

U.S. Senate votes botax out, dental therapists in

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By: Laird Harrison, Senior Editor

A compromise amendment to the U.S. Senate healthcare bill would allow dental health aide therapists to practice outside Alaska where supported by new state or federal law and eliminate the proposed "botax" on cosmetic procedures. The amendment would also extend the Children's Health Insurance Program to 2015.

The changes were part of a suite of compromises hammered into a single amendment by Sen. Majority Leader Harry Reid, D-NV, in order to ensure the 60 votes necessary to overcome a Republican filibuster.

The amendment passed by a vote of 60-39 along party lines, and the bill itself looks certain to pass, after which it must be reconciled with a significantly different bill passed last month by the U.S. House of Representatives.

Most attention has focused on provisions in the amendment dealing with abortion and government-run insurance programs. But the amendment also affects dentistry, both directly and indirectly.

Therapists allowed

Perhaps the most controversial dental provision opens the door for the dental health aide therapist program that started in Alaska in 2005 to expand to other states if authorized by state or federal law. With two years of specialized training after high school, the therapists can do a wide range of basic dentistry, including simple extractions and restorations.

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— Danielle Grote Erbele, senior policy analyst for the Children's Dental Health Project

The ADA, which lost a lawsuit in 2007 to shut down the program in Alaska, lobbied for language in the reauthorization of the Indian Health Improvement Act to prohibit the program from expanding to other states. The U.S. House of Representatives included such language in its version of healthcare reform legislation, and the earlier draft of the Senate's version had an identical section.

With other dental organizations lining up on both sides of the issue, Sen. Al Franken, D-MN, whose state has set up its own dental therapist program, tried to have that section removed. After a hearing in which the ADA squared off with proponents of the therapist program, Sen. Franken worked out a compromise with Sen. Byron Dorgan, D-ND, chairman of the Committee on Indian Affairs.

The compromise allows therapists to set up practice outside Alaska under limited circumstances, said Barry Piatt, an aide to Sen. Dorgan, in an e-mail to DrBicuspid.com. "In a nutshell, two conditions have to be met: the program would have to be part of a program authorized by state law, a federal demonstration project, or future federal law; AND a tribe would have to elect to participate in it. If those two conditions are met, the IHS [Indian Health Service] would be authorized to pay for it."

The bill would apparently still prevent the IHS from employing dental health aide therapists to work outside Alaska under existing federal legislation. The Alaska legislature never authorized the program in that state but was unable to stop it because it was administered through existing provisions of the Indian Health Improvement Act.

But the Senate bill itself may furnish the new authorizing law, in a limited scope, because it also includes funding for midlevel dental provider demonstration projects. "This is Congress's way of saying, 'Go ahead and test all the models,'" said Danielle Grote Erbele, senior policy analyst for the Children's Dental Health Project (CDHP).

Of the states, currently only Minnesota has authorized a program for midlevel dental providers who can extract teeth, but Connecticut and Washington are considering similar programs.

The Senate bill as amended would prohibit therapists from being hired for positions that are now held by dentists. And it calls on the secretary of health and human services to study the success of Alaska's therapist program.

"I think it's a good compromise," said Jennifer Cooper, legislative director of the National Indian Health Board, the chief lobbying group for American Indians on health issues. "The need for dental health in Indian Country is great."

Botax out, CHIP extended

The elimination of a so-called "botax" on cosmetic procedures had also roused opposition, particularly from cosmetic physicians and dermatologists. The ADA went on record against it, though it wasn't clear which dental procedures, if any, would have been slapped with the 5% tax. Patients would have had to pay the tax, and practitioners would have had to collect it. (The botax was replaced by a 10% tax on tanning salons, reportedly at the urging of dermatologists.) The House bill, which raises most of its money from an income tax, includes no cosmetic tax.

A third provision of the amendment extends the life of CHIP until 2015. CHIP provides health insurance to children between 100% and 200% of the federal poverty line, picking up where Medicaid leaves off. It includes dental benefits even for children who have other types of health insurance.

The law authorizing the program expires Sept. 30, 2013, which is also the date used in the House bill. In both versions of the bill, after CHIP ends the federal government will instead subsidize the premiums that the children's families pay to purchase insurance through a public exchange. Insurance in the exchanges would have to include dental benefits for children.

In both the House and Senate bills, the secretary of health and human services would have to certify that the benefits in the exchange are at least as good as those in CHIP.

One more provision of the amendment would affect dental coverage in unclear ways. In the original Senate bill, the government would run its own insurance program available to people who can't get insurance otherwise. The amendment scratches the idea of a new government-run program and replaces it with one in which the government contracts with private insurers for the same purpose. It has been described as offering benefits similar to those now available to federal employees.

"There is concern about what kind of dental benefits would be offered," said Erbele. "As long as it's not defined, who knows what it would look like? When I was a federal employee, I had to pay out of pocket for a cleaning." Most federal employees purchase separate dental benefits, she said.

What's next?

The ADA has not commented on the dental therapist compromise, but in a bulletin posted on its Web site, the organization expressed hope for a last-minute amendment to expand Medicaid dental benefits.

Offered by Sen. Charles E. Grassley (R-IA), the amendment would "provide enhanced fees for evaluation and management services, including dental services, furnished to Medicaid-eligible individuals under the age of 19," the ADA said, adding that the amendment would also limit medical malpractice damages.

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