

SUBJECT: Revising regulation of dental services

COMMITTEE: Public Health — committee substitute recommended

VOTE: 8 ayes — Gray, Coleman, Capelo, Delisi, Longoria, Maxey, Uresti,  
Wohlgemuth

0 nays

1 absent — Glaze

WITNESSES: For — *Registered but did not testify*: Jose Camacho and Steven Carriker, Texas Association of Community Health Centers; Susan Baumbach, Texas Dental Association

Against — None

On — Dianna Prachyl, Texas Dental Hygienists Association; *Registered but did not testify*: Nathaniel Tippit, Jeffrey Hill, and James Kennedy, State Board of Dental Examiners; Jerry Felkner, Texas Department of Health

DIGEST: CSHB 3507 would change the regulation of dentistry by adding Medicaid reimbursement limitations and considerations; establishing a teledentistry pilot project for school children; creating an alternative training program for dental hygienists; redefining delegated duties; establishing a temporary reciprocal licensing program; and expanding the student loan repayment grant program.

**Reimbursement.** The bill would amend the Human Resources Code to define the dental services that could be reimbursed by Medicaid. Only services or products that were a dental necessity, or considered necessary by a prudent dentist acting in accordance with generally accepted practices, could be provided under Medicaid.

The Texas Department of Health (TDH) would have to regulate dental services under Medicaid. TDH would have to:

- ! ensure that a stainless steel crown was not used as a preventative measure;
- ! require dentists to document the dental necessity of stainless steel crowns used in treatment;
- ! require dentists to comply with a record-keeping standard for all patients, whether private-pay or Medicaid;
- ! develop an alternative evaluation system in conjunction with the Board of Dental Examiners and use it to replace the 15-point system used to determine the dental necessity of hospitalization and general anesthesia; and
- ! implement anti-fraud measures, including a zero tolerance policy, aggressive investigation and prosecution, and random audits.

In setting reimbursement rates for dental services under Medicaid, TDH would have to:

- ! make the reimbursement rate the same for a stainless steel crown as for an amalgam or resin filling;
- ! reduce the reimbursement rate for hospitalization;
- ! eliminate the behavior management fee, except for patients with a mental or physical disability, and the nutritional consultation fee; and
- ! redistribute funds from the reduced or eliminated fees to other dental services.

CSHB 3507 would direct state agencies to seek any necessary federal waivers or authorizations needed to implement the bill's provisions. The agency could delay implementation until the federal waivers or authorization was granted.

**Teledentistry.** CSHB 3507 would authorize a licensed dentist to delegate services to a dental hygienist if the dental hygienist was licensed to perform that service and the dentist remotely supervised it through audio and video telecommunications. If the dentist had examined the patient within the past 12 months and the delegated services did not include diagnosis, prescription of treatment regimen or medication, or invasive procedures, the dental hygienist could act independently of the dentist's supervision.

The DHS commissioner would have to appoint a program administrator to create a teledentistry pilot program to provide dental services to students in a selected public school district. This program would have to be developed to enhance access to dental services and dental education to students under appropriate supervision by a dentist and to provide information to the state about the efficacy of teledentistry. Both the dentist and the hygienist would have to live in the school district.

Services in this pilot program could include prevention, screening, and assessment. Teledentistry could not replace in-person consultation if such consultation was readily available and students could be referred to local dentists for restorative care. Medicaid would reimburse teledentistry services in the pilot program only at the rate for comparable services in person.

The administrator of the pilot program would have to create a control group of 1,000 students who would be examined at the end of the program to assess the comparable effect of the pilot program. Results would be used to assess the efficacy of teledentistry in providing services and educating students and would form the basis for a comprehensive report to the Legislature by December 31, 2002, at which time the pilot program and advisory committee would expire.

The DHS commissioner would have to appoint a program director within 30 days of the bill's effective date. The program director would have to appoint an advisory committee and begin implementing the pilot program within 30 days following the director's appointment.

**Training for dental hygienists.** CSHB 3507 would create an alternative dental-hygiene training program. This program would require four semesters of education from an approved institution that included anatomy, pharmacology, and other related topics, and 1,000 hours of clinical training, including in specific procedures. Students who had completed at least two years of full-time employment that involved clinical duties in a dental practice would be eligible for the training program. Dentists and dental hygienists that trained students in an alternative program would have to meet standards of education, practice experience, and continuing education.

The Board of Dental Examiners would have to adopt rules for alternative programs by January 1, 2002. The board also would have to appoint an advisory committee, which would include three hygienists, three dentists, one hygienist educator, and one dental educator, recommended by their respective peer groups or boards. In helping to develop the program, this advisory committee would have to consider the standards adopted by the Commission on Dental Accreditation. The program would expire December 31, 2004, if it was not accredited by the commission by then.

**Delegated duties.** CSHB 3507 would authorize a licensed dentist to delegate the cleaning and application of a pit and fissure sealant to a dental assistant if the dentist was a Medicaid provider or practiced in an underserved area. The board would have to issue a pit and fissure sealant certificate to dental assistants who had at least two years' experience and had completed 16 hours of related training. Renewal of the certificate would require continuing education.

A dentist also could delegate services to a hygienist in a nursing home or a school health center if the hygienist had at least two years of experience. The patient then would have to be referred to a dentist.

**Reciprocal licensing.** CSHB 3507 would establish a temporary reciprocal licensing program that temporarily would waive the experience requirement for a reciprocal license for dentists and hygienists licensed in other states. This temporary license would be available to dentists and hygienists in an underserved area that were employed by a nonprofit organization that accepted Medicaid. The temporary license would expire when the applicant no longer met those requirements.

**Repayment of student loans.** CSHB 3507 would amend the Education Code by authorizing repayment assistance for dental students' loans from schools in any state. It would remove the five-year limit for repayment assistance grants.

This bill would take effect September 1, 2001.

SUPPORTERS  
SAY:

**Reimbursement.** The changes in reimbursement proposed in CSHB 3507 would prevent fraud in the Texas Health Steps Dental Services Program, the medical and dental prevention and treatment program for children of low-income families. During the interim before the 77th Legislature, the House General Investigating Committee uncovered procedures and billing codes in this program that were prone to fraud, including improper use of stainless steel crowns, unnecessary hospitalization, and bill padding. CSHB 3507 would change the reimbursement regulations to prevent fraud by removing the financial incentive and by removing reimbursement for two services, behavior management and nutritional counseling.

The bill also would prevent fraud by directing the Health and Human Services Commission to perform audits. Audits are the only way for the state to reconcile billing with claims in cases where fraud is suspected. Random audits also could prevent fraud because providers would understand that they could be audited and that the fraud could be discovered even if it did not appear to be outside normal billing patterns.

**Teledentistry.** CSHB 3507 would provide dental services to underserved populations, including elderly people in nursing homes and children. By authorizing dental hygienists to perform delegated services, the bill would increase access to health services for elderly people in nursing homes. Because the elderly often have oral health problems associated with their medications or age, it is particularly important to provide regular services in nursing homes.

The bill also would create a teledentistry pilot program for children in a particular school district, which would allow the state to provide dental services where none exist now. The pilot program would allow the state to determine the best practices for delivering dental services before initiating a full-scale program.

**Training for dental hygienists.** CSHB 3507 would address Texas' shortage of dental hygienists by creating an alternative training program. Instead of spending two years in a classroom, students could spend one year in the classroom and a second year in clinical training. The alternative training program would be open only to applicants with at least two years' experience in a clinical setting in a dentist's office, ensuring that the students

would have a familiarity with the skills and knowledge presented in the program and making the accelerated classroom learning appropriate.

**Delegated duties.** The bill would increase access to dental sealants, which would improve oral health for residents of underserved areas. A dental sealant is a plastic coating that is bound to the grooves of teeth, resulting in a smoother tooth surface that is less likely to trap plaque and develop cavities. Dental hygienists perform many delegated functions, and applying sealants should be included to maximize access to this effective oral health procedure.

**Reciprocal licensing and repayment of student loans.** CSHB 3507 would encourage more out-of-state dentists and dental hygienists to practice in Texas. The current reciprocal licensing program requires that dental professionals have a certain number of years of experience before they can obtain a reciprocal license in Texas. The student loan repayment grant program now pays back loans only for graduates of Texas schools. Loan repayment for out-of-state loans would encourage dental health professionals to come to Texas.

OPPONENTS  
SAY:

**Reimbursement rates.** Preventing fraud is important, but the changes in CSHB 3507 would lower or remove some legitimate fees. Hospitalization is warranted in some cases, and reducing the rate could make it difficult for patients to receive adequate care. Also, the behavior management fee is appropriate in cases where children who do not receive regular dental care are apprehensive about the visit and “act out.” Regular and random audits alone would prevent fraud, while ensuring that patients received the care they needed.

**Training for dental hygienists.** The alternative training program proposed by the bill would diminish the quality of dental care that hygienists provide. This training would not provide the rigorous classroom practice that current training programs use to prepare students to treat patients. This could result in poorly trained hygienists and dissatisfied or mistreated patients.

NOTES:

The bill’s fiscal note estimates a net cost to the state of about \$142,800 in general revenue in fiscal 2002-03 due to Medicaid client benefit costs and

administrative costs. Thereafter, the net revenue impact would be positive because of program savings.

The committee substitute added these provisions:

- ! requiring dentists to document the dental necessity of stainless steel crowns used in treatment;
- ! requiring dentists to comply with a record-keeping standard for all patients, whether private-pay or Medicaid;
- ! making the reimbursement rate the same for a stainless steel crown as for an amalgam or resin filling; and
- ! eliminating the nutritional consultation fee.

The substitute also added the sections creating the teledentistry pilot program, the alternative dental hygiene training program, and the temporary reciprocal licensing program.