
SUBSTITUTE HOUSE BILL 1441

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)

READ FIRST TIME 02/09/16.

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

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

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

16 (2) The legislature finds further that there is a strong history
17 of government-to-government efforts with tribes in Washington to
18 improve oral health among tribal members and to reduce the
19 disproportionate number of American Indians and Alaska Natives
20 affected by oral disease. One of the goals in the 2010-2013 American
21 Indian health care delivery plan developed jointly by the department

1 of health and the American Indian health commission is to improve the
2 oral health of tribal members and the ability of tribes to provide
3 comprehensive dental services in their communities. A critical
4 objective to achieving that goal is "to explore options for the use
5 of trained/certified expanded function personnel in order to increase
6 oral health care services in tribal communities."

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

14 NEW SECTION. **Sec. 2.** (1) Dental health aide therapist services
15 are authorized by this chapter under the following conditions:

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

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

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

23 (b) All services are performed:

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

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

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

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

36 (2) The performance of dental health aide therapist services is
37 authorized for a person when working within the scope, supervision,
38 and direction of a dental health aide therapy training program that

1 is certified by an entity described in subsection (1) of this
2 section.

3 (3) All services performed within the scope of subsection (1) or
4 (2) of this section, including the employment or supervision of such
5 services, are exempt from licensing requirements under chapters
6 18.29, 18.32, 18.260, and 18.350 RCW.

7 NEW SECTION. **Sec. 3.** The department of health must conduct a
8 study on the outcomes of treatment by all dental health aide
9 therapists authorized to practice in the state, pursuant to section 2
10 of this act. In preparing its study, the department must consult with
11 tribes, tribal organizations, and urban tribal organizations, who
12 employ, contract, or otherwise use dental health aide therapist
13 services. By December 31, 2020, the department must prepare and
14 submit a report including the findings and conclusions of its study
15 to the governor and each appropriate standing committee in the house
16 of representatives and the senate.

17 NEW SECTION. **Sec. 4.** The definitions in this section apply
18 throughout this chapter unless the context clearly requires
19 otherwise.

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

27 (2) "Federal community health aide program" means a program
28 operated by the Indian health service under the applicable provisions
29 of the Indian health care improvement act, 25 U.S.C. Sec. 16161.

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

34 **Sec. 5.** RCW 18.29.180 and 2004 c 262 s 4 are each amended to
35 read as follows:

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

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

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

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

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

17 **Sec. 6.** RCW 18.32.030 and 2012 c 23 s 7 are each amended to read
18 as follows:

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

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

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

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

36 (4) The practice of dentistry by licensed dentists of other
37 states or countries while appearing as clinicians at meetings of the
38 Washington state dental association, or component parts thereof, or

1 at meetings sanctioned by them, or other groups approved by the
2 commission;

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

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

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

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

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

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

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

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

7 (d) Any oral prophylaxis;

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

11 (10) The performing of dental services described in RCW
12 18.350.040 by dental anesthesia assistants certified under chapter
13 18.350 RCW when working under the supervision and direction of an
14 oral and maxillofacial surgeon or dental anesthesiologist; and

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

18 **Sec. 7.** RCW 18.260.110 and 2012 c 229 s 502 are each amended to
19 read as follows:

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

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

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

32 (3) Dental assistant education and training programs, and the
33 practice of dental assisting by students in dental assistant
34 education and training programs approved by the commission or offered
35 at a school approved or licensed by the workforce training and
36 education coordinating board, student achievement council, state
37 board for community and technical colleges, or Washington state skill
38 centers certified by the office of the superintendent of public
39 instruction, when acting under the direction and supervision of

1 persons registered or licensed under this chapter or chapter 18.29 or
2 18.32 RCW; ((~~or~~))

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

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

9 NEW SECTION. Sec. 8. A new section is added to chapter 18.350
10 RCW to read as follows:

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

15 NEW SECTION. Sec. 9. A new section is added to chapter 74.09
16 RCW to read as follows:

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

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

27 NEW SECTION. Sec. 10. Sections 1 through 4 of this act
28 constitute a new chapter in Title 70 RCW.

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