SENATE BILL REPORT
SB 5159

As of January 25, 2016

Title: An act relating to Indian tribes and dental health aide therapy services.

Brief Description: Concerning Indian tribes and dental health aide therapy services.

Sponsors: Senators McCoy, Frockt, Hasegawa, Fraser, Chase and Keiser.

Brief History:
Committee Activity: Health Care: 2/03/15, 2/19/15 [DPF].

SENATE COMMITTEE ON HEALTH CARE

Staff: Evan Klein (786-7483)

Background: Dentistry Practice in Washington. Dentists practicing in Washington State must be licensed by the Dental Quality Assurance Commission (Commission). Licensure requires graduating from an approved dental school and passing an examination approved by the Commission. The Commission also regulates the practice of dentistry in Washington. 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. Each practice requires specific education and competency requirements, and is regulated by a professional commission or the Department of Health.

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

Dental Health Aide Program. In 2001, IHS established the Dental Health Aide Program (DHAP) as part of CHAP. DHAP involves training and certification for dental health aides (DHA) in four categories: primary DHA; expanded function DHA; DHA hygienists; and DHA therapists (DHATs). DHATs are certified through 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. DHAT certification requires

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a high school diploma, graduation from a two-year educational program, and a 400-hour clinical preceptorship under the supervision of a dentist.

DHAT and State Licensing. DHAP is a federal certification program, which authorizes DHATs to practice only within the rural Native Alaska communities served through CHAP. The state of Alaska does not have a DHAT license.

Under IHCIA, IHS is authorized to establish a national CHAP. Such an expansion expressly excludes DHATs from services covered under a program unless DHAT services are authorized under state law to provide such services in accordance with state law.

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

Indian Health Program. Indian health programs are federally defined as any health program administered directly by the federal IHS, any tribal health program, and any Indian tribe or tribal organization to which the Secretary of the Department of Health and Human Services provides funding.

Urban Indian Organization. Urban Indian organizations are federally defined as nonprofit corporate bodies situated in an urban center, governed by an urban Indian-controlled board of directors, and providing for the maximum participation of all interested Indian groups and individuals.

Medicaid Participation. The state medical assistance program, which provides health care for eligible low-income residents, is managed by the Health Care 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.

Summary of Bill: Federally recognized Indian tribes, tribal organizations, and urban Indian organizations are authorized to train, employ, or contract with DHA, including DHAT. All DHAs must be certified by either a federal CHAP certification board (CHAPCB) or an Indian tribe with equivalent or higher standards. Federally recognized Indian tribes, tribal organizations, and urban Indian organizations are also authorized to supervise a DHA.

DHAs may only perform procedures permitted under standards adopted by a CHAPCB or an Indian tribe with equivalent or higher standards. DHAs may only work in practice settings operated by an Indian health program or an urban Indian organization.

The Health Care Authority must coordinate with the centers for Medicare and Medicaid services to ensure that authorized DHAs are eligible for maximum federal funding, including Medicaid, of up to 100 percent.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony: Testimony From 2015 Regular Session.PRO: This bill is about access. Dental care used to be nonexistent for tribal members. Access has gotten better, but it is still not at an acceptable level. Tribal members, especially those members of remote tribes, have to wait too long to receive dental services. There are also high oral health disparities with tribal youth. Higher percentages of tribal children have tooth decay and other problems than those children not on reservations. This bill follows the Alaska model which has been highly successful in allowing DHATs to provide comfort for patients until the patient can get to a dentist to receive major dental work. The Alaska program has been successful for over ten years and has proven safe for patients. There has never been a supported claim of malpractice by a DHAT in Alaska. Washington and Alaska natives face similar problems with access and tooth conditions, making the Alaska model an appropriate fit for Washington.

CON: This bill would do little to improve the dental health of tribal natives. Washington doesn't have the same access problems as Alaska. DHATs cannot be effective and are less efficient than dentists. Mid-level provider programs have failed in other countries, including Canada. Doctors and dentists need to handle the care of tribal members because they have the proper skills to do so. Dentists are best suited to address any dental access issues in Indian country.

Persons Testifying: Persons Testifying From 2015 Regular Session. PRO: Senator McCoy, prime sponsor; Brian Cladoosby, Chairman, Swinomish Indian Tribal Community; Andrew Joseph, Colville Tribal Council, Executive Committee Member, Native Indian Health Board; Dr. Mary Willard, Alaska Area Dental Officer, Prevention Officer; Doctor Louis Fiset, Alaska Dental Health Aid Therapist Program, University of WA.

CON: Chris Delecki, WA State Dental Assn., Seattle Children's Hospital; Mary Jennings, WA State Dental Assn., Lindquist Dental Clinic for Children; Bracken Killpack, WA State Dental Assn.

Persons Signed In To Testify But Not Testifying: No one.

Staff Summary of Public Testimony: Testimony From 2016 Regular Session. PRO: We are in dire need of access to the tribes in WA State. The Alaska model is working and is working in Minnesota as well. It is difficult to understand why there is opposition in WA State. These therapists are under supervision and need to be part of a dental team. This bill is about access. Tribes are not trying to do any harm to their own people. Dental caries is the most prevalent dental disease in the world. Preventive care can stop dental disease at the lowest cost. Dental Therapists work as part of a dental team. The dental therapy scope is intentionally limited. DHATs are as qualified or more so to perform the procedures in their scope of practice. DHATs also allow dentists to work at the top of their training. Clinical DHATs produce sealants, do cleanings, and promote education. The Indian Health Care

Improvement Act was passed in 2010, but one sentence said that if any tribes in the lower 48 want a Dental Therapist program, they have to get the blessing of Olympia. There are rural tribes in Washington that could use these evidence-based culturally competent care models. Dental Therapists are providing disease control.

CON: The Dental Association whole-heartedly supports tribal sovereignty. Dentists have put out a proposal to work with community dental health programs and residency programs to meet the need. This proposal does not save money. Dentists have a variety of dental auxiliaries at their disposal. These different auxiliaries do all of the things that a DHAT would do. If prevention isn't taken care of, things don't change and things don't get better. Dentists don't just employ dental skills, they also use their type of education. Treatment and access didn't make the overall health of certain tribal communities better. Only with additional education and services did these certain tribes see a difference. The use of community dental health coordinators is encouraged.

Persons Testifying: Persons Testifying From 2016 Regular Session. PRO: Senator McCoy, prime sponsor; Dr. Mathew West, Southeast Regional Health Consortium; Stephanie Woods, Dental Health Aid Therapist; Brian Cladoosby, Chairman Swinomish Tribe; Mel Tonasket, Vice Chairman Colville Tribe; Ray Peters, Squaxin Island; Meredith Parker, Makah Tribe; Dawn Vyvyan, Sauk-Suiattle Indian Tribe and Yakama Nation.

CON: Trent House, Washington State Dental Association; Dr. Yoni Ahdut; Dr. Steve Geiermann, American Dental Association.

Persons Signed In To Testify But Not Testifying: No one.