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## FISCAL IMPACT REPORT

ORIGINAL DATE 02/04/14  
 SPONSOR Roch LAST UPDATED 02/19/14 HB 306/aHJC  
 SHORT TITLE Dental Therapist Hygienist Act SB \_\_\_\_\_  
 ANALYST Weber

### ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY14	FY15	FY16	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
<b>Total</b>		\$15.0	\$15.0	\$30.0	Recurring	General Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

Relates to SB 76

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Regulation and Licensing Department (RLD)  
 Department of Health (DOH)

### SUMMARY

#### Synopsis of HJC Amendment to House Bill 306

The House Judiciary Committee amendment to House Bill 306 makes the following changes:

1. On page 14, lines 2 through 6, strike Subsections I and J in their entirety.
2. Reletter the succeeding subsections accordingly.

This eliminates the following:

- I. A licensee shall bear the costs of disciplinary proceedings unless exonerated.
- J. Any person filing a sworn complaint shall be immune from liability arising out of civil action if the complaint is filed in good faith and without actual malice.

#### Synopsis of Bill

House Bill 306 creates the Dental Therapist-Hygienist Act and establishes a new dental provider entitled the “dental therapist-hygienist”. HB 306 would amend the NM Gross Receipts and Compensating Tax Act, the New Mexico Drug, Device and Cosmetic Act, the Public Assistance Act, the Health Maintenance Organization Law, the Nonprofit Health Care Plan Law and the Dental Health Care Act.

The legislation:

- Establishes a new dental provider entitled the “dental therapist-hygienist”, supervisory requirements and agreement guidelines with a sponsoring dentist in order to practice as a dental therapist. Scope of practice includes: (1) behavioral management, oral health instruction and disease prevention education, including nutritional counseling and dietary analysis; (2) diagnosis of dental disease and the formulation of an individualized treatment plan, including caries risk assessment; (3) preliminary charting of the oral cavity; (4) prescribing, exposing and interpreting radiographs; (5) mechanical polishing of teeth and restorations; (6) application of topical preventive or prophylactic agents, including fluoride varnishes and pit and fissure sealants; (7) pulp vitality testing; (8) application of desensitizing medication or resin; (9) fabrication of athletic mouthguards; (10) placement of temporary restoration; (11) tissue conditioning and soft reline; (12) a traumatic restorative therapy; (13) dressing changes; (14) tooth reimplantation and stabilization of reimplanted teeth; (15) administration of local anesthetic and nitrous oxide; (16) extractions of primary teeth; (17) extractions of permanent teeth that have no impactions and no need of sectioning for removal; (18) emergency palliative treatment of dental pain; (19) placement and removal of space maintainers; (20) cavity preparation; (21) restoration of primary and permanent teeth; (22) placement of temporary crowns; (23) preparation and placement of pre-formed crowns; (24) pulpotomy of primary teeth; (25) indirect and direct pulp capping on primary and permanent teeth; (26) suture removal; (27) brush biopsies; (28) simple repairs and adjustments to removable prosthetic appliances; (29) re-cementing of permanent crowns; (30) prevention of potential orthodontic problems by early identification and appropriate referral; (31) prevention, identification and management of dental and medical emergencies and maintenance of current basic life-support certification; (32) prescribing, dispensing and administration of analgesics, anti-inflammatory medications and antibiotics only within the parameters of a dental therapist-hygienist management agreement; and (33) other related services as permitted by board rules.
- Establishes that the dental therapist-hygienist can work in the following locations within dental health professional shortage areas: (1) private and public dental and medical offices; (2) public and community medical facilities; (3) schools; (4) hospitals; (5) long-term care facilities; and (6) other settings within dental health professional shortage areas, as determined by joint committee rules.
- Establishes overall training and licensing requirements, supervisory authority, disciplinary actions and procedures; and reciprocity requirements for licensure from another state.
- Establishes guidelines for temporary licensure of a "dental therapist-hygienist" practicing and in good standing from another state to practice in New Mexico.
- Establishes a joint committee and membership which includes a dental therapist advocate to regulate, license and discipline dental therapist-hygienists and unlicensed dental therapists.
- Creates sunset provisions for the Dental Therapist-Hygienist Act.

- Establishes general administrative guidelines for the licensing fees, renewal of licenses and other general procedures.
- Allows the dental therapist-hygienist to be eligible to participate in the NM Gross Receipts and Compensating Tax Act.
- Includes and provides the dental hygienist–therapist prescription authority.
- Amends the New Mexico Dental Health Care Act by including the dental hygienist – therapist in the policies and procedures governing the Dental Health Care Board.
- Includes the dental therapist-hygienist in the provisions of the Uniform Licensing Act, the Public Health Assistance Act, the Health Maintenance Organization and the Nonprofit Health Care Plan Act.

### **FISCAL IMPLICATIONS**

RLD anticipates the following additional costs related to the new board:

With the addition of the Joint Committee meeting costs will rise. Current reimbursement per member is approximately \$300.00 per member each meeting. Adding 13 members for four meetings per year would increase meeting costs approximately \$15,000.00 per year.

The bill does allow for reasonable fees that may offset some or all of the expenses. However, the number of potential applicants and practitioners is uncertain leaving the revenue forecast zero for the immediate future.

### **SIGNIFICANT ISSUES**

RLD offers the following commentary:

There are many major concerns with the scope of practice of the newly recommended Hygienist-Therapist:

- There are currently no dental therapy education programs.
- The competency exam to certify this hygienist-therapist would have to be the regular regional board exam taken by dentists since that is what their scope suggests.
- The definition and scope of practice includes diagnosis. One cannot perform diagnosis without the expanded scientific and clinical background that a dentist receives. One additional year and a 400 hour internship cannot prepare one to diagnose with all the myriad of considerations that must be considered.

There are several areas in the scope of practice that are major concerns:

- The education of a dental hygienist which is aimed at prevention and scaling and prophylaxis and an additional year cannot be sufficient to prepare for the scope of practice as proposed. Many of these areas require exhaustive diagnosis considerations and judgments to be made in mid-treatment that the hygienist/therapist education will not prepare the hygienist/therapist for. Specifically:

1. Tooth implantation and stabilization: This requires management of trauma situations requiring extensive training.
2. Administration of Nitrous Oxide: This requires a Dentist to have an additional certificate due to systemic considerations.
3. Extractions are often more complicated than initially thought but the problems do not appears until after the procedure is started. The result is a fully trained dentist must finish the procedure.
4. Emergency palliative treatment of pain requires advanced diagnosis.
5. Space maintenance and orthodontic referral requires extensive knowledge of orthodontics and requires a specialty license.
6. Prescribing antibiotics and anti-inflammatory requires *advanced pharmacology* which these practitioners will not have studied.
7. Diagnose and interpret radiographs- again this requires an extensive knowledge of dental pathology and radiology which this hygienist/therapist would not have.

Requiring an "advocate" on the Board is opposed to the Boards function to protect the public.

DOH reports that one of the major themes in the Surgeon General's report, "Oral Health in America", is that oral health is "essential to the general health and well-being of Americans...however not all Americans are achieving the same degree of oral health. The report found a significant disparity between racial and socioeconomic groups in regard to oral health and ensuing overall health issues." Based upon its findings the Surgeon General called for action to promote access for oral health care for all Americans, especially the disadvantaged and minority children found to be at risk for medical complications resulting from minimal oral health care and treatment.

Access to care is largely affected by an overall shortage of dental providers in New Mexico, as well as a shortage of dental providers practicing in *rural/frontier* and underserved areas. The federal government has designated all or part of 32 counties as Dental Health Professional Shortage Areas. (<http://hpsafind.hrsa.gov/HPSASearch.aspx>)

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