

Legislative Analysis



MOBILE DENTAL FACILITY

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House Bill 4865 (Substitute H-2)
Sponsor: Rep. Peter MacGregor
Committee: Health Policy

Complete to 12-11-13

A SUMMARY OF HOUSE BILL 4865 AS REPORTED BY COMMITTEE 12-3-13

The bill would:

- Regulate mobile dental facilities.
- Require a permit issued by LARA.
- Require mobile dental facilities to comply with state and federal laws regarding infectious waste management and disposal and sanitation.
- Require certain information be provided to patients.
- Require an annual report by each operator of a mobile dental facility regarding services provided to Medicaid and uninsured patients.
- Subject regulated dental professionals to administrative discipline for certain conduct.
- Define terms.

House Bill 4865 would create Part 216, entitled "Mobile Dental Facility," within Article 17 (Facilities and Agencies) of the Public Health Code.

The bill requires the Department of Licensing and Regulatory Affairs (LARA) to provide oversight of mobile dental facilities via a permitting and annual reporting process. An operator of a mobile dental facility would have to obtain a permit before offering dental services at the facility. The facility would have to have an operator in charge at all times. An operator may contract or employ other dentists, dental hygienists, or dental assistants to work in the mobile facility and the operator could hold a permit for multiple mobile dental facilities.

"Mobile dental facility" is defined to mean either a facility where dental services are rendered using portable equipment or a self-contained, intact facility in which dentistry or dental hygiene is practiced that may be transported from one location to another.

An "operator" would mean a dentist or dental hygienist with a current and valid Michigan license who utilizes and holds a mobile dental facility permit. The term would also include a Michigan nonprofit or for-profit corporation or any governmental agency which contracts with individuals licensed to practice dentistry or dental hygiene in the state, who utilizes and holds a permit for a mobile dental facility.

The bill would exempt from regulation under the new Part 216 a mobile dental facility and any individual or entity that owns, operates, or provides services at the mobile dental facility if it is used solely to provide services that are rendered without compensation.

A brief description of the bill follows:

Permits

- LARA would establish a permit application and renewal process, determine registration fees, and late renewal fees. (The fees are not established in the bill, but a registration fee could not exceed the cost of a dental license renewal fee; a late fee would be charged for an application that is not timely filed.) Applications would have to be approved or denied within 60 days of receipt. Permits would be valid for three years.
- Compliance by an operator with all applicable requirements of Part 216 would be required for permit approval.
- Permits would not be transferable, but could be used as an interim permit while the new operator of an existing facility applied for a new permit.
- Permit applications would have to include certain information as specified in the bill, such as a list of each dentist, dental hygienist, or dental assistant providing services within the mobile dental facility. A written plan and procedure for providing emergency follow-up care to each patient treated at the mobile dental facility would also have to be provided to LARA with the permit application, along with proof of general liability insurance issued by a Michigan-licensed insurance carrier.
- If an operator did not provide for follow-up services at a site within a reasonable distance for the patient, the permit application would have to include a signed memorandum of agreement between the operator and at least one dentist or party who could arrange for or provide follow-up services within a reasonable distance for the patient. The MOA would have to state that the contracting dentist or party would accept patients treated at the mobile dental facility.
- If the operator only provided preventive dental services, a signed MOA between the operator and at least one dentist or party who could arrange for or provide comprehensive dental services to the patient within a reasonable distance for the patient would have to be included in the permit application.

Requirements of Operators

- Compliance with all applicable federal, state, and local laws, regulations, and ordinances concerning such things as radiographic equipment, flammability, sanitation, zoning, and construction standards (including access for persons with disabilities), and also to state, federal, and local laws and administrative rules and regulations pertaining to sanitation, infectious waste management and disposal, occupational safety, and disease prevention.
- Maintaining onsite availability of a communication device for making and receiving telephone calls and summoning emergency services.
- Establishing a written treatment plan for each patient, and provide the patient with a copy. If the treatment plan cannot be completed during the initial visit, the

operator or designee must make a reasonable attempt to refer the patient to a dentist or party who can arrange for or provide services under an MOA until the treatment is completed or the patient ceases treatment. The operator would have to attempt to contact a parent or guardian regarding the referral if the patient were a minor or incapacitated person.

- Placing written documentation of the attempts to make arrangements for continued care in the patient's record, making the documentation available to LARA upon request, and sending a copy to the patient. Failure to comply with this provision would be grounds for disciplinary action by the Board of Dentistry (the bill does not specify the type of action the Board could take, such as fine or license sanctions).
- Obtaining written consent of patients prior to providing dental services. Parents or guardians of minors or incapacitated individuals could provide consent. Certain information would be required to be on the consent form such a list of services to be provided to the patient and a statement that the patient understands that treatment may be obtained at the patient's dental home rather than at a mobile dental facility, and that obtaining duplicate services at a mobile dental facility could affect benefits from private insurance, a state or federal program, or other third-party provider of dental benefits.
- Providing certain information to patients; e.g., the name of the treating dentist or hygienist who provided the services, the services rendered, and any referrals if the facility is unable to provide a necessary comprehensive dental service.
- Transmitting all imagery records for a patient to the dentist or party accepting the patient on a referral, upon request, as well as a copy of any of the patient's diagnostic imaging materials.
- Complying with applicable federal, state, or local laws and rules governing the practice of dentistry, dental hygiene, or any requirements of Article 17; failure to comply would be grounds for disciplinary action by LARA or Board of Dentistry, as applicable.
- Submitting an annual report on activities performed at the mobile dental facility for Medicaid and uninsured patients as specified in the bill, including the total number of patients treated at each location and the total number and types of dental services provided. Mobile operators that submit reports as part of a state designated or funded oral health prevention program with oversight from the Department of Community Health would be exempt from the bill's annual reporting requirement.
- Reporting, within 30 days, changes in ownership, address, phone number, or memorandum of agreement (contracts with other dentists for follow-up care, etc.), or cessation of operations to both LARA and the Board of Dentistry.
- Establishing a process by which a mobile dental facility would be dissolved upon cessation of operation.

Facility requirements

- Have ready access to certain equipment such as an instrument sterilization system, toilet facilities, and properly registered and inspected radiographic equipment.

- Require a licensed dentist to be present at any time comprehensive dental services are performed, but not if only preventive dental services are performed.
- Allow a facility that provides comprehensive dental services, and that is established under a MOA for referrals, to provide imagery services without a dentist present.
- With the permission of the supervising dentist, allow a facility that is part of a program to provide preventive dental services to a nursing home, assisted living center, or similar setting to provide imagery services without a dentist present.

Miscellaneous provisions

- Allow the Board of Dentistry to promulgate rules to implement Part 216.
- Specify that if any provision in the bill conflicts with a federal law regulating nursing homes, the federal law would prevail.
- Specify that the Part 216 would not require new or additional third-party reimbursement or mandated worker's compensation benefits for services rendered by a mobile dental facility.
- Specify the bill would take effect 90 days after enactment.

FISCAL IMPACT:

House Bill 4865 (H-2) would have an indeterminate fiscal impact on the Bureau of Health Care Services (BHCS) within the Department of Licensing and Regulatory Affairs (LARA) dependent on whether the registration fee not exceeding the amount for a dental license renewal fee (\$90/year) would be sufficient to adequately support the administrative and enforcement costs under HB 4865 (H-2). Information from LARA as to the sufficiency of the maximum amount for the registration fee was unavailable at the time that this analysis was drafted.

POSITIONS:

The following associations and organizations testified in or indicated support for the bill on 10-23-13, 10-14-13, or 12-3-13:

Department of Community Health
 Michigan Dental Association
 Michigan State Medical Society
 Michigan Primary Care Association
 Michigan Association of School Nurses
 Council of Michigan Dental Specialists
 School-Community Health Alliance of Michigan
 Michigan Council for Maternal and Child Health
 Ottawa County Department of Public Health
 Michigan Oral Health Coalition
 Michigan Community Dental Clinics
 Area Agency on Aging

Delta Dental
Michigan Association of Health Plans
Michigan Academy of Pediatrics

The following associations and organizations testified in or indicated opposition to the bill on 10-23-13, 10-15-13, or 12-3-13:

Michigan Dental Hygienists' Association (opposed to the H-2 version)
Michigan Dental Outreach

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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.