

HOUSE BUSINESS AND INDUSTRY COMMITTEE SUBSTITUTE FOR
HOUSE HEALTH AND GOVERNMENT AFFAIRS COMMITTEE SUBSTITUTE FOR
HOUSE BILL 481

48TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2007

AN ACT

RELATING TO WATER QUALITY; REQUIRING A DENTAL OFFICE TO REMOVE
DENTAL AMALGAM PRIOR TO DISCHARGE OF ITS WASTEWATER.

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

Section 1. ~~[NEW MATERIAL]~~ SHORT TITLE.--Sections 1
through 6 of this act may be cited as the "Dental Amalgam Waste
Reduction Act".

Section 2. ~~[NEW MATERIAL]~~ 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 teeth;

B. "amalgam separator" means a device that removes
dental amalgam from the waste stream prior to discharge into

1 either the local public wastewater system or a private septic
2 system and that meets a minimum removal efficiency in
3 accordance with international standards contained in *ISO 11143*,
4 *Dental Equipment-Amalgam Separators*, published by the
5 international organization for standardization; and

6 C. "dental office" means a fixed physical structure
7 in which dental services are provided to patients by dentists
8 and dental professionals licensed or certified by the New
9 Mexico board of dental health care under the management of a
10 licensed owner, operator or designee.

11 Section 3. [NEW MATERIAL] INSTALLATION OF AMALGAM
12 SEPARATOR REQUIRED.--By December 31, 2008, a dental office
13 shall install an appropriately sized amalgam separator system
14 and, upon inspection for cause, shall demonstrate to the New
15 Mexico board of dental health care proper installation,
16 operation, maintenance and amalgam waste recycling or disposal
17 in accordance with an amalgam separator manufacturer's
18 recommendations. The New Mexico board of dental health care
19 shall consider noncompliance with the Dental Amalgam Waste
20 Reduction Act as unprofessional conduct subject to the
21 penalties and discipline of the board pursuant to the Uniform
22 Licensing Act and the Dental Health Care Act.

23 Section 4. [NEW MATERIAL] EXEMPTION FOR CERTAIN DENTAL
24 OFFICES.--An amalgam separator system shall not be required for
25 the offices or clinical site of:

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- 1 A. a dental office that is not engaged in amalgam
- 2 placement, removal or modification;
- 3 B. an orthodontist;
- 4 C. a periodontist;
- 5 D. an oral maxillofacial surgeon;
- 6 E. an oral maxillofacial radiologist;
- 7 F. an oral pathologist;
- 8 G. a dentist who will no longer operate a dental
- 9 office after December 31, 2008; or
- 10 H. a portable dental office without a fixed
- 11 connection for wastewater discharge.

12 Section 5. [NEW MATERIAL] REPORTING.--A dental office

13 shall report the model and size of its amalgam separator system

14 within ninety days of installation to its local publicly owned

15 water treatment facility, where applicable, and to the New

16 Mexico board of dental health care. A dental office shall

17 report its compliance and maintain records of the operation,

18 maintenance and recycling or disposal of amalgam waste for

19 every consecutive three-year period following the installation

20 of its amalgam separator system and shall report the

21 information upon request for cause to the New Mexico board of

22 dental health care. The New Mexico board of dental health care

23 shall retain the reported information for review coincident

24 with the board's licensing and renewal functions.

25 Section 6. [NEW MATERIAL] ENFORCEMENT.--The New Mexico

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underscored material = new
[bracketed material] = delete

1 board of dental health care shall initiate disciplinary
2 proceedings for willful and persistent noncompliance with the
3 provisions of the Dental Amalgam Waste Reduction Act.

4 Section 7. Section 61-5A-10 NMSA 1978 (being Laws 1994,
5 Chapter 55, Section 10, as amended by Laws 2003, Chapter 408,
6 Section 6 and by Laws 2003, Chapter 409, Section 8) is amended
7 to read:

8 "61-5A-10. POWERS AND DUTIES OF THE BOARD AND
9 COMMITTEE.--In addition to any other authority provided by law,
10 the board and the committee, [~~where~~] when designated, shall
11 have the power to:

12 A. enforce and administer the provisions of the
13 Dental Health Care Act and the Dental Amalgam Waste Reduction
14 Act;

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

18 (1) regulate the examination and licensure of
19 dentists and, through the committee, regulate the examination
20 and licensure of dental hygienists;

21 (2) provide for the examination and
22 certification of dental assistants by the board;

23 (3) provide for the regulation of dental
24 technicians by the board;

25 (4) regulate the practice of dentistry, dental

1 assisting and, through the committee, regulate the practice of
2 dental hygiene; and

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

5 C. adopt and use a seal;

6 D. administer oaths to all applicants, witnesses
7 and others appearing before the board or the committee, as
8 appropriate;

9 E. keep an accurate record of all meetings,
10 receipts and disbursements;

11 F. grant, deny, review, suspend and revoke licenses
12 and certificates to practice dentistry, dental assisting and,
13 through the committee, dental hygiene and censure, reprimand,
14 fine and place on probation and stipulation dentists, dental
15 assistants and, through the committee, dental hygienists, in
16 accordance with the Uniform Licensing Act for any cause stated
17 in the Dental Health Care Act and the Dental Amalgam Waste
18 Reduction Act;

19 G. grant, deny, review, suspend and revoke licenses
20 to own dental practices and censure, reprimand, fine and place
21 on probation and stipulation non-dentist owners, in accordance
22 with the Uniform Licensing Act, for any cause stated in the
23 Dental Health Care Act and the Dental Amalgam Waste Reduction
24 Act;

25 H. maintain records of the name, address, license

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1 number and such other demographic data as may serve the needs
2 of the board of licensees, together with a record of license
3 renewals, suspensions, revocations, probations, stipulations,
4 censures, reprimands and fines. The board shall make available
5 composite reports of demographic data, but shall limit public
6 access to information regarding individuals to their names,
7 addresses, license numbers and license actions or as required
8 by statute;

9 ~~[J.]~~ I. establish ad hoc committees whose members
10 shall be appointed by the ~~[chairman]~~ chair with the advice and
11 consent of the board or committee and shall include at least
12 one member of the board or committee, as it deems necessary for
13 carrying on its business;

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

17 ~~[L.]~~ K. have the authority to hire or contract with
18 investigators to investigate possible violations of the Dental
19 Health Care Act and the Dental Amalgam Waste Reduction Act;

20 ~~[M.]~~ L. have the authority to issue investigative
21 subpoenas prior to the issuance of a notice of contemplated
22 action for the purpose of investigating complaints against
23 dentists, dental assistants and, through the committee, dental
24 hygienists licensed under the Dental Health Care Act and the
25 Dental Amalgam Waste Reduction Act; and

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