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BILL**ANALYSIS**

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Senate Bill 741 (as reported without amendment)
Sponsor: Senator Rick Jones
Committee: Health Policy

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RATIONALE

In Michigan, a person must obtain a certificate of need (CON) from the Department of Health and Human Services (DHHS) in order to initiate, replace, or expand certain services, known as "covered clinical services", prescribed in the Public Health Code. According to the Department, the CON process is "a state regulatory program intended to balance cost, quality and access issues, and ensure that only needed services are developed in Michigan". The CON Commission, an independent body appointed by the Governor, develops and approves standards for determining need and ongoing quality assurance that the DHHS must use in reviewing applications for certificates. Recently, some have questioned the requirement to obtain a CON for a particular type of equipment.

The covered clinical services for which a CON is required include computerized tomography (CT) scanner services. A CT scan (also known as a computerized axial tomography (CAT) scan) is an imaging procedure that uses specialized x-ray equipment to take pictures of three-dimensional objects inside the body (such as organs, bones, and other tissues) in many thin "slices". The slice images can be viewed separately as two-dimensional pictures, or combined to produce a three-dimensional image of the entire object. The images created by a CT scan are significantly more detailed than those created through traditional x-ray technology, and can assist health practitioners in diagnosis and treatment planning.

Advances in CT technology have led to the development of a new technology known as cone-beam imaging. While CT technology involves a fan-shaped beam of radiation that rotates around a patient in a scanner, cone-beam imaging uses a cone-shaped beam that is directed at a detector that rotates around the patient. Cone-beam technology has applications in the field of dentistry, and the equipment is smaller and less expensive than a traditional CT scanner, making it a practical option for dental offices. This technology, however, is considered a CT service and thus is subject to the CON requirement. Some people believe that the CT scanner category on the list of covered clinical services should exclude cone-beam imaging, allowing dentists to use this technology in their offices without a certificate of need.

CONTENT

The bill would amend the Public Health Code to exempt from certificate of need requirements the initiation or expansion of cone-beam dental imaging equipment used by an individual licensed to engage in the practice of dentistry.

The bill would take effect 90 days after its enactment.

MCL 333.22203

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

In the field of dentistry, the ability to see the third dimension through cone-beam imaging can provide multiple benefits, such as improved diagnostic accuracy, proper placement of implants, and reduced pain for the patient. Michigan's CON Commission, however, does not distinguish between conventional CT technology and dental cone-beam imaging technology. For CT services, the fee to apply for the required certificate is \$3,000. Additionally, applicants generally must hire an attorney, at a cost of several thousand dollars, to assist them in the process.

Furthermore, the standards set by the CON Commission for certificate approval require an applicant to demonstrate that CT equipment will be used a minimum of 200 times per year, which exceeds the need in many dental offices and is not in keeping with the CON program's functions of preventing overuse of health care services and minimizing costs. Also, despite the broad utility of cone-beam imaging in dentistry and orthodontic institutions' practice of training students to use CT when appropriate, the current standards reportedly restrict the use of CT to only a few applications in the dental field. There is no indication of problems of overuse or unnecessary expense associated with cone-beam imaging in the dental field. Reportedly, in fact, no application for a certificate for the service has ever been denied. This service should be treated similarly to mammography, ultrasound, and x-ray services, which are not subject to regulation through the CON process.

Evidently, Michigan is one of only two states that do not provide a CON exemption for dental cone-beam imaging services. The cost and other regulatory hurdles related to the certificate requirement constitute unnecessary burdens on dentists, who are generally small business owners. The exemption proposed by the bill would facilitate use of the most modern tools, which would reduce costs, improve the delivery of dental care, and result in better patient outcomes.

Opposing Argument

The CON process promotes accessibility, affordability, and quality of health care through coordinated planning to avoid overcapacity and overuse. Some people regard Michigan's CON process as one of the best in the nation, and point to the State's comparatively low health care costs as evidence of its efficacy. The CON Commission was created in statute specifically to determine which health care services should be subject to regulation. In bypassing the Commission's transparent process of review by medical experts to carve out an exemption for a particular technology or service, especially one involving exposure to radiation, the bill would set an undesirable precedent. Although overuse of cone-beam imaging has not been a problem thus far, some people are concerned that it could become an issue if CON regulation were relaxed or eliminated, in which case the costs of dental care could increase. Also, while some may view the yearly 200-scan requirement for approval of a certificate as excessive, the Commission commonly establishes such requirements for a variety of technologies in order to ensure practitioner proficiency.

It is customary for the Commission to review each standard every three years to consider its relevance and ensure alignment with medical advances. Public hearings are held on all proposed changes and, upon Commission approval, the changes are forwarded to the Legislature and the executive branch for final approval. Currently, the Commission is assembling a workgroup to review the standards pertaining to CT scans, including the question of whether continued regulation is necessary and, if so, what the regulatory scope should be. The workgroup will make a recommendation for the Commission's consideration, and the Commission is expected to issue its final determination in September. In the interim, the Commission has created a streamlined review process for cone-beam imaging applications in response to the concerns raised by those in the dental field. Under these circumstances, it would be prudent to wait for the Commission's determination rather than deregulate this particular service through the legislative process.

Legislative Analyst: Julie Cassidy

FISCAL IMPACT

The bill would have an indeterminate fiscal impact on the State's Medicaid program and State and local governments as employers. The greater availability of cone-beam imaging devices could lead to a greater demand for such services. The costs of these services would be offset to an unknown degree by presumed better outcomes and reduced long-term complications.

It is anticipated that the greater availability of devices producing three dimensional images for complex dental procedures would lead to greater demand for such imaging, which would clearly increase costs. There are indications from dental research literature that the three dimensional images are superior to two dimensional images in treating certain complex conditions, such as cleft palate, unerupted teeth, and various orthodontic surgeries. Higher-quality initial treatment would reduce the necessity for follow-up procedures and thus reduce costs. If cone-beam imaging were to become standard for more routine dental issues, for which there is less diagnostic advantage, then the average long-term cost savings would be lower and the cost increases could exceed long-term savings.

Fiscal Analyst: Steve Angelotti

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