

HOUSE BILL REPORT

HB 1441

As Reported by House Committee On:
Community Development, Housing & Tribal Affairs

Title: An act relating to dental health services in tribal settings.

Brief Description: Concerning dental health services in tribal settings.

Sponsors: Representatives Sawyer, Appleton, Gregerson, Robinson, S. Hunt, Reykdal, Fitzgibbon, Ormsby, Jinkins and Pollet.

Brief History:

Committee Activity:

Community Development, Housing & Tribal Affairs: 2/3/15, 1/18/16, 1/21/16 [DP].

Brief Summary of Bill

- Authorizes the services of a federally or tribally certified dental health aide therapist within the practice settings of an Indian health program.
- Exempts authorized dental health aide therapist services from state licensing requirements related to dental practice.

HOUSE COMMITTEE ON COMMUNITY DEVELOPMENT, HOUSING & TRIBAL AFFAIRS

Majority Report: Do pass. Signed by 4 members: Representatives Ryu, Chair; Robinson, Vice Chair; Appleton and Sawyer.

Minority Report: Without recommendation. Signed by 3 members: Representatives Wilson, Ranking Minority Member; Zeiger, Assistant Ranking Minority Member; Hickel.

Staff: Sean Flynn (786-7124).

Background:

Dentistry Practice in Washington.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

The state requires a license for any person to practice dentistry in the state. The Dental Quality Assurance Commission (Commission) administers the dentistry licensing program. Licensing requirements include graduation from an approved dental school and passing an examination approved by the Commission. The Commission also regulates the practice of licensed dentists. The unlawful practice of dentistry generally is a gross misdemeanor offense.

The state also requires a license or certification for a variety of providers who assist licensed dentists, including: dental hygienists; dental assistants; expanded function dental auxiliaries; and dental anesthesia assistants. These providers perform a variety of functions regulated by a professional commission or the Department of Health. Each practice requires certain specific education and competency requirements.

Dental Health Aide Program.

The Indian Health Service (IHS) is a federal agency responsible for providing federal health services to American Indians and Alaska Natives. The IHS is authorized under the Indian Health Care Improvement Act to develop and operate a Community Health Aide Program (CHAP) in Alaska that serves rural native communities. The CHAP establishes a certification process for community health aides who provide health care, health promotion, and disease prevention in rural Alaska Native communities.

In 2001 the IHS established the Dental Health Aide Program (DHAP) as part of the CHAP to address the shortage of licensed dentists in the remote locations where rural Native Alaska communities are located. The DHAP is a federal certification program, which authorizes certain dental practices within the rural Native Alaska communities served through the CHAP. The DHAP involves training and certification for dental health aides in four categories: primary dental health aides; expanded function dental health aides; dental health aide hygienists; and dental health aide therapists (DHAT).

A DHAT is certified through the DHAP to practice without the direct supervision of a licensed dentist for procedures such as oral exams, preventative dental services, simple restorations, stainless steel crowns, and x-rays. A DHAT may perform extractions and root canal procedures only after consultation with a licensed dentist who determines that the procedure is a medical emergency. The DHAT certification requires a high school diploma, graduation from a two-year educational program, and a 400-hour clinical preceptorship under the supervision of a dentist.

Expansion of DHAT Practice.

The Indian Health Care Improvement Act authorizes the IHS to establish a CHAP nationally. Such an expansion expressly excludes DHAT services from any expanded program in a state unless such services are authorized in accordance with state law.

Washington does not have a DHAT license. State law exempts dentistry licensing requirements for practice in the discharge of official duties of dentists in the United States federal services on federal reservations, including the Armed Forces, Coast Guard, Public Health Service, Veterans' Bureau, or Bureau of Indian Affairs.

Medicaid Participation.

The state medical assistance program, which provides health care for eligible low-income residents, is managed by the Health Care Authority (Authority) in coordination with the federal Medicaid program. The Authority determines eligibility and care provided in compliance with federal Medicaid standards. Medical costs reimbursable through Medicaid must be provided by a licensed practitioner. The Authority may attempt to amend the state medical program or seek a waiver from a federal requirement with approval from the Centers for Medicare and Medicaid Services.

Summary of Bill:

The DHAT practice is authorized and exempt from licensing requirements for a dentist, dental hygienist, dental assistants, and dental anesthesia assistants, under certain conditions. The DHAT must be certified by a federal CHAP or a federally recognized tribe that has adopted certification standards that meet or exceed the requirements of a CHAP.

The DHAT services must be performed in accordance with the certification standards and within a practice setting operated by an Indian health program or by an urban Indian organization. The services also must be performed in accordance with any written standing orders by a supervising dentist. The DHAT services are authorized for persons working under the direction of a DHAT training program that is certified by a CHAP or a tribe that has adopted the same or higher standards.

The Authority is directed to coordinate with the Centers for Medicare and Medicaid Services to make DHAT services eligible for federal funding up to 100 percent.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) This bill addresses the oral health care crises in Indian country. Research supports the great need for health care services in Indian country. Resources are extremely scarce on many tribal reservations, particularly in rural areas. Historically, many private dental practices would not accept IHS or Medicaid patients. Retention rates for dentists in Indian country is very low. Tribes started taking over health care management because of the lack of services available to tribal members outside of Indian country.

This bill allows tribes the option to create a DHAT practice. The federal law that requires state approval before a DHAT practice can be extended to a tribal program is a top down governing model that does not allow tribes to effectively address their own needs. Authorizing a DHAT practice will help maximize federal reimbursement money to serve the greatest number of tribal members.

Tribes have a strong relationship with the state in supporting tribal sovereignty and the ability of tribes to provide self-government improves services to its members. The state should not stand in the way of a tribe wanting to participate in a federally authorized program. Tribal communities have great health care needs. This bill is not about DHAT policy, but about the ability of tribes to access federal services for their own members.

(Opposed) There are better solutions to address the needs of dental health care in rural and tribal settings than creating a mid-level dentistry practice. Vacancies can be addressed with dentists in partnership with health care providers. Tribal dental care services do not always require dental treatment, but must incorporate oral health care and prevention that requires the incorporation of community development and education; focusing only on treatment resources does not fully address the nature and scope of the problems of oral health care.

Dentists receive extensive training in school before being licensed to practice. Certain dental procedures that are performed by a licensed dentist require advanced training. This training can greatly increase the services available for patients, especially for young children. Such services are not available in a DHAT practice.

(Other) The federal DHAT program in Alaska is working well and has been expanded since it was started. There are 32 DHATs practicing in Alaska. There have been no issues of malpractice in the 10 years since the DHAT program has operated.

Persons Testifying: (In support) Representative Sawyer, prime sponsor; Brian Cladoosby, Swinomish Tribe; Mel Tonasket, Colville Tribe; Ray Peters, Squaxin Tribe; and Meredith Parker, Makah Tribe.

(Opposed) Brad Tower, Washington State Dental Association; Yoni Ahdut, Washington State Dental Association; and Steve Geiermann, American Dental Association.

(Other) Mary Willard, Alaska Native Tribal Health Consortium.

Persons Signed In To Testify But Not Testifying: None.