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AN ACT
RELATING TO WATER QUALITY; ENACTING THE DENTAL AMALGAM WASTE
REDUCTION ACT; REQUIRING A DENTAL OFFICE TO REMOVE DENTAL
AMALGAM PRIOR TO DISCHARGE OF ITS WASTEWATER; AMENDING A
SECTION OF THE DENTAL HEALTH CARE ACT.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. SHORT TITLE.--Sections 1 through 6 of this
act may be cited as the "Dental Amalgam Waste Reduction Act".

SECTION 2. DEFINITIONS.--As used in the Dental Amalgam
Waste Reduction Act:

A. "amalgam" means a dental restorative material
that is typically composed of mercury, silver, tin and
copper, along with other metallic elements, and that is used
by a dentist to restore a cavity in a tooth;

B. "amalgam separator" means a device that removes
dental amalgam from the waste stream prior to discharge into
either the local public wastewater system or a private septic
system and that meets a minimum removal efficiency in
accordance with international standards contained in
ISO 11143, Dental Equipment-Amalgam Separators, published by
the international organization for standardization; and

C. "dental office" means a fixed physical
structure in which dental services are provided to patients
by dentists and dental professionals licensed or certified by

1 the New Mexico board of dental health care under the
2 management of a licensed owner, operator or designee.

3 SECTION 3. INSTALLATION OF AMALGAM SEPARATOR

4 REQUIRED.--By December 31, 2014, a dental office shall
5 install an appropriately sized amalgam separator system and,
6 upon inspection for cause, shall demonstrate to the
7 New Mexico board of dental health care proper installation,
8 operation, maintenance and amalgam waste recycling or
9 disposal in accordance with an amalgam separator
10 manufacturer's recommendations. The New Mexico board of
11 dental health care shall consider noncompliance with the
12 Dental Amalgam Waste Reduction Act as unprofessional conduct
13 subject to the penalties and discipline of the board pursuant
14 to the Uniform Licensing Act and the Dental Health Care Act.

15 SECTION 4. EXEMPTION FOR CERTAIN DENTAL OFFICES.--An

16 amalgam separator system shall not be required for the
17 offices or clinical site of:

- 18 A. a dental office that is not engaged in amalgam
19 placement, removal or modification;
- 20 B. an orthodontist;
- 21 C. a periodontist;
- 22 D. an oral maxillofacial surgeon;
- 23 E. an oral maxillofacial radiologist;
- 24 F. an oral pathologist; or
- 25 G. a portable dental office without a fixed

1 connection for wastewater discharge.

2 SECTION 5. REPORTING.--A dental office shall report the
3 model and size of its amalgam separator system within ninety
4 days of installation to its local publicly owned water
5 treatment facility, where applicable, and to the New Mexico
6 board of dental health care. A dental office shall report
7 its compliance and maintain records of the operation,
8 maintenance and recycling or disposal of amalgam waste for
9 every consecutive three-year period following the
10 installation of its amalgam separator system and shall report
11 the information upon request for cause to the New Mexico
12 board of dental health care. The New Mexico board of dental
13 health care shall retain the reported information for review
14 coincident with the board's licensing and renewal functions.

15 SECTION 6. ENFORCEMENT.--The New Mexico board of dental
16 health care shall initiate disciplinary proceedings for
17 willful and persistent noncompliance with the provisions of
18 the Dental Amalgam Waste Reduction Act.

19 SECTION 7. Section 61-5A-10 NMSA 1978 (being Laws 1994,
20 Chapter 55, Section 10, as amended) is amended to read:

21 "61-5A-10. POWERS AND DUTIES OF THE BOARD AND
22 COMMITTEE.--In addition to any other authority provided by
23 law, the board and the committee, when designated, shall:

24 A. enforce and administer the provisions of the
25 Dental Health Care Act and the Dental Amalgam Waste Reduction

1 Act;

2 B. adopt, publish, file and revise, in accordance
3 with the Uniform Licensing Act and the State Rules Act, all
4 rules as may be necessary to:

5 (1) regulate the examination and licensure
6 of dentists and, through the committee, regulate the
7 examination and licensure of dental hygienists;

8 (2) provide for the examination and
9 certification of dental assistants by the board;

10 (3) provide for the regulation of dental
11 technicians by the board;

12 (4) regulate the practice of dentistry and
13 dental assisting and, through the committee, regulate the
14 practice of dental hygiene; and

15 (5) provide for the regulation and licensure
16 of non-dentist owners by the board;

17 C. adopt and use a seal;

18 D. administer oaths to all applicants, witnesses
19 and others appearing before the board or the committee, as
20 appropriate;

21 E. keep an accurate record of all meetings,
22 receipts and disbursements;

23 F. grant, deny, review, suspend and revoke
24 licenses and certificates to practice dentistry, dental
25 assisting and, through the committee, dental hygiene and

1 censure, reprimand, fine and place on probation and
2 stipulation dentists, dental assistants and, through the
3 committee, dental hygienists, in accordance with the Uniform
4 Licensing Act for any cause stated in the Dental Health Care
5 Act and the Dental Amalgam Waste Reduction Act;

6 G. grant, deny, review, suspend and revoke
7 licenses to own dental practices and censure, reprimand, fine
8 and place on probation and stipulation non-dentist owners, in
9 accordance with the Uniform Licensing Act, for any cause
10 stated in the Dental Health Care Act and the Dental Amalgam
11 Waste Reduction Act;

12 H. maintain records of the name, address, license
13 number and such other demographic data as may serve the needs
14 of the board of licensees, together with a record of license
15 renewals, suspensions, revocations, probations, stipulations,
16 censures, reprimands and fines. The board shall make
17 available composite reports of demographic data but shall
18 limit public access to information regarding individuals to
19 their names, addresses, license numbers and license actions
20 or as required by statute;

21 I. hire and contract for services from persons as
22 necessary to carry out the board's duties;

23 J. establish ad hoc committees whose members shall
24 be appointed by the chair with the advice and consent of the
25 board or committee and shall include at least one member of

1 the board or committee as it deems necessary for carrying on
2 its business;

3 K. have the authority to pay per diem and mileage
4 to individuals who are appointed by the board or the
5 committee to serve on ad hoc committees;

6 L. have the authority to hire or contract with
7 investigators to investigate possible violations of the
8 Dental Health Care Act and the Dental Amalgam Waste Reduction
9 Act;

10 M. have the authority to issue investigative
11 subpoenas prior to the issuance of a notice of contemplated
12 action for the purpose of investigating complaints against
13 dentists, dental assistants and, through the committee,
14 dental hygienists licensed under the Dental Health Care Act
15 and the Dental Amalgam Waste Reduction Act;

16 N. have the authority to sue or be sued and to
17 retain the services of an attorney at law for counsel and
18 representation regarding the carrying out of the board's
19 duties;

20 O. have the authority to create and maintain a
21 formulary, in consultation with the board of pharmacy, of
22 medications that a dental hygienist may prescribe, administer
23 or dispense in accordance with rules the board has
24 promulgated; and

25 P. establish continuing education or continued

1 competency requirements for dentists, certified dental
2 assistants in expanded functions, dental technicians and,
3 through the committee, dental hygienists."

4 SECTION 8. TEMPORARY PROVISION--RULEMAKING BY THE
5 NEW MEXICO BOARD OF DENTAL HEALTH CARE.--The New Mexico board
6 of dental health care shall promulgate rules by June 30, 2013
7 to require that a dental office maintain records of
8 maintenance and inspection for the three years following the
9 most recent inspection of an amalgam separator. Use of an
10 amalgam separation method or technology that is approved by
11 the department of environment, the water quality control
12 commission or the New Mexico board of dental health care is in
13 compliance with the requirements of this section. _____

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