) A federally recognized Indian tribe that has adopted certification standards that meet or exceed the requirements of a federal community health aide program certification board;

(b) All services are performed:

(i) In a practice setting within the exterior boundaries of a tribal reservation and operated by an Indian health program or an urban Indian organization;

(ii) In accordance with the standards adopted by the certifying body in (a) of this subsection, including scope of practice, training, supervision, and continuing education;

(iii) Pursuant to any applicable written standing orders by a supervising dentist; and

(iv) On persons who are members of a federally recognized tribe or otherwise eligible for services under Indian health service criteria, pursuant to the Indian health care improvement act, 25 U.S.C. Sec. 1601 et seq.

(2) The performance of dental health aide therapist services is authorized for a person when working within the scope, supervision, and direction of a dental health aide therapy training program that is certified by an entity described in subsection (1) of this section.

(3) All services performed within the scope of subsection (1) or (2) of this section, including the employment or supervision of such services, are exempt from licensing requirements under chapters 18.29, 18.32, 18.260, and 18.350 RCW.

NEW SECTION. **Sec.**  The department of health must conduct a study on the outcomes of treatment by all dental health aide therapists authorized to practice in the state, pursuant to section 2 of this act. In preparing its study, the department must consult with tribes, tribal organizations, and urban tribal organizations, who employ, contract, or otherwise use dental health aide therapist services. By December 31, 2020, the department must prepare and submit a report including the findings and conclusions of its study to the governor and each appropriate standing committee in the house of representatives and the senate.

NEW SECTION. **Sec.**  The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Dental health aide therapist" means a person who has met the training and education requirements, and satisfies other conditions, to be certified as a dental health aide therapist by a federal community health aide program certification board or by a federally recognized Indian tribe that has adopted certification standards that meet or exceed the requirements of a federal community health aide program certification board.

(2) "Federal community health aide program" means a program operated by the Indian health service under the applicable provisions of the Indian health care improvement act, 25 U.S.C. Sec. 1616l.

(3) "Indian health program" and "urban Indian organization" have the same meaning as the definitions provided in the Indian health care improvement act, 25 U.S.C. Sec. 1603, as those definitions exist on the effective date of this section.

**Sec.**  RCW 18.29.180 and 2004 c 262 s 4 are each amended to read as follows:

The following practices, acts, and operations are excepted from the operation of this chapter:

(1) The practice of dental hygiene in the discharge of official duties by dental hygienists in the United States armed services, coast guard, public health services, veterans' bureau, or bureau of Indian affairs;

(2) Dental hygiene programs approved by the secretary and the practice of dental hygiene by students in dental hygiene programs approved by the secretary, when acting under the direction and supervision of persons licensed under chapter 18.29 or 18.32 RCW acting as instructors;

(3) The practice of dental hygiene by students in accredited dental hygiene educational programs when acting under the direction and supervision of instructors licensed under chapter 18.29 or 18.32 RCW; and

(4) The performance of dental health aide therapist services to the extent authorized under chapter 70.--- RCW (the new chapter created in section 10 of this act).

**Sec.**  RCW 18.32.030 and 2012 c 23 s 7 are each amended to read as follows:

The following practices, acts, and operations are excepted from the operation of the provisions of this chapter:

(1) The rendering of dental relief in emergency cases in the practice of his or her profession by a physician or surgeon, licensed as such and registered under the laws of this state, unless the physician or surgeon undertakes to or does reproduce lost parts of the human teeth in the mouth or to restore or to replace in the human mouth lost or missing teeth;

(2) The practice of dentistry in the discharge of official duties by dentists in the United States federal services on federal reservations, including but not limited to the armed services, coast guard, public health service, veterans' bureau, or bureau of Indian affairs;

(3) Dental schools or colleges approved under RCW 18.32.040, and the practice of dentistry by students in accredited dental schools or colleges approved by the commission, when acting under the direction and supervision of Washington state-licensed dental school faculty;

(4) The practice of dentistry by licensed dentists of other states or countries while appearing as clinicians at meetings of the Washington state dental association, or component parts thereof, or at meetings sanctioned by them, or other groups approved by the commission;

(5) The use of roentgen and other rays for making radiographs or similar records of dental or oral tissues, under the supervision of a licensed dentist or physician;

(6) The making, repairing, altering, or supplying of artificial restorations, substitutions, appliances, or materials for the correction of disease, loss, deformity, malposition, dislocation, fracture, injury to the jaws, teeth, lips, gums, cheeks, palate, or associated tissues or parts; providing the same are made, repaired, altered, or supplied pursuant to the written instructions and order of a licensed dentist which may be accompanied by casts, models, or impressions furnished by the dentist, and the prescriptions shall be retained and filed for a period of not less than three years and shall be available to and subject to the examination of the secretary or the secretary's authorized representatives;

(7) The removal of deposits and stains from the surfaces of the teeth, the application of topical preventative or prophylactic agents, and the polishing and smoothing of restorations, when performed or prescribed by a dental hygienist licensed under the laws of this state;

(8) A qualified and licensed physician and surgeon or osteopathic physician and surgeon extracting teeth or performing oral surgery pursuant to the scope of practice under chapter 18.71 or 18.57 RCW;

(9) The performing of dental operations or services by registered dental assistants and licensed expanded function dental auxiliaries holding a credential issued under chapter 18.260 RCW when performed under the supervision of a licensed dentist, or by other persons not licensed under this chapter if the person is licensed pursuant to chapter 18.29, 18.57, 18.71, or 18.79 RCW as it applies to registered nurses and advanced registered nurse practitioners, each while acting within the scope of the person's permitted practice under the person's license: PROVIDED HOWEVER, That such persons shall in no event perform the following dental operations or services unless permitted to be performed by the person under this chapter or chapters 18.29, 18.57, 18.71, 18.79 as it applies to registered nurses and advanced registered nurse practitioners, and 18.260 RCW:

(a) Any removal of or addition to the hard or soft tissue of the oral cavity;

(b) Any diagnosis of or prescription for treatment of disease, pain, deformity, deficiency, injury, or physical condition of the human teeth or jaws, or adjacent structure;

(c) Any administration of general or injected local anaesthetic of any nature in connection with a dental operation, including intravenous sedation;

(d) Any oral prophylaxis;

(e) The taking of any impressions of the teeth or jaw or the relationships of the teeth or jaws, for the purpose of fabricating any intra-oral restoration, appliance, or prosthesis; ((~~and~~))

(10) The performing of dental services described in RCW 18.350.040 by dental anesthesia assistants certified under chapter 18.350 RCW when working under the supervision and direction of an oral and maxillofacial surgeon or dental anesthesiologist; and

(11) The performance of dental health aide therapist services to the extent authorized under chapter 70.--- RCW (the new chapter created in section 10 of this act).

**Sec.**  RCW 18.260.110 and 2012 c 229 s 502 are each amended to read as follows:

Nothing in this chapter may be construed to prohibit or restrict:

(1) The practice of a dental assistant in the discharge of official duties by dental assistants in the United States federal services on federal reservations, including but not limited to the armed services, coast guard, public health service, veterans' bureau, or bureau of Indian affairs;

(2) Expanded function dental auxiliary education and training programs approved by the commission and the practice as an expanded function dental auxiliary by students in expanded function dental auxiliary education and training programs approved by the commission, when acting under the direction and supervision of persons licensed under chapter 18.29 or 18.32 RCW;

(3) Dental assistant education and training programs, and the practice of dental assisting by students in dental assistant education and training programs approved by the commission or offered at a school approved or licensed by the workforce training and education coordinating board, student achievement council, state board for community and technical colleges, or Washington state skill centers certified by the office of the superintendent of public instruction, when acting under the direction and supervision of persons registered or licensed under this chapter or chapter 18.29 or 18.32 RCW; ((~~or~~))

(4) The practice of a volunteer dental assistant providing services under the supervision of a licensed dentist in a charitable dental clinic, as approved by the commission in rule; or

(5) The performance of dental health aide therapist services to the extent authorized under chapter 70.--- RCW (the new chapter created in section 10 of this act).

NEW SECTION. **Sec.**  A new section is added to chapter 18.350 RCW to read as follows:

Nothing in this chapter may be construed to prohibit or restrict dental health aide therapist services to the extent authorized under chapter 70.--- RCW (the new chapter created in section 10 of this act).

NEW SECTION. **Sec.**  A new section is added to chapter 74.09 RCW to read as follows:

(1) It is the intent of the legislature to provide that dental health aide therapist services are eligible for medicaid funding in order to promote increased dental care access for persons served in settings operated by Indian tribes, tribal organizations, and urban Indian organizations.

(2) The health care authority is directed to coordinate with the centers for medicare and medicaid services to provide that dental health aide therapist services authorized in chapter 70.--- RCW (the new chapter created in section 10 of this act) are eligible for federal funding of up to one hundred percent.

NEW SECTION. **Sec.**  Sections 1 through 4 of this act constitute a new chapter in Title 70 RCW.

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