

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Health Policy

BILL: SB 344

INTRODUCER: Senator Flores

SUBJECT: Dentists

DATE: December 16, 2013      REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Peterson	Stovall	HP	<b>Pre-meeting</b>
2.			ED	
3.			AED	
4.			AP	

**I. Summary:**

SB 344 creates the Dental Student Loan Repayment Program as an incentive to encourage Florida-licensed dentists to practice in medically underserved areas where there is a shortage of practitioners or public health programs that serve Medicaid or other low income patients. The bill creates definitions of “medically underserved area” and “public health program.” A practitioner may receive funds for up to 4 years, subject to availability. A practitioner who fails to comply with program requirements will be ineligible for license renewal.

**II. Present Situation:**

**The Dental Workforce**

Nationally, the pool of dentists to serve a growing population of Americans is shrinking. The American Dental Association has found that 6,000 dentists retire each year in the U.S., while there are only 4,000 dental school graduates each year to replace them. The projected shortage of dentists is even greater in rural America. Of the approximately 150,000 general dentists in practice in the U.S., only 14 percent practice in rural areas, 7.7 percent in large rural areas, 3.7 percent in small rural areas, and 2.2 percent in isolated rural areas. In 2003, there were 2,235 federally designated dental health professional shortage areas (HPSAs)<sup>1</sup> —74 percent of which

<sup>1</sup> HPSAs are designated by the U.S. Dept. of Health and Human Services, Health Resources and Services Administration according to criteria developed in accordance with Section 332 of the Public Health Services Act. HPSA designations are used to identify areas and population groups within the United States that are experiencing a shortage of health professionals. There are three categories of HPSA designation: 1) primary medical; 2) dental; and 3) mental health. For each discipline category, there are three types of HPSA designations based on the area or population group that is experiencing the shortage: 1) geographic area; 2) population group; and 3) facility. A geographic HPSA indicates that the entire area may experience barriers in accessing care, while a population HPSA indicates that a particular subpopulation of an area (e.g., homeless or low-income) may be underserved. Finally, a facility HPSA is granted to a unique facility that primarily cares for an underserved population. The primary factor used to determine a HPSA designation is the number of health professionals

were located in non-metropolitan areas.<sup>2</sup> Today, the number of dental HPSAs has increased to 4,563 — 58 percent of which are located in non-metropolitan areas. The Health Resources and Services Administration (HRSA) estimates that 6,636 dentists are required to meet the dental service needs of people living in designated underserved areas.<sup>3</sup>

Contrast Florida, where the workforce projections for dentists through 2050 indicate that new dentists entering the profession more than offset attrition associated with retirement, assuming current entry levels into the field are sustained. In fact, only an estimated 926 dentists, roughly 10 percent of Florida's currently practicing dental workforce, plan to retire within the next 3 years. In addition, 97 percent of dentists in general practice and those having specializations are currently accepting new patients, indicating that supply is meeting the demand for services. However, similar to the national trend, most dentists in Florida are concentrated in the more populous areas of the state, while rural areas, especially the central Panhandle counties and interior counties of south Florida, have a noticeable dearth of dentists.<sup>4</sup>

Not only is there a shortage of dentists in rural areas, but only a small portion of dentists in Florida practice in dental public health (1.4 percent). Most dentists, 74.1 percent, practice in general dentistry.<sup>5</sup> In many rural communities, the county health department may be the primary provider of health care services, including dental care. Florida currently has 218 designated dental HPSAs, which have only enough dentists to serve 17 percent of the population living within them. HRSA estimates that 853 additional dentists are required to meet the total need.<sup>6</sup> This puts Florida among the states with the highest proportion of their population that are deemed underserved.<sup>7</sup>

Children are acutely affected by the shortage of dentists to serve low income patients. In 2011, 76 percent of Medicaid-enrolled children in Florida did not receive dental care, a figure which ranked Florida last in the nation in performance.<sup>8</sup> In 2010, only 15 percent of dentists in Florida accepted Medicaid patients.<sup>9</sup>

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relative to the population with consideration of high need. The threshold for a dental HPSA is a population-to-provider ratio of at least 5,000:1 (4,000:1 in high need communities).

<sup>2</sup> National Rural Health Association, *Issue Paper: Recruitment and Retention of a Quality Health Workforce in Rural Areas*, (November 2006) (on file with the Senate Health Policy Committee).

<sup>3</sup> U.S. Dept. of Health and Human Services, Health Resources and Services Administration, *Designated Health Professional Shortage Areas Statistics*, 1 (as of Nov. 27, 2013) (on file with the Senate Health Policy Committee).

<sup>4</sup> Florida Dept. of Health, *Report on the 2009-2010 Workforce Survey of Dentists*, (March 2011) (on file with the Senate Health Policy Committee). In 2009, the Department of Health developed this workforce survey for dentists. The survey was administered on a voluntary basis in conjunction with biennial renewal of dental licenses and 89 % of dentists with an active Florida license responded to the survey.

<sup>5</sup> *Id.*

<sup>6</sup> U.S. Dept. of Health and Human Services, Health Resources and Services Administration, *supra* note 3, at 2.

<sup>7</sup> The Pew Charitable Trusts, *In Search of Dental Care*, 3 (June 2013), available at [http://www.pewstates.org/uploadedFiles/PCS\\_Assets/2013/In\\_search\\_of\\_dental\\_care.pdf](http://www.pewstates.org/uploadedFiles/PCS_Assets/2013/In_search_of_dental_care.pdf) (last visited Nov. 26, 2013). According to analysis by the The Pew Charitable Trusts, Florida ranks 8<sup>th</sup> behind only Mississippi (36.3%), Louisiana (24.4%), Alabama (24.4%), New Mexico (24.2%), Delaware (21.9%), South Carolina (20.6%), and Tennessee (19.8%).

<sup>8</sup> *Id.*, at 5, 10.

<sup>9</sup> *Id.*

In 2011, the Legislature passed HB 7107<sup>10</sup> creating the Statewide Medicaid Managed Care (SMMC) program as part IV of ch. 409, F.S. The program has two primary components: Managed Medical Assistance Program (MMAP) and Long Term Care Program. To implement MMAP, the law requires the AHCA to create an integrated managed care program for Medicaid enrollees that incorporates all of the minimum benefits, for the delivery of primary and acute care, including dental.<sup>11</sup> Medicaid recipients who are enrolled in the MMAP program will receive their dental services through the fully integrated managed care plans. Although most dental services are designated as a minimum benefit for Medicaid recipients under age 21, many of the managed care plans expected to contract with the AHCA will provide, as an enhanced benefit, dental services for adults. The enabling statute requires statewide implementation of MMAP to be completed by October 1, 2014.

### **The Cost of Dental Education**

Among U.S. dental schools, the cost of a 4-year degree has risen dramatically over the last 10 years — by 93 percent for in-state residents (from about \$89,000 to \$171,000) and by 82 percent for out-of-state residents (from \$128,000 to \$234,000). Dental school debt has increased proportionately. Combined undergraduate and dental school debt jumped from \$106,000 in 2000 to more than \$220,000 in 2012 — an increase of 109 percent in 12 years.<sup>12</sup> Approximately two-thirds of all undergraduates and 90 percent of dental students rely on student loans to finance their degrees.<sup>13</sup>

Of concern is whether such high debt loads limit a graduate's ability to choose from starting a private practice, entering the public practice, joining academic dentistry, or serving low-income patients. A second concern is whether rising costs and indebtedness discourage economically disadvantaged and minority students from pursuing dentistry as a career. Some studies suggest that minority dentists are more likely to provide care to minority patients. Thus, increased educational costs and indebtedness could further erode access to care for vulnerable, underserved populations.<sup>14</sup>

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<sup>10</sup> See ch. 2011-134, L.O.F.

<sup>11</sup> Health and Human Services Committee, Fla. House of Representatives, *PCB HHSC 11-01 Staff Analysis*, 25 (Mar. 25, 2011).

<sup>12</sup> American Dental Education Association, *A Report of the ADEA Presidential Task Force on the Cost of Higher Education and Student Borrowing*, 17 (March 2013), available at [http://www.adea.org/uploadedFiles/ADEA/Content\\_Conversion\\_Final/publications/Documents/ADEACostandBorrowingReportMarch2013.pdf](http://www.adea.org/uploadedFiles/ADEA/Content_Conversion_Final/publications/Documents/ADEACostandBorrowingReportMarch2013.pdf) (last visited Nov. 27, 2013).

<sup>13</sup> *Id.* at 15.

<sup>14</sup> *Id.* at 17 - 18. See also U.S. Dept. of Health and Human Services, Health Resources and Services Administration, *Financing Dental Education: Public Policy Interests, Issues and Strategic Considerations*, 39 (2005), available at <http://bhpr.hrsa.gov/healthworkforce1/reports/financedentaledu.pdf> (last visited Nov. 27, 2013).

At least three studies, including a 2011 Florida Senate Report,<sup>15</sup> have recommended consideration of loan forgiveness programs as one strategy for addressing dental workforce shortage concerns.<sup>16</sup>

### Florida Health Services Corps

In 1992, the Legislature created the Florida Health Services Corps (FHSC), administered by the Department of Health (DOH), to encourage medical professionals to practice in locations that are underserved because of a shortage of qualified professionals.<sup>17</sup> The FHSC was defined<sup>18</sup> as a program that offered scholarships to allopathic, osteopathic, chiropractic, podiatric, dental, physician assistant, and nursing students, and loan repayment assistance and travel and relocation expenses to allopathic and osteopathic residents and physicians, chiropractic physicians, podiatric physicians, nurse practitioners, dentists, and physician assistants, in return for service in a public health care program<sup>19</sup> or in a medically underserved area.<sup>20</sup> Membership in the FHSC could be extended to any health care practitioner who provided uncompensated care to medically indigent patients.<sup>21</sup> All FHSC members were required to enroll in Medicaid and to accept all patients referred by the DOH pursuant to the program agreement.<sup>22</sup> In exchange for this service, an FHSC member was made an agent of the state and granted sovereign immunity under s. 768.28(9), F.S., when providing uncompensated care to medically indigent patients referred for treatment by the DOH.<sup>23</sup>

The statute authorized the DOH to provide loan repayment assistance and travel and relocation reimbursement to allopathic and osteopathic medical residents with primary care specialties during their last 2 years of residency training or upon completion of residency training, and to

<sup>15</sup> The Florida Senate, *Review Eligibility of Dentist Licensure in Florida and Other Jurisdictions*, Interim Report No. 2012-127, 15 (Sept. 2011), available at <http://www.flsenate.gov/PublishedContent/Session/2012/InterimReports/2012-127hr.pdf> (last visited Nov. 27, 2013). The report concluded, in part: “Florida may become more competitive in its recruitment of dentists in rural areas and may enhance Florida’s dental care for underserved populations if it offers a loan forgiveness program. The program could require dentists seeking loan assistance to serve in a rural area (the Panhandle or central, south Florida) and require dentists to serve a certain percentage of Medicaid recipients or participate in the provider network of managed care entities participating in the Medicaid program for a particular period of time. Considering the current lack of state resources, it may be beneficial to limit the number of dentists that may apply to the loan forgiveness program and target resources to areas with the most need for general dentists or specialists.” At the time, Florida was one of only 8 states that did not have a state loan forgiveness program. Now it is one of only 11 states: Arkansas, Connecticut, Florida, Georgia, Hawaii, Indiana, New York, North Carolina, Rhode Island, South Carolina, Texas, and Utah.

<sup>16</sup> American Dental Education Association, *supra* note 13, at 26; *Financing Dental Education*, *supra* note 15, at 40.

<sup>17</sup> Ch. 92-33, s. 111, Laws of Fla. (creating s. 381.0302, F.S., effective July 1, 1992).

<sup>18</sup> Section 381.0302(2)(b)1., F.S. (2011).

<sup>19</sup> “Public health program” was defined to include a county health department, a children’s medical services program, a federally funded community health center, a federally funded migrant health center, or other publicly funded or nonprofit health care program designated by the DOH. Section 381.0302(2)(e), F.S. (2011).

<sup>20</sup> “Medically underserved area” was defined to include: a geographic area, a special population, or a facility that has a shortage of health professionals as defined by federal regulations; a county health department, community health center, or migrant health center; or a geographic area or facility designated by rule of the DOH that has a shortage of health care practitioners who serve Medicaid and other low-income patients. Section 381.0302(2)(c), F.S. (2011).

<sup>21</sup> “Medically indigent person” was defined as a person who lacks public or private health insurance, is unable to pay for care, and is a member of a family with income at or below 185 percent of the Federal Poverty Level. Section 381.0302(2)(d), F.S. (2011).

<sup>22</sup> Section 381.0302(10), F.S. (2011).

<sup>23</sup> Section 381.0302(11), F.S. (2011).

physician assistants and nurse practitioners with primary care specialties, in return for an agreement to serve a minimum of 2 years in the FHSC. During the period of service, the maximum amount of annual financial payments was limited to no more than the annual total of loan repayment assistance and tax subsidies authorized by the National Health Services Corps loan repayment program.<sup>24</sup>

During the twenty years the program was in statute, it was funded only three times. A total of \$3,684,000 was appropriated in FY 1994-95, FY 1995-96, and FY 1996-97 for loan assistance payments to all categories of eligible health care practitioners. Of that amount, \$971,664 was directed to 18 dentists for an average award of \$25,570 per year of service in the program.<sup>25</sup> The 2007 Legislature attempted to reinvigorate the program by appropriating \$700,000 to fund loan repayment assistance for dentists, only.<sup>26</sup> However, the appropriation and a related substantive bill were vetoed by the Governor.<sup>27</sup> The Legislature repealed the program in 2012.<sup>28</sup>

### **National Health Service Corps**

The National Health Service Corps (NHSC) programs provide scholarships and educational loan repayment to primary care providers<sup>29</sup> who agree to practice in areas that are medically underserved. NHSC loan repayment program (LRP) participants fulfill their service requirement by working at NHSC-approved sites in HPSAs. The NHSC-approved sites are community-based health care facilities that provide comprehensive outpatient, ambulatory, primary health care services. Eligible dental facilities must be located in a dental HPSA and offer comprehensive primary dental health services. NHSC-approved sites (with the exception of correctional facilities and free clinics) are required to provide services for free or on a sliding fee scale (SFS) or discounted fee schedule for low-income individuals. The SFS or discounted fee schedule is based upon the Federal Poverty Guidelines, and patient eligibility is determined by annual income and family size.<sup>30</sup>

The LRP provides funds to participants to repay their outstanding qualifying educational loans. Maximum loan reimbursement under the program is \$60,000 for either a 2-year, full-time<sup>31</sup> or 4-year, half-time<sup>32</sup> clinical practice, although participants may be eligible to continue loan repayment beyond the initial term. Participants who breach their LRP agreement are subject to damages, which are the sum of the amount of assistance received by the participant representing any period of obligated service not completed, a penalty, and interest. Loan repayments are

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<sup>24</sup> Section 381.0302(6), F.S. (2011).

<sup>25</sup> E-mail from Karen Lundberg, Florida Dept. of Health, to Joe Anne Hart, Florida Dental Association (Sept. 16, 2005) (on file with the Senate Health Policy Committee).

<sup>26</sup> Ch. 2007-72, Laws of Fla. The funding was contained in Specific Appropriations 677A of the General Appropriation Act, but later vetoed pursuant to the Governor's line item veto authority.

<sup>27</sup> *Journal of the Florida Senate*, at 3 (June 12, 2007).

<sup>28</sup> Ch. 2012-184, s. 45, Laws of Fla.

<sup>29</sup> Primary care physicians, nurse practitioners, certified nurse midwives, physician assistants, dentists, dental hygienists, and behavioral and mental health providers, including health service psychologists, licensed clinical social workers, marriage and family therapists, psychiatrist nurse specialists, and licensed professional counselors.

<sup>30</sup> U.S. Dept. of Health and Human Services, Health Resources and Services Administration, *National Health Service Corps Site Reference Guide*, (Sept. 2013), available at <http://nhsc.hrsa.gov/downloads/sitereference.pdf> (last visited Nov. 26, 2013).

<sup>31</sup> Full-time clinical practice is defined as no less than 40 hours per week, for a minimum of 45 weeks per year.

<sup>32</sup> Half-time clinical practice is defined as a minimum of 20 hours per week (not to exceed 39 hours per week), for a minimum of 45 weeks per year.

exempt from federal income and employment taxes and are not included as wages when determining benefits under the Social Security Act.<sup>33</sup> There are currently 38.5 full time equivalent NHSC dentists in Florida.<sup>34</sup>

A second NHSC program, the State Loan Repayment Program (SLRP) offers cost-sharing grants to states to operate their own state educational loan repayment programs for primary care providers working in HPSAs within the state. The SLRP varies from state-to-state, and may differ in eligible categories of providers, practice sites, length of required service commitment, and the amount of loan repayment assistance offered. However, there are certain statutory requirements SLRP grantees must meet. Any SLRP program participant must practice at an eligible site located in a federally-designated HPSA. Like the NHSC loan repayment program awards, assistance provided through a SLRP is not taxable.

In addition, the SLRP requires a \$1 state match for every \$1 provided under the federal grant. While the SLRP does not limit award amounts, the maximum award amount per provider that the federal government will support through its grant is \$50,000 per year, with a minimum service commitment of 2 years. A state may offer awards to providers above \$50,000 per year; however, any awards that exceed that amount must be funded entirely by the state.<sup>35</sup>

Currently, Florida is one of only 14 states that does not receive a SLRP grant.<sup>36</sup>

### III. Effect of Proposed Changes:

SB 344 creates the Dental Student Loan Repayment Program. The program is conditioned on the availability of funds and is intended to encourage dentists to practice in medically underserved areas or public health programs. The bill defines “medically underserved area” as a designated health professional shortage area that lacks an adequate number of dental health professionals to serve Medicaid and other low income patients. “Public health program” is defined to include a county health department, the Children’s Medical Services program, a federally funded community health center, a federally funded migrant health center, or other publicly funded or nonprofit health care program designated by the DOH.

The program will be developed by the DOH, in cooperation with the state’s three dental schools and the Florida Dental Association. A Florida licensed dentist who commits to service under the program is eligible for 1 to 4 years of funding. A participating dentist who defaults on his or her obligation is ineligible for license renewal unless default is the result of disability. The DOH

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<sup>33</sup> U.S. Dept. of Health and Human Services, Health Resources and Services Administration, *National Health Service Corps Loan Repayment Program, Fiscal Year 2013 Application & Program Guidance*, (Feb. 2013), available at <http://nhsc.hrsa.gov/downloads/lrpapplicationguidance.pdf> (last visited Nov. 26, 2013).

<sup>34</sup> E-mail from Philip Street, Senior Policy Coordinator, Health Statistics and Performance Management, Florida Dept. of Health (Nov. 19, 2013) (on file with the Senate Committee on Health Policy).

<sup>35</sup> U.S. Dept. of Health and Human Services, Health Resources and Services Administration, *SLRP Grantees*, <http://nhsc.hrsa.gov/currentmembers/stateloanrepaymentprogram/index.html> (last visited Dec. 3, 2013).

<sup>36</sup> Arkansas, Connecticut, Idaho, Mississippi, Nebraska, New Hampshire, North Carolina, Oklahoma, South Carolina, Texas, Utah, Vermont, and Wyoming are the others. U.S. Dept. of Health and Human Services, Health Resources and Services Administration, *National Health Service Corps Program & Updates*, (March 13, 2013), available at <http://www.nhchc.org/wp-content/uploads/2012/11/National-Health-Service-Corps-Kleine.pdf> (last visited Dec. 3, 2013).

must adopt rules to administer the program that, at a minimum, establish the maximum amount a participant may receive each year.

The effective date of the bill is July 1, 2014.

**IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

**V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Dentists who qualify for loan repayment assistance will benefit from a reduction in their student loan debt. Residents of HPSAs where program dentists practice will benefit from increased access to care.

C. Government Sector Impact:

Public health programs, as defined by the bill, or other public providers that meet the definition of “medically underserved area,” such as correctional facilities, will benefit from an increased number of eligible dentists to provide care. According to the DOH, county health departments historically have experienced a shortage of dentists to provide care to the low income and Medicaid populations.

**VI. Technical Deficiencies:**

The statement of intent, definition of “medically underserved area,” and language authorizing awards are not consistent or clear in how they describe where dentists must work and what populations they must serve in order to be eligible for loan repayment assistance. As written, a dentist could work in a geographic location that meets the definition of a medically underserved area, but provide services to patients other than Medicaid or low income patients.

The bill directs the DOH to develop the program “in cooperation with” the state’s dental schools and the Florida Dental Association. The DOH has expressed concern that the language does not give it clear authority to make final decisions.

The bill is silent regarding the maximum amount of loan repayment assistance that may be awarded to a dentist annually. Instead, it directs the DOH to establish this by rule. Without more specific guidance from the Legislature, this may result in an unconstitutional delegation of authority.<sup>37</sup>

The bill does not establish a clear requirement for a dentist to enter into an agreement that would be enforceable by the DOH. Likewise, it does not give the DOH clear authority to recover the loan assistance provided to a dentist who defaults on the agreement for reasons other than disability.

If the intent of the bill is to create authority for the state to obtain SLRP grant assistance, then the DOH should be given specific authority to use funds for this purpose.

## **VII. Related Issues:**

The bill amends ch. 381, F.S., relating to Public Health, and assigns responsibility for administration of the program to the DOH. Florida has two other health care loan forgiveness programs, both of which are contained within ch. 1009, F.S., relating to Educational Scholarships, Fees, and Financial Assistance. The Medical Education Reimbursement and Loan Repayment Program (MERLP) is administered by the DOH. The Nursing Student Loan Forgiveness Program (NSLFP) is administered by the Department of Education. The MERLP is similar to the program that is proposed by SB 344 in that it seeks to create an incentive for eligible practitioners to serve underserved populations and communities. It gives the DOH responsibility for designating appropriate practice settings. In contrast, the NSLFP creates an incentive for nurses to serve in facilities that are experiencing a shortage of nurses, regardless of the economic status of the patients the facilities serve. Both programs condition assistance payments on proof of continued practice in the designated setting.

The bill uses the terminology “federally funded community health center” and “federally funded migrant health center.” Under federal law, a federally qualified health center (FQHC) is one of three types of organizations: a health center (defined as organizations receiving grants under section 330 of the Public Health Service Act, including, community health centers, migrant health centers, health care for the homeless health centers, and public housing primary care centers), a health center-look alike, and certain tribal programs and facilities. The bill appears to carve out only two of the federally-funded facilities that serve Medicaid and low income patients.

## **VIII. Statutes Affected:**

This bill creates the following section of the Florida Statutes: 381.4019.

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<sup>37</sup> Under the “non-delegation doctrine,” the Legislature may not delegate the power to enact a law or the right to exercise unrestricted discretion in applying the law. *See, e.g., Bush v. Schiavo*, 885 So. 2d 321 (Fla. 2004).



**IX. Additional Information:**

- A. **Committee Substitute – Statement of Changes:**  
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

- B. **Amendments:**

None.

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This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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