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**SUBSTITUTE HOUSE BILL 1414**

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**State of Washington**

**65th Legislature**

**2017 Regular Session**

**By** House Community Development, Housing & Tribal Affairs (originally sponsored by Representatives Stonier, Sawyer, Smith, Ryu, Hayes, Cody, Stambaugh, Appleton, Stokesbary, Fitzgibbon, Peterson, Wilcox, Barkis, Gregerson, Macri, Jinkins, Chapman, Pollet, Ortiz-Self, Robinson, Frame, Kagi, Dolan, and Doglio)

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;

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

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

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

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

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

5 NEW SECTION. **Sec. 3.** The definitions in this section apply  
6 throughout this chapter unless the context clearly requires  
7 otherwise.

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

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

18 (3) "Indian health program" has the same meaning as the  
19 definition provided in the Indian health care improvement act, 25  
20 U.S.C. Sec. 1603, as that definition existed on the effective date of  
21 this section.

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

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

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

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

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

1       (4) The performance of dental health aide therapist services to  
2 the extent authorized under chapter 70.--- RCW (the new chapter  
3 created in section 9 of this act).

4       **Sec. 5.** RCW 18.32.030 and 2012 c 23 s 7 are each amended to read  
5 as follows:

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

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

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

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

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

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

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

1 shall be available to and subject to the examination of the secretary  
2 or the secretary's authorized representatives;

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

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

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

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

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

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

32 (d) Any oral prophylaxis;

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

36 (10) The performing of dental services described in RCW  
37 18.350.040 by dental anesthesia assistants certified under chapter  
38 18.350 RCW when working under the supervision and direction of an  
39 oral and maxillofacial surgeon or dental anesthesiologist; and

1       (11) The performance of dental health aide therapist services to  
2 the extent authorized under chapter 70.--- RCW (the new chapter  
3 created in section 9 of this act).

4       **Sec. 6.** RCW 18.260.110 and 2012 c 229 s 502 are each amended to  
5 read as follows:

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

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

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

18       (3) Dental assistant education and training programs, and the  
19 practice of dental assisting by students in dental assistant  
20 education and training programs approved by the commission or offered  
21 at a school approved or licensed by the workforce training and  
22 education coordinating board, student achievement council, state  
23 board for community and technical colleges, or Washington state skill  
24 centers certified by the office of the superintendent of public  
25 instruction, when acting under the direction and supervision of  
26 persons registered or licensed under this chapter or chapter 18.29 or  
27 18.32 RCW; ((~~or~~))

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

31       (5) The performance of dental health aide therapist services to  
32 the extent authorized under chapter 70.--- RCW (the new chapter  
33 created in section 9 of this act).

34       NEW SECTION. **Sec. 7.** A new section is added to chapter 18.350  
35 RCW to read as follows:

36       Nothing in this chapter may be construed to prohibit or restrict  
37 dental health aide therapist services to the extent authorized under

1 chapter 70.--- RCW (the new chapter created in section 9 of this  
2 act).

3 NEW SECTION. **Sec. 8.** A new section is added to chapter 74.09  
4 RCW to read as follows:

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

9 (2) The health care authority is directed to coordinate with the  
10 centers for medicare and medicaid services to provide that dental  
11 health aide therapist services authorized in chapter 70.--- RCW (the  
12 new chapter created in section 9 of this act) are eligible for  
13 federal funding of up to one hundred percent.

14 NEW SECTION. **Sec. 9.** Sections 1 through 3 of this act  
15 constitute a new chapter in Title 70 RCW.

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