

LFC Requester:	Eric Chenier
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**AGENCY BILL ANALYSIS
2017 REGULAR SESSION**

WITHIN 24 HOURS OF BILL POSTING, EMAIL ANALYSIS TO:

LFC@NMLEGIS.GOV

and

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{Include the bill no. in the email subject line, e.g., HB2, and only attach one bill analysis and related documentation per email message}

SECTION I: GENERAL INFORMATION

{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}

Check all that apply: Date 3/13/17
Original **Amendment** **Bill No:** HB264/aHHH/aHSIVC
Correction **Substitute**

Sponsor: Representative Dennis J. Roch **Agency Code:** 924
Senator Daniel A. Ivey-Soto
Short Title: ACCESS TO DENTAL CARE ACT **Person Writing:** Paul J. Aguilar/Elizabeth Cassel
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SECTION II: FISCAL IMPACT

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY17	FY18	FY19	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total		Significant	Significant	See Fiscal Implications	Recurring	General

(Parenthesis () Indicate Expenditure Decreases)

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis of House Bill 264/aHHH as amended by the Health and Human Services Committee (HB-264/aHHH/aHSIVC):

HB-264/aHHH/aHSIVC amends House Bill 264/aHHH by removing requirements for student action and instead prescribes requirements for schools and parents to emphasize the importance of receiving dental examinations. The amendment provides for schools to act as mediators between the New Mexico Public Education Department and the students to ensure that their parents are provided this information. HB-264/aHHH/aHSIVC removes the dental examination as a requirement and, instead, places emphasis on the importance of a dental examination as a prerequisite for school enrollment. The PED is also required to provide annual reports on data collected from schools in regards to complicity with this regulation.

Fiscal Implications of HB-264/aHHH/aHSIVC :

HB-264/aHHH/aHSIVC appropriates no funding to amend or to execute changes to the Dental Care Act, to the DOH to conduct its study and report, or to the New Mexico Public Education Department (PED) to adopt and promulgate new rules, regulating the requirement of schools to emphasize to parents the importance of each student obtaining a dental examination prior to initial enrollment. HB-264/aHHH/aHSIVC requires the PED to oversee schools' assurance of compliance to the new dental examination requirements. No funds are provided in HB-264/aHHH/aHSIVC to support additional PED staff or resources needed for such oversight.

Significant Issues of HB-264/aHHH/aHSIVC

HB-264/aHHH/aHSIVC removes the requirement of students obtaining dental examinations at their own expense or at the expense of any dental health coverage they would have, and instead requires that schools advise students to obtain such dental examinations. HB-264/aHHH/aHSIVC requires the secretary to adopt and promulgate rules and for schools to mediate between the PED's requirements and students, emphasizing to parents the importance of students obtaining a dental examination, and for schools to provide extensive education for parents and guardians, explaining the importance of obtaining a dental examination. Finally, HB-264/aHHH/aHSIVC replaces the PED's data collection and reporting requirement regarding student compliance to indicate school compliance with the provisions of this bill.

Though HB-264/aHHH/aHSIVC amends HB-264/HHHa to remove dental examination requirements for students prior to initial school enrollment, it still requires schools to advise students to obtain dental examinations and also requires the secretary to adopt and promulgate rules for schools to emphasize to parents the importance of students obtaining a dental examination and to provide extensive education for parents and guardians explaining the importance of obtaining a dental examination. This is an unnecessary expansion of government and is an unneeded implementation of additional rules to insure parents are provided information.

The McKinney-Vento Homeless Assistance Act as reauthorized by Title X, Part C of the Every Student Succeeds Act, requires all local education authorities (LEAs) to enroll students, who may be identified as homeless, in foster care or migrant, immediately, even without normally required documentation, including school records, medical or immunization records, among others. To require that schools provide the importance of a dental examination to the parents of such students at their own expense or through a dental health provider prior to enrollment would contravene the law. States and LEAs must maintain policies that remove barriers to school enrollment or retention of homeless children and youth (<http://nche.ed.gov/legis/mv.php>).

Administrative Implications of HB-264/aHHH/aHSIVC

HB-264/aHHH/aHSIVC requires the Secretary of the PED to adopt and promulgate rules that require public schools to provide emphasis concerning the importance of dental examinations to students' parents for students to enroll in schools. The bill further requires the PED to provide statewide education on the requirements for dental examination and to disseminate information to parents and guardians on available resources for authorized healthcare professionals to perform such exams. The PED currently has no specific staff or resources dedicated to dental therapy, examination or hygiene regulations or best practice information. This additional provision would need to be carried out with existing staff and resources, potentially taxing an already significant workload for specific staff members.

Synopsis of House Bill 264 as amended by the Health and Human Services Committee (HB-264/aHHHC):

HB-264/aHHHC amends House Bill 264 (HB264) by omitting sections of the Public Health Act that would require reporting and establishing an Office of the State Dental Director. HB-264/aHHHC replaces the section pertinent to the state dental director in HB264 with the Director of the Office of Oral Health of the Department of Health (DOH) as the dental health care professional licensed, pursuant to the Dental Health Care Act.

Substantive Issues of HB-264/aHHH/aHSIVC

HB-264/aHHH/aHSIVC provides no direction and raises concerns as to any potential consequences for students who are new enrollees and whose parents do not receive a school's emphasis on the importance of dental examinations, and how this may affect a student's enrollment status. Additionally, there is no clear indication as to any consequences for schools that are reported to be non-compliant with this requirement.

Synopsis of Original HB264:

House Bill 264 (HB264) amends and enacts new sections to the Dental Care Act to establish the profession of dental therapist, which includes:

- monitoring of dental therapy,
- regulation and issuance of licenses,
- scope and location of practice, and
- supervision of dental therapists and community dental health coordinators.

The bill is the result of the work of a dental care task force established through 2015 Senate Memorial 136, consisting of members of the legislature, dentists, dental hygienists, and representatives of Health Action New Mexico.

HB264 adds new terms and definitions: "collaborative dental therapy agreement," "commercial dental service organization," "dental therapist," "federally qualified health center," "federally qualified health center look-alike facility," and "long-term care facility" to the definitions provided in Section 61-5A-4 NMSA 1978.

HB264 further enacts a new section of the Public Health Act to establish an office of State Dental Director, adding a dental health care subcommittee to the Legislative Finance Committee.

HB264 further enacts a new section of the Public Health Act to require the New Mexico department of health (DOH) to investigate and recommend legislative actions related to statewide dental health care access in a written report by October 2018, and each October thereafter to the legislative finance committee. The report would include status of dental health care professional education loan-for-service programming, the feasibility of establishing a program allowing Bachelor of Arts degree recipients to matriculate directly into dental school, the status of the state's Medicaid program and the number of dental health care professionals taking advantage of the rural health care practitioner tax credit.

A temporary provision to HB264 requires the DOH to consult with various agencies and to provide an outcome report on the multiple components of this act to the legislative health and human services committee after 5 years.

HB264 further enacts a new section of the public school code to require schools as of July 1, 2020, to emphasize to parents the importance of each student obtaining a dental examination that meets standards established pursuant to department rules prior to initial enrollment. The rules shall specify that students obtain dental examinations at their own expense or at the expense of any dental health coverage they may have.

HB264 amends sections of the public assistance act and the nonprofit health care plan law to provide for reimbursement of dental therapy, provided by licensed dental therapists, and requires the DOH to conduct a five year study on dental therapy practice in the state.

HB264 becomes effective on June 16, 2017 for Sections 1-13 and 15-19; section 14 becomes effective on June 16, 2019.

FISCAL IMPLICATIONS

Fiscal Implications of Original HB264

HB264 appropriates no funding to amend or to execute changes to the Dental Care Act, to the DOH to conduct its study and report, or to the New Mexico Public Education Department (PED) to adopt and promulgate new rules regulating the requirement of schools to emphasize to parents the importance of each student obtaining a dental examination prior to initial enrollment. The PED would need to oversee assurance that schools emphasize to parents the importance of each student obtaining a dental examination prior to initial enrollment enacted in this bill. No funds are provided in HB264 to support additional staff persons needed for such oversight.

SIGNIFICANT ISSUES

Significant Issues of HB-264/aHHHC

HB-264/aHHHC removes the requirement for the creation of a State Dental Director in HB264 by requiring that the Director of the Office of Oral Health of the DOH be a licensed dental health care professional. This amendment would avoid an unnecessary expansion of existing government positions and services within the DOH.

Significant Issues of Original HB264

While there are number of positive provisions of this bill, the creation of a State Dental Director and the promulgation of rules to “emphasize to parents the importance of students obtaining a dental examination prior to enrollment in school that meets standards established by the PED” is an unnecessary expansion of government and an unneeded implementation of additional rules to insure parents are provided information.

Section 15 of HB264 enacts a new rule in the Public School Code that requires schools to emphasize to parents the importance of students obtaining a dental examination **prior to enrollment in school** that meets standards established by the PED. **This would add enrollment requirements** beyond the current state statute, specifically § 24-5-2, NMSA 1978, which requires all New Mexican children to be immunized as per the rules and regulations of the public health division and DOH and be able to provide evidence of such immunization in order to enroll in school. To preclude a child from enrolling because parents were not informed of the importance of have a dental examination is burdensome and not realistic.

New Mexico Administrative Code (NMAC) 6.12.2 and § 24-5-4, NMSA 1978 require school district superintendents and charter school directors to prepare, maintain as current, and provide records to prove the immunization status of every child that attends school under their specific jurisdiction. These laws also mandate that such administrators report to the public health division any parent or guardian who neglects or refuses to permit his/her child to be immunized. A similar process would need to be identified in relation to schools providing assurance that they emphasized the importance of students' dental examination requirements prior to school enrollment as stipulated in HB264. HB264 further requires the PED to report on the student compliance to this provision through data analysis, reported to the legislative committees annually.

In regard to creating a state dental director (dental provider), the Office of Oral Health exists within the DOH, staffed by public health, dental providers, social workers and contracts with a dentist to assist with its operations. This appears to an unnecessary expansion of government.

According to a Kaiser Family Foundation report, the Health Professional Shortage Area for New Mexico is greater than 67 percent, making the state 37th among all states in provision of healthcare professionals (<http://kff.org/other/state-indicator/dental-care-health-professional-shortage-areas-hpsas/?currentTimeframe=0>).

The New Mexico 2015 Youth Risk and Resiliency Survey (YRRS) data results indicated that 73.5 percent of high school students, Grades 9 through 12, with a slighter lesser percentage of middle school students, had seen a dentist during the past year (www.youthrisk.org).

It is unclear in HB264 if in a situation where a student who transfers from one local education agency to another and the student's parents do not receive school emphasis concerning the importance of a dental examination, if this student would then be disenrolled or considered truant.

The McKinney-Vento Homeless Assistance Act as reauthorized by Title X, Part C of the Every Student Succeeds Act, requires all local education authorities (LEAs) to enroll students, who may be identified as homeless, in foster care or migrant, immediately, even without normally required documentation, including school records, medical or immunization records, among others. To require that schools provide the importance of a dental examination to the parents of such students prior to enrollment would contravene the law. States and LEAs must maintain policies that remove barriers to school enrollment or retention of homeless children and youth (<http://nche.ed.gov/legis/mv.php>).

The federal government has designated all or part of 32 counties of New Mexico as Dental Health Professional Shortage Areas (<http://hpsafind.hrsa.gov/HPSASearch.aspx>). The DOH Office of Oral Health expresses concern about the availability of dental healthcare providers for all school children, especially in rural areas of the state. Additionally, the question has been raised as to what treatment would be required for children, following a dental exam, who would be able to provide such treatment and at what costs. A further concern would be in whether students would be denied access to an education in the event of a shortage of dental therapy personnel available to provide any treatment.

PERFORMANCE IMPLICATIONS

None noted as of 3/6/2017

ADMINISTRATIVE IMPLICATIONS

Administrative Implications of Original HB264

The regulation of the new profession would be needed through the New Mexico Regulation and Licensing department (RLD). The implications of this requirement are difficult to predict.

HB264 requires the Secretary of the PED to adopt and promulgate rules that require public schools to provide emphasis concerning the importance of dental examinations to students' parents for students to enroll in schools. The bill further requires the PED to provide statewide education on the requirements for dental examination and to disseminate information to parents and guardians on available resources for authorized healthcare professionals to perform such exams. The PED currently has no specific staff or resources dedicated to dental therapy, examination or hygiene regulations or best practice information.

OTHER SUBSTANTIVE ISSUES

Substantive Issues of Original HB264

Concerns in relation to HB264 would also include the availability of treatment for children referred for dental therapy, who would provide such treatment, and the associated costs. Also of concern are potential cases of students that are new enrollees, whose parents do not receive a schools' emphasis on the importance of dental examinations, and how this may affect a student's enrollment or whether or not truancy would be considered in the case where a student is not immediately enrolled.

ALTERNATIVES

None as of 3/6/2017

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Consequences of not enacting HB-264/aHHH/aHSIVC

Not enacting HB-264/aHHH/aHSIVC would leave the Dental Care Act, related NMSA statutes and the public school code, unaltered in reference to dental care for New Mexicans. Public school enrollment requirements would not change to include proof of schools providing emphasis to parents of students on the importance of a dental examination as a prerequisite for enrollment.

Consequences of not enacting HB-264

Not enacting HB264 would leave the Dental Care Act, related NMSA statutes and the public school code unaltered in reference to dental care for New Mexicans. Public school enrollment requirements would not change to include proof of a dental examination as a prerequisite for enrollment.