

SENATE PUBLIC AFFAIRS COMMITTEE SUBSTITUTE FOR  
SENATE BILL 453

46TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2003

AN ACT

RELATING TO PROFESSIONAL LICENSING; AMENDING AND ENACTING  
SECTIONS OF THE DENTAL HEALTH CARE ACT; AMENDING A SECTION OF  
THE IMPAIRED DENTISTS AND DENTAL HYGIENISTS ACT; CLARIFYING  
DEFINITIONS; AMENDING LICENSURE PROVISIONS; AMENDING THE NEW  
MEXICO BOARD OF DENTAL HEALTH CARE'S RULEMAKING AUTHORITY;  
EXTENDING THE SUNSET DATE OF THE NEW MEXICO BOARD OF DENTAL  
HEALTH CARE.

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

Section 1. Section 61-5A-2 NMSA 1978 (being Laws 1994,  
Chapter 55, Section 2) is amended to read:

"61-5A-2. PURPOSE. --

A. In the interest of the public health, safety and  
welfare and to protect the public from the improper,  
unprofessional, incompetent and unlawful practice of dentistry

1 and dental hygiene, it is necessary to provide laws and  
2 [~~regulations~~] rules controlling the granting and use of the  
3 privilege to practice dentistry and dental hygiene and to  
4 establish a board of dental health care and a dental hygienists  
5 committee to implement and enforce those laws and [~~regulations~~]  
6 rules.

7 B. The primary duties of the New Mexico board of  
8 dental health care are to issue licenses to qualified dentists  
9 and owners of dental practices, to certify qualified dental  
10 assistants, to issue licenses to dental hygienists through the  
11 dental hygienists committee, to discipline incompetent or  
12 unprofessional dentists, dental assistants, owners of dental  
13 practices and, through the dental hygienists committee, dental  
14 hygienists and to aid in the rehabilitation of impaired  
15 dentists and dental hygienists for the purpose of protecting  
16 the public. "

17 Section 2. Section 61-5A-3 NMSA 1978 (being Laws 1994,  
18 Chapter 55, Section 3) is amended to read:

19 "61-5A-3. DEFINITIONS.--As used in the Dental Health Care  
20 Act:

21 A. "assessment" means the review and documentation  
22 of the oral condition and the recognition and documentation of  
23 deviations from the healthy condition, without a diagnosis to  
24 determine the cause or nature of disease or its treatment;

25 [~~A.~~] B. "board" means the New Mexico board of

1 dental health care;

2 ~~[B.]~~ C. "certified dental assistant" means an  
3 individual certified by the dental assistant national board;

4 D. "collaborative dental hygiene practice" means a  
5 New Mexico licensed dental hygienist practicing according to  
6 Subsections D and E of Section 61-5A-4 NMSA 1978;

7 ~~[C.]~~ E. "committee" means the New Mexico dental  
8 hygienists committee;

9 F. "consulting dentist" means a dentist who has  
10 entered into an approved agreement to provide consultation and  
11 create protocols with a collaborating dental hygienist and,  
12 when required, to provide diagnosis and authorization for  
13 services, in accordance with the rules of the board and the  
14 committee;

15 ~~[D.]~~ G. "dental assistant certified in expanded  
16 functions" means a dental assistant who meets specific  
17 qualifications set forth by rule of the board;

18 ~~[E.]~~ H. "dental hygienist" means an individual who  
19 has graduated and received a ~~[diploma]~~ degree from ~~[an~~  
20 ~~accredited]~~ a dental hygiene educational program accredited by  
21 the joint commission on dental accreditation, which provides a  
22 minimum of two academic years of dental hygiene curriculum and  
23 is an institution of higher education ~~[accredited by the~~  
24 ~~American dental association commission on dental accreditation]~~  
25 and, except as the context otherwise requires, who holds a

1 license to practice dental hygiene in New Mexico;

2 [F-] I. "dental laboratory" means any place where  
3 [~~bridges, crowns, dentures or other~~] dental restorative,  
4 prosthetic, cosmetic and therapeutic devices or orthodontic  
5 appliances are fabricated, altered or repaired by one or more  
6 persons under the orders and authorization of a dentist;

7 [G-] J. "dental technician" means an individual,  
8 other than a licensed dentist, who fabricates, alters, repairs  
9 or assists in the fabrication, alteration or repair of  
10 [~~bridges, crowns, dentures or other~~] dental restorative,  
11 prosthetic, cosmetic and therapeutic devices or orthodontic  
12 appliances under the orders and authorization of a dentist;

13 [H-] K. "dentist" means an individual who has  
14 graduated and received a [~~diploma~~] degree from a [~~dental~~  
15 ~~college or~~] school of dentistry [~~of a university~~] that is  
16 accredited by the [~~American dental association~~] joint  
17 commission on dental accreditation and, except as the context  
18 otherwise requires, who holds a license to practice dentistry  
19 in New Mexico;

20 [I-] L. "general supervision" means the  
21 authorization by a dentist of the procedures to be used by a  
22 dental hygienist, dental assistant or dental student and the  
23 execution of the procedures in accordance with a dentist's  
24 diagnosis and treatment plan at a time the dentist is not  
25 physically present and in facilities as designated by rule of

1 the board; [~~and~~  
 2 ~~J-]~~ M "indirect supervision" means that a dentist,  
 3 or in certain settings a dental hygienist or dental assistant  
 4 certified in expanded functions, is present in the treatment  
 5 facility while authorized treatments are being performed by a  
 6 dental hygienist, dental assistant or dental student; and

7 N. "non-dentist owner" means an individual not  
 8 licensed as a dentist in New Mexico or a corporate entity not  
 9 owned by a majority interest of a New Mexico licensed dentist  
 10 that employs or contracts with a dentist or dental hygienist to  
 11 provide dental or dental hygiene services. "

12 Section 3. Section 61-5A-4 NMSA 1978 (being Laws 1994,  
 13 Chapter 55, Section 4, as amended) is amended to read:

14 "61-5A-4. SCOPE OF PRACTICE. --

15 A. As used in the Dental Health Care Act, "practice  
 16 of dentistry" means:

17 (1) the diagnosis, treatment, correction,  
 18 change, relief, prevention, prescription of remedy, surgical  
 19 operation and adjunctive treatment for any disease, pain,  
 20 deformity, deficiency, injury, defect, lesion or physical  
 21 condition involving both the functional and aesthetic aspects  
 22 of the teeth, gingivae, jaws and adjacent hard and soft tissue  
 23 of the oral and maxillofacial regions, including the  
 24 prescription or administration of any drug, medicine, biologic,  
 25 apparatus, brace, anesthetic or other therapeutic or diagnostic

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1 substance or technique by an individual or his agent or  
2 employee gratuitously or for any fee, reward, emolument or any  
3 other form of compensation whether direct or indirect;

4 (2) representation of an ability or  
5 willingness to do any act mentioned in Paragraph (1) of this  
6 subsection; [~~or~~]

7 (3) the review of dental insurance claims for  
8 therapeutic appropriateness of treatment, including but not  
9 limited to the interpretation of radiographs, photographs,  
10 models, periodontal records and narratives;

11 (4) the offering of advice or authoritative  
12 comment regarding the appropriateness of dental therapies, the  
13 need for recommended treatment or the efficacy of specific  
14 treatment modalities for other than the purpose of consultation  
15 to another dentist; or

16 [~~(3)~~] (5) with specific reference to the  
17 teeth, gingivae, jaws or adjacent hard or soft tissues of the  
18 oral and maxillofacial region in living persons, to propose,  
19 agree or attempt to do or make an examination or give an  
20 estimate of cost with intent to, or undertaking to:

21 (a) perform a physical evaluation of a  
22 patient in an office or in a hospital, clinic or other medical  
23 or dental facility prior to, incident to and appropriate to the  
24 performance of any dental services or oral or maxillofacial  
25 surgery;

1 (b) perform surgery, an extraction or  
 2 any other operation or to administer an anesthetic in  
 3 connection therewith;

4 (c) diagnose or treat any condition,  
 5 disease, pain, deformity, deficiency, injury, lesion or other  
 6 physical condition;

7 (d) correct a malposition;

8 (e) treat a fracture;

9 (f) remove calcareous deposits;

10 (g) replace missing anatomy with an  
 11 artificial substitute;

12 (h) construct, make, furnish, supply,  
 13 reproduce, alter or repair an artificial substitute or  
 14 restorative or corrective appliance or place an artificial  
 15 substitute or restorative or corrective appliance in the mouth  
 16 or attempt to adjust it;

17 (i) give interpretations or readings of  
 18 dental [~~roentgenograms~~] radiographs; or

19 (j) do any other remedial, corrective or  
 20 restorative work.

21 B. As used in the Dental Health Care Act, "the  
 22 practice [~~as a~~] of dental [~~hygienist~~] hygiene" means the  
 23 application of the science of the prevention and treatment of  
 24 oral disease through the provision of educational, assessment,  
 25 preventive, clinical and other therapeutic services under the

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1 general supervision of a dentist. "Dental hygiene" includes:

2 (1) prophylaxis, which is the treatment of  
3 human teeth by removing from their surface calcareous deposits  
4 and stain, removing accumulated accretions and polishing the  
5 surfaces of the teeth;

6 (2) removing diseased crevicular tissue;

7 (3) the application of pit and fissure  
8 sealants without mechanical alteration of the tooth, fluorides  
9 and other topical therapeutic and preventive agents;

10 (4) exposing and referring to oral  
11 radiographs;

12 (5) screening to identify indications of oral  
13 abnormalities;

14 (6) [~~preliminary~~] assessment of periodontal  
15 conditions; and

16 (7) such other closely related services as  
17 permitted by the rules [~~and regulations~~] of the committee and  
18 the board.

19 C. In addition to performing dental hygiene as  
20 defined in Subsection B of this section, dental hygienists who  
21 have met such criteria as the committee shall establish and the  
22 board ratify may administer local anesthesia under indirect  
23 supervision of a dentist.

24 D. A New Mexico licensed dental hygienist may be  
25 certified for collaborative dental hygiene practice in

1 accordance with the educational and experience criteria  
 2 established collaboratively by the committee and the board.  
 3 [~~The board may charge a fee not to exceed one hundred fifty~~  
 4 ~~dollars (\$150) for each application for certification for~~  
 5 ~~collaborative dental hygiene practice.~~]

6 E. For the purpose of this section, "collaborative  
 7 [~~practice of~~] dental hygiene practice" means the application of  
 8 the science of the prevention and treatment of oral disease  
 9 through the provision of educational, assessment, preventive,  
 10 clinical and other therapeutic services as specified in  
 11 Subsection B of this section in a cooperative working  
 12 relationship with a consulting dentist, but without general  
 13 supervision as set forth by the rules [~~jointly~~] established  
 14 [~~by~~] and approved by both the board and the committee."

15 Section 4. Section 61-5A-5 NMSA 1978 (being Laws 1994,  
 16 Chapter 55, Section 5) is amended to read:

17 "61-5A-5. LICENSE REQUIRED-- EXEMPTIONS. --

18 A. Unless licensed to practice as a dentist under  
 19 the Dental Health Care Act, no person shall:

- 20 (1) practice dentistry;
- 21 (2) use the title "dentist", "dental surgeon",  
 22 "oral surgeon" or any other title, abbreviation, letters,  
 23 figures, signs or devices that indicate the person is a  
 24 licensed dentist; or
- 25 (3) perform any of the acts enumerated under

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1 the definition of the practice of dentistry as defined in the  
2 Dental Health Care Act.

3 B. The following, under the stipulations described,  
4 may practice dentistry or an area of dentistry without a New  
5 Mexico dental license:

6 (1) regularly licensed physicians or surgeons  
7 are not prohibited from extracting teeth or treating any  
8 disease coming within the province of the practice of medicine;

9 (2) New Mexico licensed dental hygienists may  
10 provide those services within their scope of practice that are  
11 also within the scope of the practice of dentistry;

12 (3) any dental student duly enrolled in an  
13 accredited school of dentistry recognized by the board, while  
14 engaged in educational programs offered by the school in  
15 private offices, public clinics or educational institutions  
16 within the state of New Mexico under the indirect supervision  
17 of a licensed dentist;

18 (4) any dental hygiene or dental assisting  
19 student duly enrolled in an accredited school of dental hygiene  
20 or dental assisting engaged in procedures within or outside the  
21 scope of dental hygiene that are part of the curriculum of that  
22 program in the school setting and under the indirect  
23 supervision of a faculty member of the accredited program who  
24 is a licensed dentist, [faculty member of the accredited  
25 program and in the school setting] dental hygienist or dental

1 assistant certified in the procedures being taught;

2 (5) unlicensed persons performing for a  
 3 licensed dentist merely mechanical work upon inert matter in  
 4 the construction, making, alteration or repairing of any  
 5 artificial dental substitute, dental restorative or corrective  
 6 appliance, when the casts or impressions for the work have been  
 7 furnished by a licensed dentist and where the work is  
 8 prescribed by a dentist pursuant to a written authorization by  
 9 that dentist; [~~and~~]

10 (6) commissioned dental officers of the  
 11 uniformed forces of the United States and dentists providing  
 12 services to the United States public health service, the  
 13 veterans' administration of the United States or within  
 14 federally controlled facilities in the discharge of their  
 15 official duties provided that such persons who hold dental  
 16 licenses in New Mexico shall be subject to the provisions of  
 17 the Dental Health Care Act; and

18 (7) dental assistants performing adjunctive  
 19 services to the provision of dental care, under the indirect  
 20 supervision of a dentist, as determined by rule of the board if  
 21 such services are not within the practice of dental hygiene as  
 22 specifically listed in Subsection B of Section 61-5A-4 NMSA  
 23 1978, unless allowed in Subsection E of this section.

24 C. Unless licensed to practice as a dental  
 25 hygienist under the Dental Health Care Act, no person shall:

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- 1 (1) practice as a dental hygienist;
- 2 (2) use the title "dental hygienist" or
- 3 abbreviation "R. D. H. " or any other title, abbreviation,
- 4 letters, figures, signs or devices that indicate the person is
- 5 a licensed dental hygienist; or
- 6 (3) perform any of the acts [~~enumerated under~~
- 7 ~~the definition of~~] defined as the practice of dental hygiene
- 8 [~~as defined~~] in the Dental Health Care Act.

9 D. The following, under the stipulations described,

10 may practice dental hygiene or the area of dental hygiene

11 outlined without a New Mexico dental [~~hygienist~~] hygiene

12 license:

13 (1) students enrolled in an accredited dental

14 hygiene program engaged in procedures that are part of the

15 curriculum of that program and under the indirect supervision

16 of a licensed faculty member of the accredited program; [~~and~~]

17 (2) dental assistants working under general

18 supervision who:

19 (a) expose dental radiographs after

20 being certified in expanded functions by the board;

21 (b) perform rubber cup coronal

22 polishing, which is not represented as a prophylaxis, having

23 satisfied the educational requirements as established by rules

24 of the board;

25 (c) apply fluorides as established by

1 rules of the board; and

2 (d) perform those other dental hygienist  
3 functions as recommended to the board by the committee and set  
4 forth by rule of the board; and

5 (3) dental assistants certified in expanded  
6 functions, working under the indirect supervision of a dental  
7 hygienist certified for collaborative practice and under the  
8 protocols established in a collaborative practice agreement  
9 with a consulting dentist.

10 E. Dental assistants working under the indirect  
11 supervision of a dentist and in accordance with the rules and  
12 regulations established by the board may:

13 (1) expose dental radiographs;

14 (2) perform rubber cup coronal polishing that  
15 is not represented as a prophylaxis;

16 (3) apply fluoride and pit and fissure  
17 sealants without mechanical alteration of the tooth;

18 (4) perform those other dental hygienist  
19 functions as recommended to the board by the committee and set  
20 forth by rule of the board; and

21 (5) perform such other related functions that  
22 are not expressly prohibited by statute or rules of the board.

23 F. Unless licensed as a dentist or non-dentist  
24 owner, no individual or corporate entity shall:

25 (1) employ or contract with a dentist or

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1 dental hygienist for the purpose of providing dental or dental  
2 hygiene services as defined by their respective scopes of  
3 practice; or

4 (2) enter into a managed care or other  
5 agreement to provide dental or dental hygiene services in New  
6 Mexico.

7 G. The following, under stipulations described, may  
8 function as a non-dentist owner without a New Mexico license:

9 (1) government agencies providing dental  
10 services within affiliated facilities;

11 (2) government agencies engaged in providing  
12 public health measures to prevent dental disease;

13 (3) spouses of deceased licensed dentists or  
14 dental hygienists for a period of one year following the death  
15 of the licensee;

16 (4) accredited schools of dentistry, dental  
17 hygiene and dental assisting providing dental services solely  
18 in an educational setting;

19 (5) dental hygienists licensed in New Mexico  
20 or corporate entities with a majority interest owned by a  
21 dental hygienist licensed in New Mexico;

22 (6) federally qualified health centers, as  
23 designated by the United States department of health and human  
24 services, providing dental services; and

25 (7) existing nonprofit organizations that

1 perform dental and dental hygiene services for indigent  
2 persons. "

3 Section 5. Section 61-5A-7 NMSA 1978 (being Laws 1994,  
4 Chapter 55, Section 7) is amended to read:

5 "61-5A-7. DENTAL AND DENTAL HYGIENE DISTRICTS

6 CREATED. --For the purpose of selecting members of the board and  
7 the committee, there are created five districts composed of the  
8 following counties [f~~or~~]:

9 A. district I: San Juan, Rio Arriba, Taos,  
10 Sandoval, McKinley and Cibola [~~Santa Fe and Los Alamos~~];

11 B. district II: Colfax, Union, Mora, Harding, San  
12 Miguel, [~~Curry~~] Quay [~~and~~], Guadalupe, Santa Fe and Los Alamos;

13 C. district III: Bernalillo, Valencia and  
14 Torrance;

15 D. district IV: Catron, Socorro, Grant, Sierra,  
16 Hidalgo, Luna, Dona Ana and Otero; and

17 E. district V: Lincoln, De Baca, Roosevelt,  
18 Chaves, Eddy, Curry and Lea. "

19 Section 6. Section 61-5A-8 NMSA 1978 (being Laws 1994,  
20 Chapter 55, Section 8) is amended to read:

21 "61-5A-8. BOARD CREATED. --

22 A. There is created the nine-member "New Mexico  
23 board of dental health care". The board shall consist of five  
24 dentists, two dental hygienists and two public members. The  
25 dentists shall be actively practicing and have been licensed

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1 practitioners and residents of New Mexico for a period of five  
2 years preceding the date of appointment. The dental hygienist  
3 members shall be members of the committee and shall be elected  
4 annually to sit on the board by those sitting on the committee.  
5 The appointed public members shall be residents of New Mexico  
6 and shall have no financial interest, direct or indirect, in  
7 the professions regulated in the Dental Health Care Act.

8 B. The governor may appoint the dentist members  
9 from a list of names submitted by the New Mexico dental  
10 association. There shall be one member from each district.  
11 All board members shall serve until their successors have been  
12 appointed. No more than one member [~~shall~~] may be employed by  
13 or receive remuneration from a dental or dental hygiene  
14 educational institution.

15 C. Appointments for dentists and public members  
16 shall be for terms of five years. Dentists' appointments shall  
17 be made so that the term of one dentist member expires on July  
18 1 of each year. Public members' five-year terms begin at the  
19 date of appointment.

20 D. Any board member failing to attend three board  
21 or committee meetings, either regular or special, during the  
22 board member's term shall automatically be removed as a member  
23 of the board unless excused from attendance by the board for  
24 good cause shown. Members of the board not sitting on the  
25 committee shall not be required or allowed to attend committee

1 disciplinary hearings.

2 E. No board member shall serve more than two full  
3 terms on any state-chartered board whose responsibility  
4 includes the regulation of practice or licensure of dentistry  
5 or dental hygiene in New Mexico. A partial term of three or  
6 more years shall be considered a full term.

7 F. In the event of any vacancy, the secretary of  
8 the board shall immediately notify the governor, the board and  
9 ~~[the]~~ committee members and the New Mexico dental association  
10 of the reason for its occurrence and action taken by the board,  
11 so as to expedite appointment of a new board member.

12 G. The board shall meet ~~[quarterly]~~ at least four  
13 times every year and no more than two meetings shall be public  
14 rules hearings. Regular meetings shall not be more than one  
15 hundred twenty days apart. The board may also hold special  
16 meetings and emergency meetings in accordance with rules of the  
17 board upon written notice to all members of the board and the  
18 committee.

19 H. Members of the board shall be reimbursed as  
20 provided in the Per Diem and Mileage Act and shall receive no  
21 other compensation, perquisite or allowance; however, the  
22 secretary-treasurer may be compensated at the discretion of the  
23 board.

24 I. A simple majority of the board members currently  
25 serving shall constitute a quorum, provided at least two of

1 that quorum are not dentist members and three are dentist  
2 members.

3 J. The board shall elect officers annually as  
4 deemed necessary to administer its duties and as provided in  
5 its rules [~~and regulations~~]. "

6 Section 7. Section 61-5A-9 NMSA 1978 (being Laws 1994,  
7 Chapter 55, Section 9) is amended to read:

8 "61-5A-9. COMMITTEE CREATED. --

9 A. There is created the [~~seven-member~~] nine-member  
10 "New Mexico dental hygienists committee". The committee shall  
11 consist of five dental hygienists, [~~one dentist~~] two dentists  
12 and [~~one public member~~] two public members. The dental  
13 hygienists [~~must~~] shall be actively practicing and have been  
14 licensed practitioners and residents of New Mexico for a period  
15 of five years preceding the date of their appointment. The  
16 [~~dentist~~] dentists and public [~~member~~] members shall be members  
17 of the board and shall be elected annually to sit on the  
18 committee by those members sitting on the board.

19 B. The governor may appoint the dental hygienists  
20 from a list of names submitted by the New Mexico dental  
21 hygienists' association. There [~~may~~] shall be one member from  
22 each district. [~~The list submitted shall consist, whenever~~  
23 ~~possible, of names of dental hygienists in the district being~~  
24 ~~considered but may also include names of dental hygienists~~  
25 ~~at large. No more than two dental hygienists shall serve from~~

1 ~~the same district at one time.]~~ All members shall serve until  
 2 their successors have been appointed. No more than one member  
 3 ~~[shall]~~ may be employed by or receive remuneration from a  
 4 dental or dental hygiene educational institution.

5 C. Appointments for dental hygienist members shall  
 6 be for terms of five years. Appointments shall be made so that  
 7 the term of one dental hygienist expires on July 1 of each  
 8 year.

9 D. Any committee member failing to attend three  
 10 committee or board meetings, either regular or special, during  
 11 the committee member's term shall automatically be removed as a  
 12 member of the committee unless excused from attendance by the  
 13 committee for good cause shown. Members of the committee not  
 14 sitting on the board shall not be required or allowed to attend  
 15 board disciplinary hearings.

16 E. No committee member shall serve more than two  
 17 full terms on any state-chartered board whose responsibility  
 18 includes the regulation of practice or licensure of dentistry  
 19 or dental hygiene in New Mexico. A partial term of three or  
 20 more years shall be considered a full term.

21 F. In the event of any vacancy, the secretary of  
 22 the committee shall immediately notify the governor, the  
 23 committee and board members and the New Mexico dental  
 24 hygienists' association of the reason for its occurrence and  
 25 action taken by the committee, so as to expedite appointment of

1 a new committee member.

2 G. The committee shall meet [~~quarterly~~] at least  
3 four times every year and no more than two meetings shall be  
4 public rules hearings. Regular meetings shall not be more than  
5 one hundred twenty days apart. The committee may also hold  
6 special meetings and emergency meetings in accordance with the  
7 rules [~~and regulations~~] of the board and committee, upon  
8 written notification to all members of the committee and the  
9 board.

10 H. Members of the committee shall be reimbursed as  
11 provided in the Per Diem and Mileage Act and shall receive no  
12 other compensation, perquisite or allowance.

13 I. A simple majority of the committee members  
14 currently serving shall constitute a quorum, provided at least  
15 [~~one~~] two of that quorum [~~is~~] are not [~~a~~] hygienist [~~member~~]  
16 members and three are hygienist members.

17 J. The committee shall elect officers annually as  
18 deemed necessary to administer its duties and as provided in  
19 rules and regulations of the board and committee. "

20 Section 8. Section 61-5A-10 NMSA 1978 (being Laws 1994,  
21 Chapter 55, Section 10) is amended to read:

22 "61-5A-10. POWERS AND DUTIES OF THE BOARD AND  
23 COMMITTEE. --In addition to any other authority provided by law,  
24 the board or the committee shall have the power to:

25 A. enforce and administer the provisions of the

1 Dental Health Care Act;

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

5 (1) regulate the examination and licensure of  
6 dentists and, through the committee, regulate the examination  
7 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; [~~and~~]

12 (4) regulate the practice of dentistry, dental  
13 assisting and, through the committee, regulate the practice of  
14 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 licenses  
24 and certificates to practice dentistry, dental assisting and,  
25 through the committee, dental hygiene and censure, reprimand,

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

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

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

19 [~~H.~~] I. hire staff and administrators as necessary  
20 to carry out the provisions of the Dental Health Care Act;

21 [~~I.~~] J. establish ad hoc committees whose members  
22 shall be appointed by the chairman with the advice and consent  
23 of the board or committee and shall include at least one member  
24 of the board or committee, as it deems necessary for carrying  
25 on its business;

1           ~~[J-]~~ K. have the authority to pay per diem and  
2 mileage to individuals who are appointed by the board or the  
3 committee to serve on ad hoc committees;

4           ~~[K-]~~ L. have the authority to hire or contract with  
5 investigators to investigate possible violations of the Dental  
6 Health Care Act;

7           ~~[L-]~~ M. have the authority to hire an attorney to  
8 give advice and counsel in regard to any matter connected with  
9 the duties of the board ~~[and]~~ or the committee, to represent  
10 the board or the committee in any legal proceedings and to aid  
11 in the enforcement of the laws in relation to the Dental Health  
12 Care Act and to fix the compensation to be paid to such  
13 attorney; provided, however, such attorney shall be compensated  
14 from the funds of the board;

15           ~~[M-]~~ N. have the authority to issue investigative  
16 subpoenas prior to the issuance of a notice of contemplated  
17 action for the purpose of investigating complaints against  
18 dentists, dental assistants and, through the committee, dental  
19 hygienists licensed under the Dental Health Care Act; and

20           ~~[N-]~~ O. establish continuing education or continued  
21 competency requirements for dentists, certified dental  
22 assistants in expanded functions, dental technicians and,  
23 through the committee, dental hygienists. "

24           Section 9. Section 61-5A-12 NMSA 1978 (being Laws 1994,  
25 Chapter 55, Section 12, as amended) is amended to read:

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1 "61-5A-12. DENTISTS--REQUIREMENTS FOR LICENSURE--  
2 SPECIALTY LICENSE. --

3 A. All applicants for licensure as a dentist shall  
4 have graduated and received a [~~diploma~~] degree from [~~an~~  
5 ~~accredited dental college or~~] a school of dentistry [~~of a~~  
6 ~~university~~] that is accredited by the [~~American dental~~  
7 ~~association~~] joint commission on dental accreditation and have  
8 passed the written portion of the dental examination  
9 administered by the joint commission on national dental  
10 examinations of the American dental association or, if the test  
11 is not available, another written examination determined by the  
12 board.

13 B. Applicants for a general license to practice  
14 dentistry [~~licensure~~] by examination shall be required, in  
15 addition to the requirements set forth in Subsection A of this  
16 section, to pass a test covering the laws and [~~regulations~~]  
17 rules for the practice of dentistry in New Mexico. Written  
18 examinations shall be supplemented by the board or its agents  
19 by administering to each applicant a practical or clinical  
20 examination that reasonably tests the applicant's  
21 qualifications to practice general dentistry. Upon an  
22 applicant passing the written and clinical examinations and  
23 payment in advance of the necessary fees, the board shall issue  
24 a license to practice dentistry.

25 [~~C. The board shall issue a general dentistry~~

~~license by credentials without a practical or clinical  
 examination to an applicant who is duly licensed by a clinical  
 examination as a dentist under the laws of another state or  
 territory of the United States and whose license is active and  
 in good standing in that jurisdiction and in good standing in  
 any other jurisdiction where the applicant has held a license;  
 provided there are no proceedings pending against the  
 applicant's license and that a standard national practitioner  
 data bank or other nationally recognized data resource that  
 records actions against a dentist within the United States does  
 not reveal any activities that could reasonably be construed to  
 constitute evidence of danger to patients. The applicant shall  
 otherwise meet the requirements of the Dental Health Care Act,  
 including payment of appropriate fees and passing an  
 examination covering the laws and regulations of the practice  
 of dentistry in New Mexico.]~~

C. The board may issue a general license to  
 practice dentistry, by credentials, without a practical or  
 clinical examination to an applicant who is duly licensed by a  
 clinical examination as a dentist under the laws of another  
 state or territory of the United States; provided that license  
 is active and that all dental licenses that individual  
 possesses have been in good standing for five years prior to  
 application. The credentials must show that no dental board  
 actions have been taken during the five years prior to

1 application; that no proceedings are pending in any states in  
2 which the applicant has had a license in the five years prior  
3 to application; and that a review of public records, the  
4 national practitioners data bank or other nationally recognized  
5 data resources that record actions against a dentist in the  
6 United States does not reveal any activities or unacquitted  
7 civil or criminal charges that could reasonably be construed to  
8 constitute evidence of danger to patients, including acts of  
9 moral turpitude.

10 D. The board may issue a general license to  
11 practice dentistry [~~license~~] by credentials to an applicant who  
12 meets the requirements, including payment of appropriate fees  
13 and the passing of an examination covering the laws and rules  
14 of the practice of dentistry in New Mexico, of the Dental  
15 Health Care Act and rules promulgated pursuant to that act, and  
16 who:

17 (1) has maintained a uniform service practice  
18 in the United States military or public health service for  
19 three years immediately preceding the application; or

20 (2) is duly licensed by examination as a  
21 dentist pursuant to the laws of another state or territory of  
22 the United States.

23 E. The board may issue a specialty license by  
24 examination to an applicant who has passed a clinical and  
25 written examination given by the board or its examining agents

1 that covers the applicant's specialty. The applicant shall  
2 have a postgraduate degree or certificate from an accredited  
3 dental college, school of dentistry of a university or other  
4 residency program that is accredited by the [~~American dental~~  
5 ~~association~~] joint commission on dental accreditation in one of  
6 the specialty areas of dentistry recognized by the American  
7 dental association. The applicant shall also meet all other  
8 requirements as established by rules of the board, which shall  
9 include an examination covering the laws and [~~regulations~~]  
10 rules of the practice of dentistry in New Mexico. A specialty  
11 license limits the licensee to practice only in that specialty  
12 area.

13 [~~F.—The board may issue a specialty license by~~  
14 ~~credentials to an applicant who is duly licensed by examination~~  
15 ~~as a dentist under the laws of another state or territory of~~  
16 ~~the United States and has a postgraduate degree or certificate~~  
17 ~~from an accredited dental college, school of dentistry of a~~  
18 ~~university or other residency program that is accredited by the~~  
19 ~~American dental association commission on dental accreditation~~  
20 ~~in one of the specialty areas of dentistry recognized by the~~  
21 ~~American dental association. The applicant shall also meet all~~  
22 ~~other qualifications as deemed necessary by rules of the board,~~  
23 ~~which shall include an examination covering the laws and rules~~  
24 ~~of the practice of dentistry in New Mexico. A specialty~~  
25 ~~license limits the licensee to practice only in that specialty~~

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1 area.]

2 F. The board may issue a specialty license, by  
3 credentials, without a practical or clinical examination to an  
4 applicant who is duly licensed by a clinical examination as a  
5 dentist under the laws of another state or territory of the  
6 United States and who has a postgraduate degree or certificate  
7 from an accredited dental college, school of dentistry of a  
8 university or other residency program that is accredited by the  
9 joint commission on dental accreditation in one of the  
10 specialty areas of dentistry recognized by the American dental  
11 association; provided that license is active and that all  
12 dental licenses that individual possesses have been in good  
13 standing for five years prior to application. The credentials  
14 must show that no dental board actions have been taken during  
15 the five years prior to application; that no proceedings are  
16 pending in any states in which the applicant has had a license  
17 in the five years prior to application; and that a review of  
18 public records, the national practitioners data bank or other  
19 nationally recognized data resources that record actions  
20 against a dentist in the United States does not reveal any  
21 activities or unacquitted civil or criminal charges that could  
22 reasonably be construed to constitute evidence of danger to  
23 patients, including acts of moral turpitude. The applicant  
24 shall meet all other qualifications as deemed necessary by  
25 rules of the board, which shall include an examination covering

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1 the laws and rules of the practice of dentistry in New Mexico.  
 2 A specialty license limits the licensee to practice only in  
 3 that specialty area."

4 Section 10. Section 61-5A-13 NMSA 1978 (being Laws 1994,  
 5 Chapter 55, Section 13, as amended) is amended to read:

6 "61-5A-13. DENTAL HYGIENIST LICENSURE. --

7 A. Applicants for licensure shall have graduated  
 8 and received a [~~diploma~~] degree from an accredited dental  
 9 hygiene educational program that provides a minimum of two  
 10 academic years of dental hygiene curriculum and is a post-  
 11 secondary educational institution accredited by the [~~American~~  
 12 ~~dental association~~] joint commission on dental accreditation  
 13 and shall have passed the written portion of the dental hygiene  
 14 examination administered by the joint commission on national  
 15 dental examinations of the American dental association or, if  
 16 this test is not available, another written examination  
 17 determined by the committee.

18 B. Applicants for licensure by examination shall be  
 19 required, in addition to the requirements set forth in  
 20 Subsection A of this section, to pass a written examination  
 21 covering the laws and rules for practice in New Mexico. Each  
 22 written examination shall be supplemented by a practical or  
 23 clinical examination administered by the committee or its  
 24 agents that reasonably tests the applicant's qualifications to  
 25 practice as a dental hygienist. Upon an applicant passing the

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1 written and clinical examinations, the board, upon  
2 recommendation of the committee, shall issue a license to  
3 practice as a dental hygienist.

4 C. The board, upon the committee's recommendation,  
5 shall issue a license to practice as a dental hygienist by  
6 credentials without examination, including practical or  
7 clinical examination, to an applicant who is a duly licensed  
8 dental hygienist by examination under the laws of another state  
9 or territory of the United States and whose ~~[license]~~ license  
10 is in good standing for the two previous years in that  
11 jurisdiction and if the applicant otherwise meets all other  
12 requirements of the Dental Health Care Act, including payment  
13 of appropriate fees and passing an examination covering the  
14 laws and rules pertaining to practice as a dental hygienist in  
15 New Mexico. "

16 Section 11. Section 61-5A-14 NMSA 1978 (being Laws 1994,  
17 Chapter 55, Section 14) is amended to read:

18 "61-5A-14. TEMPORARY LICENSURE. -- The [~~secretary-treasurer~~  
19 ~~of the]~~ board or the committee may issue a temporary license to  
20 practice dentistry or dental hygiene to any applicant who is  
21 licensed to practice dentistry or dental hygiene in another  
22 state or territory of the United States and who is otherwise  
23 qualified to practice dentistry or dental hygiene in this  
24 state. The following provisions shall apply:

25 A. the applicant [~~must~~] shall hold a valid license

1 in good standing in another state or territory of the United  
2 States;

3 B. the applicant shall practice dentistry or dental  
4 hygiene under the sponsorship of or in association with a  
5 licensed New Mexico dentist or dental hygienist;

6 C. the temporary license may be issued for those  
7 activities as stipulated by the board or committee in the rules  
8 of the board. It may be issued upon written application of the  
9 applicant when accompanied by such proof of qualifications as  
10 the secretary-treasurer of the board or committee, in [~~their~~]  
11 his discretion, may require. Temporary licensees shall engage  
12 in only those activities specified on the temporary license for  
13 the time designated, and the temporary license shall identify  
14 the licensed New Mexico dentist or dental hygienist who will  
15 sponsor or associate with the applicant during the time the  
16 applicant practices dentistry or dental hygiene in New Mexico;

17 D. the sponsoring or associating dentist or dental  
18 hygienist shall submit an affidavit attesting to the  
19 qualifications of the applicant and the activities the  
20 applicant will perform;

21 E. the temporary license shall be issued for a  
22 period not to exceed twelve months and may be [~~reviewed~~]  
23 renewed upon application and payment of required fees;

24 F. the application for a temporary license under  
25 this section shall be accompanied by a license fee; and

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1           G. the temporary licensee shall be required to  
2 comply with the Dental Health Care Act and all rules [~~and~~  
3 ~~regulations~~] promulgated pursuant thereto."

4           Section 12. A new section of the Dental Health Care Act  
5 is enacted to read:

6           "[NEW MATERIAL] NON-DENTIST OWNER--EMPLOYING OR  
7 CONTRACTING FOR DENTAL SERVICES.--

8           A. A person, corporation or agency that desires to  
9 function as a non-dentist owner in New Mexico shall apply to  
10 the board for the proper license and shall adhere to the  
11 requirements, re-licensure criteria and fees as established by  
12 the rules of the board.

13           B. Unless licensed as a dentist or non-dentist  
14 owner, or as otherwise exempt from the licensing requirements  
15 of the Dental Health Care Act, an individual or corporate  
16 entity shall not:

17                   (1) employ or contract with a dentist or  
18 dental hygienist for the purpose of providing dental or dental  
19 hygiene services as defined by their respective scopes of  
20 practice; or

21                   (2) enter into a managed care or other  
22 agreement to provide dental or dental hygiene services in New  
23 Mexico."

24           Section 13. Section 61-5A-16 NMSA 1978 (being Laws 1994,  
25 Chapter 55, Section 16) is amended to read:

1 "61-5A-16. [~~LICENSES~~] LICENSE AND CERTIFICATE RENEWALS. --

2 A. Except as provided in Subsection I of this  
3 section, all licensees shall be required to renew their  
4 licenses triennially as established in rules [~~and regulations~~]  
5 of the board.

6 B. All dental assistants certified in expanded  
7 functions shall be required to renew their certificates  
8 triennially as established in rules [~~and regulations~~] of the  
9 board.

10 C. The board or committee may establish a method to  
11 provide for staggered triennial terms and may prorate triennial  
12 renewal fees and impaired dentist and dental hygienist fees  
13 until staggered triennial renewal is established. The fact  
14 that a [~~practitioner~~] licensee has not received a renewal form  
15 from the board or committee shall not relieve the  
16 [~~practitioner~~] licensee of the duty to renew the license or  
17 certificate nor shall such omission on the part of the board or  
18 committee operate to exempt the [~~practitioner~~] licensee from  
19 the penalties for failure to renew the [~~practitioner's~~]  
20 licensee's license or certificate.

21 D. All [~~licensed practitioners~~] licensees shall pay  
22 a triennial renewal fee and an impaired dentist and dental  
23 hygienist fee, and all [~~practitioners~~] licensees shall return a  
24 completed renewal application form that includes proof of  
25 continuing education or continued competency.

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1           E. Each application for triennial renewal of  
2 license shall state the [~~practitioner's~~] licensee's full name,  
3 business address, the date and number of the license and all  
4 other information requested by the board or committee.

5           F. Any [~~practitioner~~] licensee who fails to submit  
6 an application for triennial renewal on or before July 1 but  
7 who submits an application for triennial renewal within thirty  
8 days thereafter shall be assessed a late fee.

9           G. Any [~~practitioner~~] licensee who fails to submit  
10 application for triennial renewal between thirty and sixty days  
11 of the July 1 deadline may have [~~their~~] his license or  
12 certificate suspended. If the [~~practitioner~~] licensee renews  
13 by that time, the licensee shall be assessed a cumulative late  
14 fee.

15           H. The board or the committee may summarily revoke,  
16 for nonpayment of fees or failure to comply with continuing  
17 education or continued competency requirements, the license or  
18 certificate of any [~~practitioner~~] licensee or certificate  
19 holder who has failed to renew his license or certificate on or  
20 before August 31.

21           I. A license for a non-dentist owner shall be  
22 renewed triennially as established by rules. An application  
23 for renewal of a non-dentist owner license shall state the  
24 name, business address, date and number of the license and all  
25 other information as required by rule of the board. If a non-

1 dentist owner fails to submit the application for renewal of  
 2 the license by July 1, the board may assess a late fee. If the  
 3 non-dentist owner fails to submit the application for a renewal  
 4 license within sixty days of the July 1 renewal deadline, the  
 5 board may suspend the license. The license of a non-dentist  
 6 owner may be summarily revoked by the board for nonpayment of  
 7 fees.

8 J. Assessment of fees pursuant to this section is  
 9 not subject to the Uniform Licensing Act. "

10 Section 14. Section 61-5A-17 NMSA 1978 (being Laws 1994,  
 11 Chapter 55, Section 17) is amended to read:

12 "61-5A-17. RETIREMENT AND INACTIVE STATUS--  
 13 REACTIVATION. --

14 A. Any dentist or dental hygienist who wishes to  
 15 retire from the practice of dentistry or dental hygiene shall  
 16 meet all requirements for retirement as set by rules [~~and~~  
 17 ~~regulation~~] of the board and the committee. The licensee shall  
 18 notify the board or the committee in writing before the  
 19 expiration of the [~~practitioner's~~] licensee's current license,  
 20 and the secretary of the board or the committee shall  
 21 acknowledge the [~~receipts of such~~] receipt of notice and record  
 22 the same. If, within a period of [~~five~~] three years from the  
 23 date of retirement, the dentist or dental hygienist wishes to  
 24 resume practice, the applicant shall so notify the board or the  
 25 committee in writing and give proof of completing all

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1 requirements as prescribed by rules [~~and regulations~~] of the  
2 board and the committee to reactivate the license.

3 B. At any time during the three-year period  
4 following retirement, a dentist or dental hygienist with a  
5 retired New Mexico license may request in writing to the board  
6 or the committee that his license be placed in inactive status.  
7 Upon the receipt of the application and fees as determined by  
8 the board or the committee and with the approval of the board  
9 or the committee, the license may be placed in inactive status.

10 C. A licensee whose license has been placed in  
11 inactive status may not engage in any of the activities  
12 contained within the scope of practice of dentistry or dental  
13 hygiene in New Mexico described in Section 61-5A-4 NMSA 1978.

14 D. Licensees with inactive licenses must renew  
15 their licenses triennially and comply with all the requirements  
16 set by the board and the committee.

17 E. If a licensee with an inactive license wishes to  
18 resume the active practice of dentistry or dental hygiene, the  
19 licensee must notify the board or the committee in writing and  
20 provide proof of completion of all requirements to reactivate  
21 the license as prescribed by rule of the board or the  
22 committee. Upon payment of all fees due, the board may  
23 reactivate the license and the licensee may resume the practice  
24 of dentistry or dental hygiene subject to any stipulations of  
25 the board or the committee.

1                   F. Inactive licenses must be reactivated or  
2 permanently retired within nine years of having been placed in  
3 inactive status.

4                   G. Assessment of fees pursuant to this section is  
5 not subject to the Uniform Licensing Act. "

6                   Section 15. Section 61-5A-18 NMSA 1978 (being Laws 1994,  
7 Chapter 55, Section 18) is amended to read:

8                   "61-5A-18. PRACTICING WITHOUT A LICENSE--PENALTY. --

9                   A. Any person who practices dentistry or who  
10 attempts to practice dentistry without first complying with the  
11 provisions of the Dental Health Care Act and without being the  
12 holder of a license entitling the practitioner to practice  
13 dentistry in New Mexico is guilty of a fourth degree felony and  
14 upon conviction shall be sentenced [~~under~~] pursuant to the  
15 provisions of the Criminal Sentencing Act to imprisonment for a  
16 definite period not to exceed eighteen months and, in the  
17 discretion of the sentencing court, to a fine not to exceed  
18 five thousand dollars (\$5,000), or both. Each occurrence of  
19 practicing dentistry or attempting to practice dentistry  
20 without complying with the Dental Health Care Act shall be a  
21 separate violation.

22                   B. Any person who practices as a dental hygienist  
23 or who attempts to practice as a dental hygienist without first  
24 complying with the provisions of the Dental Health Care Act and  
25 without being the holder of a license entitling the

underscored material = new  
[bracketed material] = delete

1 practitioner to practice as a dental hygienist in New Mexico is  
2 guilty of a [~~misdemeanor and upon conviction shall be sentenced~~  
3 ~~under the provisions of the Criminal Sentencing Act to~~  
4 ~~imprisonment for a definite period not to exceed one year and,~~  
5 ~~in the discretion of the sentencing court, to a fine not to~~  
6 ~~exceed one thousand dollars (\$1,000), or both]~~ fourth degree  
7 felony and upon conviction shall be sentenced pursuant to the  
8 provisions of the Criminal Sentencing Act to imprisonment for a  
9 definite period not to exceed eighteen months and, in the  
10 discretion of the sentencing court, to a fine not to exceed  
11 five thousand dollars (\$5,000), or both. Each occurrence of  
12 practicing as a dental hygienist or attempting to practice as a  
13 dental hygienist without complying with the Dental Health Care  
14 Act shall be a separate violation.

15 C. A person that functions or attempts to function  
16 as a non-dentist owner or who is an officer of a corporate  
17 entity that functions or attempts to function as a non-dentist  
18 owner in New Mexico without first complying with the provisions  
19 of the Dental Health Care Act is guilty of a misdemeanor and  
20 upon conviction shall be sentenced pursuant to the provisions  
21 of the Criminal Sentencing Act to imprisonment for a definite  
22 period not to exceed one year and, in the discretion of the  
23 sentencing court, to a fine not to exceed one thousand dollars  
24 (\$1,000), or both. Each occurrence of functioning as a non-  
25 dentist owner without complying with the Dental Health Care Act

1 shall be a separate violation.

2 [~~C-~~] D. The attorney general or district attorney  
3 shall prosecute all violations of the Dental Health Care Act.

4 [~~D-~~] E. Upon conviction of any person for violation  
5 of any provision of the Dental Health Care Act, the convicting  
6 court may, in addition to the penalty provided in this section,  
7 enjoin [~~him~~] the person from any further or continued  
8 violations of the Dental Health Care Act and enforce the order  
9 of contempt proceedings. "

10 Section 16. Section 61-5A-20 NMSA 1978 (being Laws 1994,  
11 Chapter 55, Section 20) is amended to read:

12 "61-5A-20. FEES. --The board and the committee shall  
13 establish a schedule of reasonable fees not to exceed the  
14 following:

	<u>Dentists</u>	<u>Dental Hygienists</u>	
15			
16	A. licensure by examination	\$1,500	\$1,000
17	B. licensure by credential	\$3,000	\$1,500
18	C. specialty license by		
19	examination	\$1,500	
20	D. specialty license by		
21	credential	\$3,000	
22	E. temporary license		
23	48 [ <del>hour</del> ] <u>hours</u>	\$ 50	\$ 50
24	six months	\$ 300	\$ 200
25	12 months	\$ 450	\$ 300

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underscored material = new  
[bracketed material] = delete

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- 1 F. application for  
2 certification in local  
3 anesthesia \$ 40  
4 G. examination in local  
5 anesthesia \$ 150  
6 H. triennial license renewal \$ ~~450~~ 600 \$ ~~300~~ 450  
7 I. late renewal \$ 100 \$ 100  
8 J. reinstatement of license \$ 450 \$ 300  
9 K. administrative fees \$ ~~200~~ 300 \$ ~~200~~ 300  
10 L. impaired dentist or  
11 dental hygienist \$ 150 \$ 75  
12 M. assistant certificate \$ 100  
13 N. application for certification for  
14 collaborative practice \$ 150  
15 O. annual renewal for  
16 collaborative practice \$ 50  
17 P. application for inactive  
18 status \$ 50 \$ 50  
19 Q. triennial renewal of  
20 inactive license \$ 90 \$ 90  
21 Non-dentist Owners  
22 R. non-dentist owners license (initial) \$ 300  
23 S. non-dentist owners license triennial renewal \$ 150. "

24 Section 17. Section 61-5A-21 NMSA 1978 (being Laws 1994,  
25 Chapter 55, Section 21) is amended to read:

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1 "61-5A-21. DISCIPLINARY PROCEEDINGS [~~JUDICIAL~~  
2 ~~REVIEW~~]- - APPLICATION OF UNIFORM LICENSING ACT. - -

3 A. In accordance with the Uniform Licensing Act and  
4 rules [~~and regulations~~] of the board, the board and committee  
5 may fine and may deny, revoke, suspend, stipulate or otherwise  
6 limit any license or certificate, including those of licensed  
7 non-dentist owners, held or applied for under the Dental Health  
8 Care Act, upon findings by the board or the committee that the  
9 licensee, certificate holder or applicant:

10 (1) is guilty of fraud or deceit in procuring  
11 or attempting to procure a license or certificate;

12 (2) has been convicted of a crime punishable  
13 by incarceration in a federal prison or state penitentiary;  
14 provided a copy of the record of conviction, certified to by  
15 the clerk of the court entering the conviction, shall be  
16 conclusive evidence of such conviction;

17 (3) is guilty of gross incompetence or gross  
18 negligence, as defined by [~~regulations~~] rules of the board, in  
19 the practice of dentistry, dental hygiene or dental assisting;

20 (4) is habitually intemperate or is addicted  
21 to the use of habit-forming drugs or is addicted to any vice to  
22 such degree as to render the licensee unfit to practice;

23 (5) is guilty of unprofessional conduct as  
24 defined by rule [~~or regulation~~];

25 (6) is guilty of any violation of the

1 Controlled Substances Act;

2 (7) has violated any provisions of the Dental  
3 Health Care Act or rule or regulation of the board or the  
4 committee;

5 (8) is guilty of willfully or negligently  
6 practicing beyond the scope of [~~practice~~] licensure;

7 (9) is guilty of practicing dentistry or  
8 dental hygiene without a license or aiding or abetting the  
9 practice of dentistry or dental hygiene by a person not  
10 licensed under the Dental Health Care Act;

11 (10) is guilty of obtaining or attempting to  
12 obtain any fee by fraud or misrepresentation or has otherwise  
13 acted in a manner or by conduct likely to deceive, defraud or  
14 harm the public;

15 (11) is guilty of patient abandonment;

16 (12) is guilty of failing to report to the  
17 board any adverse action taken against the licensee by a  
18 licensing authority, peer review body, malpractice insurance  
19 carrier or other entity as defined in rules [~~and regulations~~]  
20 of the board and the committee;

21 (13) has had a license, certificate or  
22 registration to practice as a dentist or dental hygienist  
23 revoked, suspended, denied, stipulated or otherwise limited in  
24 any jurisdiction, territory or possession of the United States  
25 or another country for actions of the licensee similar to acts

1 described in this subsection. A certified copy of the decision  
 2 of the jurisdiction taking such disciplinary action will be  
 3 conclusive evidence; or

4 (14) has failed to furnish the board, its  
 5 investigators or its representatives with information requested  
 6 by the board or the committee in the course of an official  
 7 investigation.

8 B. Disciplinary proceedings may be instituted by  
 9 sworn complaint by any person, including a board or committee  
 10 member, and shall conform with the provisions of the Uniform  
 11 Licensing Act.

12 C. Licensees and certificate holders shall bear the  
 13 costs of disciplinary proceedings unless exonerated.

14 D. Any person filing a sworn complaint shall be  
 15 immune from liability arising out of civil action if the  
 16 complaint is filed in good faith and without actual malice.

17 E. Licensees whose licenses are in a probationary  
 18 status shall pay reasonable expenses for maintaining  
 19 probationary status, including but not limited to laboratory  
 20 costs when laboratory testing of biological fluids or  
 21 accounting costs when audits are included as a condition of  
 22 probation. "

23 Section 18. Section 61-5A-25 NMSA 1978 (being Laws 1994,  
 24 Chapter 55, Section 25) is amended to read:

25 "61-5A-25. PROTECTED ACTIONS AND COMMUNICATIONS. --

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1           A. No member of the board or the committee or any  
2 ad hoc committee appointed by the board or the committee shall  
3 bear liability or be subject to civil damages or criminal  
4 prosecutions for any action undertaken or performed within the  
5 proper functions of the board or the committee.

6           B. All written and oral communication made by any  
7 person to the board or the committee relating to actual or  
8 potential disciplinary action, which includes complaints made  
9 to the board or the committee, shall be confidential  
10 communications and are not public records for the purposes of  
11 the Public Records Act. All data, communications and  
12 information acquired, prepared or disseminated by the board or  
13 the committee relating to actual or potential disciplinary  
14 action or ~~in~~ its investigation of complaints shall not be  
15 disclosed except to the extent necessary to carry out the  
16 purposes of the board or the committee or in a judicial appeal  
17 from the actions of the board or the committee or in a referral  
18 of cases made to law enforcement agencies, national database  
19 clearinghouses or other licensing boards.

20           C. Information contained in complaint files is  
21 public information and subject to disclosure when the board or  
22 the committee acts on a complaint and ~~it~~ issues a notice of  
23 contemplated action or reaches a settlement prior to the  
24 issuance of a notice of contemplated action.

25           D. No person or legal entity providing information

underscoring material = new  
[bracketed material] = delete

1 to the board or the committee, whether as a report, a complaint  
 2 or testimony, shall be subject to civil damages or criminal  
 3 prosecutions. "

4 Section 19. Section 61-5A-26 NMSA 1978 (being Laws 1994,  
 5 Chapter 55, Section 26) is amended to read:

6 "61-5A-26. FUND ESTABLISHED. --

7 A. There is created in the state treasury the  
 8 "board of dental health care fund".

9 B. All [~~funds~~] money received by the board and  
 10 money collected under the Dental Health Care Act shall be  
 11 deposited with the state treasurer. The state treasurer shall  
 12 credit this money to the board of dental health care fund  
 13 except money collected for the impaired assessment, which shall  
 14 be held separate from the board fund. Fees collected by the  
 15 board from fines shall be deposited in the board of dental  
 16 health care fund and, at the discretion of the board and the  
 17 committee, may be transferred into the impaired dentists and  
 18 dental hygienists fund.

19 C. Payment out of the board of dental health care  
 20 fund shall be on vouchers issued and signed by the  
 21 secretary-treasurer of the board upon warrants drawn by the  
 22 department of finance and administration in accordance with the  
 23 budget approved by that department.

24 D. All amounts paid into the board of dental health  
 25 care fund are subject to the order of the board and are to be

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1 used only for meeting necessary expenses incurred in executing  
2 the provisions and duties of the Dental Health Care Act. All  
3 money unused at the end of any fiscal year [~~remains~~] shall  
4 remain in the fund for use in accordance with provisions of the  
5 Dental Health Care Act.

6 E. All funds that have accumulated to the credit of  
7 the [~~dental~~] board under any previous law shall be continued  
8 for use by the board in administration of the Dental Health  
9 Care Act. "

10 Section 20. Section 61-5A-30 NMSA 1978 (being Laws 1994,  
11 Chapter 55, Section 42, as amended) is amended to read:

12 "61-5A-30. DELAYED REPEAL. --The New Mexico board of  
13 dental health care is terminated on July 1, [~~2003~~] 2009  
14 pursuant to the Sunset Act. The board shall continue to  
15 operate according to the provisions of the Dental Health Care  
16 Act and the Impaired Dentists and Dental Hygienists Act until  
17 July 1, [~~2004~~] 2010. Effective July 1, [~~2004~~] 2010, the Dental  
18 Health Care Act and the Impaired Dentists and Dental Hygienists  
19 Act are repealed. "

20 Section 21. Section 61-5B-2 NMSA 1978 (being Laws 1994,  
21 Chapter 55, Section 31) is amended to read:

22 "61-5B-2. DEFINITIONS. --As used in the Impaired Dentists  
23 and Dental Hygienists Act:

24 A. "board" means the New Mexico board of dental  
25 health care;

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B. "dental hygienists committee" means the New Mexico dental hygienists committee [~~of the New Mexico board of dental health care~~];

C. "dentistry or dental hygiene" means the practice of dentistry or dental hygiene; and

D. "licensee" means a dentist or dental hygienist licensed by the board. "

underscored material = new  
[bracketed material] = delete