

HOUSE BILL 191

52ND LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2016

INTRODUCED BY

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AN ACT

RELATING TO DENTAL HEALTH CARE; AMENDING AND ENACTING NEW
SECTIONS OF THE DENTAL HEALTH CARE ACT TO ESTABLISH THE
PROFESSION OF DENTAL THERAPIST; AMENDING THE NEW MEXICO DRUG,
DEVICE AND COSMETIC ACT TO PROVIDE FOR DENTAL THERAPIST
PRESCRIBING POWERS; ENACTING A NEW SECTION OF CHAPTER 2,
ARTICLE 5 NMSA 1978 TO ESTABLISH AN ACCESS TO DENTAL HEALTH
CARE SUBCOMMITTEE OF THE LEGISLATIVE FINANCE COMMITTEE;
ENACTING A NEW SECTION OF THE PUBLIC HEALTH ACT TO ESTABLISH AN
OFFICE OF STATE DENTAL DIRECTOR; ENACTING A SECTION OF THE
PUBLIC SCHOOL CODE TO ESTABLISH DENTAL EXAMINATION AS A
PREREQUISITE TO SCHOOL ENROLLMENT; AMENDING SECTIONS OF THE
PUBLIC ASSISTANCE ACT AND THE NONPROFIT HEALTH CARE PLAN LAW TO
PROVIDE FOR REIMBURSEMENT OF DENTAL THERAPY; ENACTING A
TEMPORARY PROVISION TO REQUIRE THE DEPARTMENT OF HEALTH TO
CONDUCT AND REPORT ON A STUDY OF THE FIRST FIVE YEARS OF DENTAL

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1 THERAPY PRACTICE IN THE STATE.

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

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

6 "61-5A-2. PURPOSE.--

7 A. In the interest of the public health, safety and
8 welfare and to protect the public from the improper,
9 unprofessional, incompetent and unlawful practice of dentistry,
10 dental therapy and dental hygiene, it is necessary to provide
11 laws and rules controlling the granting and use of the
12 privilege to practice dentistry, dental therapy and dental
13 hygiene and to establish a board of dental health care and a
14 dental hygienists committee to implement and enforce those laws
15 and rules.

16 B. The primary duties of the New Mexico board of
17 dental health care are:

18 (1) to issue licenses to qualified dentists,
19 dental therapists and owners of dental practices;

20 (2) to certify qualified dental assistants,
21 expanded-function dental auxiliaries and community dental
22 health coordinators;

23 (3) to issue licenses to dental hygienists
24 through the dental hygienists committee;

25 (4) to discipline incompetent or

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1 unprofessional dentists, dental therapists, dental assistants,
2 owners of dental practices and, through the dental hygienists
3 committee, dental hygienists; and

4 (5) to aid in the rehabilitation of impaired
5 dentists and dental hygienists for the purpose of protecting
6 the public."

7 SECTION 2. Section 61-5A-3 NMSA 1978 (being Laws 1994,
8 Chapter 55, Section 3, as amended) is amended to read:

9 "61-5A-3. DEFINITIONS.--As used in the Dental Health Care
10 Act:

11 A. "assessment" means the review and documentation
12 of the oral condition, and the recognition and documentation of
13 deviations from the healthy condition, without a diagnosis to
14 determine the cause or nature of disease or its treatment;

15 B. "board" means the New Mexico board of dental
16 health care;

17 C. "certified dental assistant" means an individual
18 certified by the dental assisting national board;

19 D. "collaborative dental hygiene practice" means a
20 New Mexico licensed dental hygienist practicing according to
21 Subsections D through G of Section 61-5A-4 NMSA 1978;

22 E. "collaborative dental therapy agreement" means a
23 contract between a supervising dentist and a dental therapist
24 that outlines the parameters of care, level of supervision and
25 protocols to be followed while performing dental therapy

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1 procedures on patients under their care;

2 F. "commercial dental service organization" means a
3 for-profit entity that administers dental practices and employs
4 or contracts with dentists, dental hygienists or other dental
5 personnel, but otherwise does not hold a professional license
6 to provide dental services;

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

9 ~~[F.]~~ H. "community dental health coordinator" means
10 a dental assistant, a dental hygienist or other trained
11 personnel certified by the board as a community dental health
12 coordinator to provide educational, preventive and limited
13 palliative care and assessment services working collaboratively
14 under the general supervision of a licensed dentist in settings
15 other than traditional dental offices and clinics;

16 ~~[G.]~~ I. "consulting dentist" means a dentist who
17 has entered into an approved agreement to provide consultation
18 and create protocols with a collaborating dental hygienist and,
19 when required, to provide diagnosis and authorization for
20 services, in accordance with the rules of the board and the
21 committee;

22 ~~[H.]~~ J. "dental hygiene-focused assessment" means
23 the documentation of existing oral and relevant system
24 conditions and the identification of potential oral disease to
25 develop, communicate, implement and evaluate a plan of oral

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1 hygiene care and treatment;

2 ~~[H.]~~ K. "dental assistant certified in expanded
3 functions" means a dental assistant who meets specific
4 qualifications set forth by rule of the board;

5 ~~[J.]~~ L. "dental hygienist" means an individual who
6 has graduated and received a degree from a dental hygiene
7 educational program that is accredited by the commission on
8 dental accreditation, that provides a minimum of two academic
9 years of dental hygiene curriculum and that is an institution
10 of higher education; and "dental hygienist" means, except as
11 the context otherwise requires, an individual who holds a
12 license to practice dental hygiene in New Mexico;

13 ~~[K.]~~ M. "dental laboratory" means any place where
14 dental restorative, prosthetic, cosmetic and therapeutic
15 devices or orthodontic appliances are fabricated, altered or
16 repaired by one or more persons under the orders and
17 authorization of a dentist;

18 ~~[L.]~~ N. "dental technician" means an individual,
19 other than a licensed dentist, who fabricates, alters, repairs
20 or assists in the fabrication, alteration or repair of dental
21 restorative, prosthetic, cosmetic and therapeutic devices or
22 orthodontic appliances under the orders and authorization of a
23 dentist;

24 O. "dental therapist" means an individual who:

25 (1) is licensed as a dental hygienist;

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1 (2) has provided, in accordance with board
2 rules, evidence to the board that the individual has graduated
3 and received a degree from a school of dental therapy that is
4 accredited by the commission on dental accreditation; and

5 (3) except as the context otherwise requires,
6 is licensed to practice dental therapy in the state;

7 ~~[M-]~~ P. "dentist" means an individual who has
8 graduated and received a degree from a school of dentistry that
9 is accredited by the commission on dental accreditation and,
10 except as the context otherwise requires, who holds a license
11 to practice dentistry in New Mexico;

12 ~~[N-]~~ Q. "direct supervision" means the process
13 under which an act is performed when a dentist licensed
14 pursuant to the Dental Health Care Act:

15 (1) is physically present throughout the
16 performance of the act;

17 (2) orders, controls and accepts full
18 professional responsibility for the act performed; and

19 (3) evaluates and approves the procedure
20 performed before the patient departs the care setting;

21 ~~[O-]~~ R. "expanded-function dental auxiliary" means
22 a dental assistant, dental hygienist or other dental
23 practitioner that has received education beyond that required
24 for licensure or certification in that individual's scope of
25 practice and that has been certified by the board as an

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1 expanded-function dental auxiliary who works under the direct
2 supervision of a dentist;

3 S. "federally qualified health center" means a
4 health facility that the United States department of health and
5 human services has deemed to qualify for federal funds as a
6 federally qualified health center;

7 T. "federally qualified health center look-alike
8 facility" means a health facility that the federal centers for
9 medicare and medicaid services certifies as a federally
10 qualified health center look-alike facility;

11 [~~P-~~] U. "general supervision" means the
12 authorization by a dentist of the procedures to be used by a
13 dental therapist, community dental health coordinator, dental
14 hygienist, dental assistant or dental student and the execution
15 of the procedures in accordance with a dentist's diagnosis and
16 treatment plan at a time the dentist is not physically present
17 and in facilities as designated by rule of the board;

18 [~~Q-~~] V. "indirect supervision" means that a
19 dentist, or in certain settings, a dental therapist, dental
20 hygienist or dental assistant certified in expanded functions,
21 is present in the treatment facility while authorized
22 treatments are being performed by a dental therapist, dental
23 hygienist, dental assistant or dental student;

24 W. "long-term care facility" means a nursing home
25 licensed by the department of health to provide intermediate or

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1 skilled nursing care;

2 [R-] X. "non-dentist owner" means an individual not
3 licensed as a dentist in New Mexico or a corporate entity not
4 owned by a majority interest of a New Mexico licensed dentist
5 that employs or contracts with a dentist or dental hygienist to
6 provide dental or dental hygiene services;

7 [S-] Y. "palliative procedures" means nonsurgical,
8 reversible procedures that are meant to alleviate pain and
9 stabilize acute or emergent problems; and

10 [T-] Z. "teledentistry" means a dentist's use of
11 health information technology in real time to provide limited
12 diagnostic and treatment planning services in cooperation with
13 another dentist, a dental therapist, a dental hygienist, a
14 community dental health coordinator or a student enrolled in a
15 program of study to become a dental assistant, dental
16 hygienist, dental therapist or dentist."

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

19 "61-5A-5. LICENSE REQUIRED--EXEMPTIONS.--

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

- 22 (1) practice dentistry;
23 (2) use the title "dentist", "dental surgeon",
24 "oral surgeon" or any other title, abbreviation, letters,
25 figures, signs or devices that indicate the person is a

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1 licensed dentist; or

2 (3) perform any of the acts enumerated under
3 the definition of the practice of dentistry as defined in the
4 Dental Health Care Act.

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

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

11 (2) New Mexico licensed dental hygienists and
12 community dental health coordinators may provide those services
13 within their scope of practice that are also within the scope
14 of the practice of dentistry;

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

21 (4) any dental hygiene or dental assisting
22 student duly enrolled in an accredited school of dental hygiene
23 or dental assisting engaged in procedures within or outside the
24 scope of dental hygiene that are part of the curriculum of that
25 program in the school setting and under the indirect

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1 supervision of a faculty member of the accredited program who
2 is a licensed dentist, dental hygienist or dental assistant
3 certified in the procedures being taught;

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

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

20 (7) dental assistants performing adjunctive
21 services to the provision of dental care, under the indirect
22 supervision of a dentist, as determined by rule of the board if
23 such services are not within the practice of dental hygiene as
24 specifically listed in Subsection B of Section 61-5A-4 NMSA
25 1978, unless allowed in Subsection E of this section;

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1 (8) any dental therapy student enrolled in an
2 accredited school of dental therapy recognized by the board,
3 while engaged in educational programs offered by the dental
4 therapy school in private offices, public clinics or
5 educational institutions within the state of New Mexico under
6 the indirect supervision of a licensed dentist; and

7 (9) a dental therapist who is licensed in New
8 Mexico working under the supervision of a dentist and
9 performing the procedures in accordance with the provisions of
10 Section 10 of this 2016 act.

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

13 (1) practice as a dental hygienist;

14 (2) use the title "dental hygienist" or
15 abbreviation "R.D.H." or any other title, abbreviation,
16 letters, figures, signs or devices that indicate the person is
17 a licensed dental hygienist; or

18 (3) perform any of the acts defined as the
19 practice of dental hygiene in the Dental Health Care Act.

20 D. The following, under the stipulations described,
21 may practice dental hygiene or the area of dental hygiene
22 outlined without a New Mexico dental hygiene license:

23 (1) students enrolled in an accredited dental
24 hygiene program engaged in procedures that are part of the
25 curriculum of that program and under the indirect supervision

1 of a licensed faculty member of the accredited program;

2 (2) dental assistants and community dental
3 health coordinators working under general supervision who:

4 (a) expose dental radiographs after
5 being certified in expanded functions by the board;

6 (b) perform rubber cup coronal
7 polishing, which is not represented as a prophylaxis, having
8 satisfied the educational requirements as established by rules
9 of the board;

10 (c) apply fluorides as established by
11 rules of the board; and

12 (d) perform those other dental hygienist
13 functions as recommended to the board by the committee and set
14 forth by rule of the board; and

15 (3) dental assistants certified in expanded
16 functions, working under the indirect supervision of a dental
17 hygienist certified for collaborative practice and under the
18 protocols established in a collaborative practice agreement
19 with a consulting dentist.

20 E. Dental assistants working under the indirect
21 supervision of a dentist and in accordance with the rules and
22 regulations established by the board may:

23 (1) expose dental radiographs;

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

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

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

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

8 F. A community dental health coordinator working
9 under the general supervision of a dentist and in accordance
10 with the rules established by the board may:

11 (1) place temporary and sedative restorative
12 material in unexcavated carious lesions and unprepared tooth
13 fractures;

14 (2) collect and transmit diagnostic data and
15 images via telemetric connection;

16 (3) dispense and apply medications on the
17 specific order of a dentist;

18 (4) provide limited palliative procedures for
19 dental emergencies in consultation with a supervising dentist
20 as allowed by the rules the board has promulgated; and

21 (5) perform other related functions for which
22 the community dental health coordinator meets training and
23 educational standards established by the board and that are not
24 expressly prohibited by statute or rules promulgated by the
25 board.

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1 G. Unless licensed as a dentist or non-dentist
2 owner, or as otherwise exempt from the licensing requirements
3 of the Dental Health Care Act, no individual or corporate
4 entity shall:

5 (1) employ or contract with a dentist or
6 dental hygienist for the purpose of providing dental or dental
7 hygiene services as defined by their respective scopes of
8 practice; or

9 (2) enter into a managed care or other
10 agreement to provide dental or dental hygiene services in New
11 Mexico.

12 H. The following, under stipulations described, may
13 function as a non-dentist owner without a New Mexico license:

14 (1) government agencies providing dental
15 services within affiliated facilities;

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

18 (3) spouses of deceased licensed dentists or
19 dental hygienists for a period of one year following the death
20 of the licensee;

21 (4) accredited schools of dentistry, dental
22 hygiene and dental assisting providing dental services solely
23 in an educational setting;

24 (5) dental hygienists licensed in New Mexico
25 or corporate entities with a majority interest owned by a

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- 1 dental hygienist licensed in New Mexico;
- 2 (6) federally qualified health centers, as
- 3 designated by the United States department of health and human
- 4 services, providing dental services;
- 5 (7) nonprofit community-based entities and
- 6 organizations that use public funds to provide dental and
- 7 dental hygiene services for indigent persons; and
- 8 (8) hospitals licensed by the department of
- 9 health."

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

12 "61-5A-10. POWERS AND DUTIES OF THE BOARD AND
13 COMMITTEE.--In addition to any other authority provided by law,
14 the board and the committee, when designated, shall:

15 A. enforce and administer the provisions of the
16 Dental Health Care Act and the Dental Amalgam Waste Reduction
17 Act;

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

21 (1) regulate the examination and licensure of
22 dentists, dental therapists and, through the committee,
23 regulate the examination and licensure of dental hygienists;

24 (2) provide for the examination and
25 certification of dental assistants by the board;

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1 (3) provide for the regulation of dental
2 technicians by the board;

3 (4) regulate the practice of dentistry, dental
4 therapy and dental assisting and, through the committee,
5 regulate the practice of dental hygiene; and

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

8 C. adopt and use a seal;

9 D. administer oaths to all applicants, witnesses
10 and others appearing before the board or the committee, as
11 appropriate;

12 E. keep an accurate record of all meetings,
13 receipts and disbursements;

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

22 G. grant, deny, review, suspend and revoke licenses
23 to own dental practices and censure, reprimand, fine and place
24 on probation and stipulation non-dentist owners, in accordance
25 with the Uniform Licensing Act, for any cause stated in the

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1 Dental Health Care Act and the Dental Amalgam Waste Reduction
2 Act;

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

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

14 J. establish ad hoc committees whose members shall
15 be appointed by the chair with the advice and consent of the
16 board or committee and shall include at least one member of the
17 board or committee as it deems necessary for carrying on its
18 business;

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

22 L. have the authority to hire or contract with
23 investigators to investigate possible violations of the Dental
24 Health Care Act and the Dental Amalgam Waste Reduction Act;

25 M. have the authority to issue investigative

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1 subpoena prior to the issuance of a notice of contemplated
2 action for the purpose of investigating complaints against
3 dentists, dental therapists, dental assistants and, through the
4 committee, dental hygienists licensed under the Dental Health
5 Care Act and the Dental Amalgam Waste Reduction Act;

6 N. have the authority to sue or be sued and to
7 retain the services of an attorney at law for counsel and
8 representation regarding the carrying out of the board's
9 duties;

10 O. have the authority to create and maintain a
11 formulary, in consultation with the board of pharmacy, of
12 medications that a dental therapist or dental hygienist may
13 prescribe, administer or dispense in accordance with rules the
14 board has promulgated; and

15 P. establish continuing education or continued
16 competency requirements for dentists, dental therapists,
17 certified dental assistants in expanded functions, dental
18 technicians and, through the committee, dental hygienists."

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

21 "61-5A-15. CONTENT OF [~~LICENSE~~] LICENSES AND
22 CERTIFICATES--DISPLAY OF [~~LICENSE--RENEWALS--RETIRE LICENSE~~]
23 LICENSES AND CERTIFICATES.--

24 A. All dental licenses issued by the board shall
25 bear:

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- 1 (1) a serial number;
- 2 (2) the full name of the licensee;
- 3 (3) the date of issue;
- 4 (4) the seal of the board;
- 5 (5) if the license is a specialty license, the
- 6 specialty to which practice is limited;
- 7 (6) the signatures of a majority of the board
- 8 members; and
- 9 (7) the attestation of the board president and
- 10 secretary.

11 B. All dental therapy licenses issued by the board
12 shall bear:

- 13 (1) a serial number;
- 14 (2) the full name of the licensee;
- 15 (3) the date of issue;
- 16 (4) the seal of the board;
- 17 (5) the signatures of a majority of the board
- 18 members; and
- 19 (6) the attestation of the board president and
- 20 secretary.

21 [~~B.~~] C. All dental hygienist licenses issued by the
22 board shall bear:

- 23 (1) a serial number;
- 24 (2) the full name of the licensee;
- 25 (3) the date of issue;

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- 1 (4) the seal of the board;
2 (5) the signatures of a majority of the
3 committee members; and
4 (6) the attestation of the board president and
5 secretary.

6 ~~[G-]~~ D. Certificates issued to dental assistants
7 shall bear:

- 8 (1) a serial number;
9 (2) the full name of the assistant;
10 (3) the date of issue;
11 (4) the date of expiration;
12 (5) the expanded functions certified to
13 perform; and
14 (6) the attestation of the board secretary.

15 ~~[D-]~~ E. All licenses and certificates shall be
16 displayed in a conspicuous place in the office where the holder
17 practices. The license or certificate shall, upon request, be
18 exhibited to any of the members of the board, the committee or
19 its authorized agent."

20 **SECTION 6.** Section 61-5A-17 NMSA 1978 (being Laws 1994,
21 Chapter 55, Section 17, as amended) is amended to read:

22 "61-5A-17. RETIREMENT AND INACTIVE STATUS--
23 REACTIVATION.--

24 A. ~~[Any dentist or dental hygienist]~~ A licensee who
25 wishes to retire from ~~[the]~~ practice ~~[of dentistry or dental~~

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1 hygiene] shall meet all requirements for retirement as set by
2 rules of the board, and, if the licensee is a dental hygienist,
3 the committee. The licensee shall notify the board or the
4 committee in writing before the expiration of the licensee's
5 current license, and the secretary of the board or the
6 committee shall acknowledge the receipt of notice and record
7 ~~[the same]~~ it. If, within a period of three years from the
8 date of retirement, the ~~[dentist or dental hygienist]~~ licensee
9 wishes to resume practice, the applicant shall ~~[so]~~ notify the
10 board or the committee in writing and give proof of completing
11 all requirements as prescribed by rules of the board and the
12 committee to reactivate the license.

13 B. At any time during the three-year period
14 following retirement, a ~~[dentist or dental hygienist]~~ licensee
15 with a retired New Mexico license may request in writing to the
16 board or the committee that ~~[his]~~ the licensee's license be
17 placed in inactive status. Upon the receipt of the application
18 and fees as determined by the board or the committee and with
19 the approval of the board or the committee, the license may be
20 placed in inactive status.

21 C. A licensee whose license has been placed in
22 inactive status may not engage in any of the activities
23 contained within the scope of practice of dentistry, dental
24 therapy or dental hygiene in New Mexico described in ~~[Section~~
25 ~~61-5A-4 NMSA 1978]~~ the Dental Health Care Act.

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1 D. Licensees with inactive licenses must renew
2 their licenses triennially and comply with all the requirements
3 set by the board and, if the licensee is a dental hygienist, by
4 the committee.

5 E. If a licensee with an inactive license wishes to
6 resume ~~[the]~~ active practice ~~[of dentistry or dental hygiene]~~,
7 the licensee must notify the board or, if the licensee is a
8 dental hygienist, the committee, in writing and provide proof
9 of completion of all requirements to reactivate the license as
10 prescribed by rule of the board or the committee. Upon payment
11 of all fees due, the board may reactivate the license and the
12 licensee may resume ~~[the]~~ practice ~~[of dentistry or dental~~
13 ~~hygiene]~~ subject to any stipulations of the board or the
14 committee.

15 F. Inactive licenses must be reactivated or
16 permanently retired within nine years of having been placed in
17 inactive status.

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

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

22 "61-5A-19. REINSTATEMENT OF REVOKED OR SUSPENDED
23 LICENSE.--

24 A. Unless otherwise stated in the order of
25 revocation, a motion for reinstatement of a revoked license may

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1 not be filed for a period of at least three years from the
2 effective date of the revocation.

3 B. If the motion for reinstatement is denied, no
4 further motions for reinstatement shall be considered for a
5 period of one year.

6 C. A licensee who has been suspended for a specific
7 period of time shall be automatically reinstated at the
8 expiration of the period specified in the order of suspension.
9 The suspended [~~dentist or dental hygienist will~~] licensee shall
10 automatically be reinstated as of the day after the expiration
11 of the period of suspension; provided that prior to the
12 expiration of such time if the administrative prosecutor has
13 filed with the board or committee the written objections, the
14 suspended [~~dentist or dental hygienist~~] licensee shall not be
15 automatically reinstated. Should objections be filed, the
16 petition for reinstatement shall be referred to the board or
17 committee for hearing [~~under~~] pursuant to provisions of
18 Subsection E of this section.

19 D. [~~Suspended dentists or dental hygienists~~
20 ~~indefinite suspension~~] Procedure for reinstatement of licensees
21 who have been suspended for an indefinite period of time is as
22 follows:

23 (1) a licensee who has been suspended for an
24 indefinite period of time may, at any time after complying with
25 the conditions of reinstatement, file a petition for

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1 reinstatement with the board or committee;

2 (2) the petition shall be referred to the
3 board or committee for hearing [~~under~~] pursuant to provisions
4 of Subsection E of this section; and

5 (3) if the motion for reinstatement is denied,
6 no further motions for reinstatement will be considered for a
7 period of one year.

8 E. Procedure for reinstatement hearings [~~are~~] is as
9 follows:

10 (1) applications for reinstatement shall be
11 referred to the board or, if the application is for
12 reinstatement of a license to practice dental hygiene, to the
13 committee for hearing if the applicant meets the criteria set
14 forth in this section;

15 (2) the board or committee shall schedule a
16 hearing as soon as practical at which the applicant shall have
17 the burden of demonstrating that the applicant has the moral
18 qualifications, that the applicant is once again fit to resume
19 the practice of dentistry, dental therapy or dental hygiene and
20 that the resumption of the applicant's practice of dentistry,
21 dental therapy or dental hygiene will not be detrimental to the
22 public interest;

23 (3) the board or committee shall file its
24 findings of fact, conclusions of law and decision within ninety
25 days of the hearing; and

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1 (4) the board's or committee's decision to
2 refuse to reinstate a license shall not be reviewable except
3 for an abuse of discretion."

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

6 "61-5A-20. FEES.--The board and the committee shall
7 establish a schedule of reasonable fees not to exceed the
8 following:

	<u>Dentists</u>	<u>Dental Hygienists</u>	
9			
10	A. licensure by examination	\$1,500	\$1,000
11	B. licensure by credential	\$3,000	\$1,500
12	C. specialty license by		
13	examination	\$1,500	
14	D. specialty license by		
15	credential	\$3,000	
16	E. temporary license		
17	48 hours	\$ 50	\$ 50
18	six months	\$ 300	\$ 200
19	12 months	\$ 450	\$ 300
20	F. application for		
21	certification in local		
22	anesthesia		\$ 40
23	G. examination in local		
24	anesthesia		\$ 150
25	H. triennial license renewal	\$ 600	\$ 450

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1	I. late renewal	\$ 100	\$ 100
2	J. reinstatement of license	\$ 450	\$ 300
3	K. administrative fees	\$ 300	\$ 300
4	L. impaired dentist or		
5	dental hygienist	\$ 150	\$ 75
6	M. assistant, expanded-function		
7	dental auxiliary or		
8	community dental health		
9	coordinator certificate		\$ 100
10	N. application for certification for		
11	collaborative practice		\$ 150
12	O. annual renewal for		
13	collaborative practice		\$ 50
14	P. application for inactive		
15	status	\$ 50	\$ 50
16	Q. triennial renewal of		
17	inactive license	\$ 90	\$ 90
18			<u>Non-dentist Owners</u>
19	R. non-dentist owners license (initial)	\$ 300	
20	S. non-dentist owners license triennial renewal	\$ 150	
21			<u>Dental Therapists</u>
22	<u>T. dental therapist license (initial)</u>	<u>\$1,000</u>	
23	<u>U. dental therapist license triennial renewal</u>	<u>\$ 300."</u>	

24 **SECTION 9.** Section 61-5A-21 NMSA 1978 (being Laws 1994,
25 Chapter 55, Section 21, as amended) is amended to read:

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1 "61-5A-21. DISCIPLINARY PROCEEDINGS--APPLICATION OF
2 UNIFORM LICENSING ACT.--

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

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

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

18 (3) is guilty of gross incompetence or gross
19 negligence, as defined by rules of the board, in the practice
20 of dentistry, dental therapy, dental hygiene or dental
21 assisting;

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

25 (5) is guilty of unprofessional conduct as

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1 defined by rule;

2 (6) is guilty of any violation of the
3 Controlled Substances Act;

4 (7) has violated any provisions of the
5 Dental Health Care Act or rule or regulation of the board or,
6 as relates to the practice of dental hygiene, the committee;

7 (8) is guilty of willfully or negligently
8 practicing beyond the scope of licensure;

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

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

17 (11) is guilty of patient abandonment;

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

23 (13) has had a license, certificate or
24 registration to practice as a dentist, dental therapist or
25 dental hygienist revoked, suspended, denied, stipulated or

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1 otherwise limited in any jurisdiction, territory or possession
2 of the United States or another country for actions of the
3 licensee similar to acts described in this subsection. A
4 certified copy of the decision of the jurisdiction taking such
5 disciplinary action will be conclusive evidence; or

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

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

14 C. Licensees and certificate holders shall bear
15 the costs of disciplinary proceedings unless exonerated.

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

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

25 SECTION 10. A new section of the Dental Health Care Act

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1 is enacted to read:

2 "[NEW MATERIAL] DENTAL THERAPIST LICENSURE--
3 REQUIREMENTS.--The board shall license as a dental therapist
4 any individual who, in accordance with board rules:

5 A. provides evidence of licensure as a dental
6 hygienist;

7 B. provides evidence of having graduated and
8 received a degree from a dental therapy school accredited by
9 the commission on dental accreditation;

10 C. has passed a written examination covering the
11 statutes and rules relating to the practice of dental therapy
12 in the state within a time frame established in board rules;

13 D. has passed a practical or clinical examination
14 on the practice of dental therapy administered by the board or
15 its agent that reasonably tests the individual's skill in
16 practicing dental therapy; and

17 E. has paid any requisite fees and complied with
18 any other reasonable requirements for licensure as a dental
19 therapist that the board has established by rule."

20 SECTION 11. A new section of the Dental Health Care Act
21 is enacted to read:

22 "[NEW MATERIAL] DENTAL THERAPY--SCOPE OF PRACTICE--
23 SUPERVISION.--

24 A. A dental therapist shall provide care under the
25 supervision of a dentist in accordance with a collaborative

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1 dental therapy agreement that meets the requirements
2 established in Subsection B of this section and in board
3 rules.

4 B. The practice of dental therapy is limited to:

5 (1) the following activities performed under
6 general supervision:

7 (a) oral evaluation and assessment of
8 dental disease;

9 (b) formulation of an individualized
10 treatment plan as authorized by a supervising dentist;

11 (c) place and shape direct restorations
12 without mechanical preparation;

13 (d) impressions for single-tooth
14 removable prosthesis;

15 (e) temporary cementation;

16 (f) atraumatic restorative therapy;

17 (g) temporary and sedative
18 restorations;

19 (h) extraction of primary teeth without
20 radiological evidence of roots;

21 (i) palliative treatments;

22 (j) fabrication and placement of
23 temporary crowns;

24 (k) recementation of permanent crowns;

25 (l) removal and nonsurgical placement

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1 of space maintainers;

2 (m) repairs and adjustments to
3 prostheses;

4 (n) tissue conditioning;

5 (o) dispensing and administration of
6 analgesics, anti-inflammatory substances and antibiotics that
7 a supervising dentist prescribes; and

8 (p) other closely related procedures
9 that the board authorizes through rules it has adopted and
10 promulgated; and

11 (2) the following activities performed under
12 indirect supervision:

13 (a) preparation and direct restoration
14 of prepared cavities in primary and permanent teeth; and

15 (b) fitting, shaping and cementing of
16 stainless steel crowns on teeth prepared by a dentist.

17 C. No dentist shall supervise more than three
18 dental therapists at any time."

19 SECTION 12. A new section of the Dental Health Care Act
20 is enacted to read:

21 "[NEW MATERIAL] DENTAL THERAPY--PRACTICE ENVIRONMENTS.--

22 A dental therapist shall practice only in the following
23 environments:

24 A. a class B or class C county, excluding a group
25 practice that is owned or operated by a commercial dental

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1 service organization;

2 B. a health facility operated by the federal
3 Indian health service;

4 C. a health facility that a tribe operates under
5 Section 638 of the federal Indian Self-Determination and
6 Education Assistance Act;

7 D. a federally qualified health center;

8 E. a facility certified by the federal centers for
9 medicare and medicaid services as a "federally qualified
10 health center look-alike" facility;

11 F. a private residence or a facility in which an
12 individual receives long-term community-based services under
13 the state's medicaid program;

14 G. a long-term care facility;

15 H. a private residence, when exclusively to treat
16 an individual who, due to disease, disability or condition, is
17 unable to receive care in a dental facility; or

18 I. an educational institution engaged in the
19 training of dental therapists accredited by the commission on
20 dental accreditation."

21 SECTION 13. A new section of Chapter 2, Article 5 NMSA
22 1978 is enacted to read:

23 "[NEW MATERIAL] ACCESS TO DENTAL HEALTH CARE
24 SUBCOMMITTEE.--The "access to dental health care subcommittee"
25 of the legislative finance committee is created. The

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1 subcommittee is composed of eight members: four legislative
2 finance committee members from the house of representatives
3 and four legislative finance committee members from the
4 senate. The subcommittee shall investigate and recommend
5 legislative actions related to access to dental health care
6 statewide. At a minimum, the subcommittee shall investigate
7 and make recommendations relating to the following:

8 A. expansion of dental health care professional
9 education loan-for-service programming;

10 B. establishment of a program allowing bachelor of
11 arts degree recipients to matriculate directly to dental
12 school for a doctor of dental science or doctor of dental
13 surgery degree; and

14 C. the state's medicaid program, including:

15 (1) simplification of administrative
16 procedures; and

17 (2) changes to reimbursement levels that
18 would encourage dental health care professionals to accept
19 more medicaid recipients as patients."

20 SECTION 14. A new section of the Public Health Act is
21 enacted to read:

22 "[NEW MATERIAL] STATE DENTAL DIRECTOR.--The "office of
23 the state dental director" is created in the department of
24 health. The secretary shall appoint a "state dental
25 director", who shall be a dental health care professional

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1 licensed pursuant to the Dental Health Care Act, to lead
2 public health efforts related to oral disease."

3 SECTION 15. A new section of the Public School Code is
4 enacted to read:

5 "[NEW MATERIAL] DENTAL EXAMINATION REQUIREMENT--
6 EDUCATION--OUTREACH.--

7 A. As of July 1, 2021, a student shall not enroll
8 in school unless the student has provided, in accordance with
9 protocols established by the department, satisfactory evidence
10 of having undergone a dental examination that meets standards
11 established pursuant to department rules.

12 B. By July 1, 2020, the secretary shall:

13 (1) adopt and promulgate rules to prescribe
14 the requirements for dental examination pursuant to this
15 section; and

16 (2) provide extensive education statewide
17 for parents and guardians explaining the requirements for
18 dental examination and providing information regarding where
19 they may receive referrals to dental health care professionals
20 statewide who are authorized to perform dental examinations in
21 accordance with those rules."

22 SECTION 16. Section 26-1-2 NMSA 1978 (being Laws 1967,
23 Chapter 23, Section 2, as amended) is amended to read:

24 "26-1-2. DEFINITIONS.--As used in the New Mexico Drug,
25 Device and Cosmetic Act:

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1 A. "board" means the board of pharmacy or its duly
2 authorized agent;

3 B. "person" includes an individual, partnership,
4 corporation, association, institution or establishment;

5 C. "biological product" means a virus, therapeutic
6 serum, toxin, antitoxin or analogous product applicable to the
7 prevention, treatment or cure of diseases or injuries of
8 humans and domestic animals, and, as used within the meaning
9 of this definition:

10 (1) a "virus" is interpreted to be a product
11 containing the minute living cause of an infectious disease
12 and includes filterable viruses, bacteria, rickettsia, fungi
13 and protozoa;

14 (2) a "therapeutic serum" is a product
15 obtained from blood by removing the clot or clot components
16 and the blood cells;

17 (3) a "toxin" is a product containing a
18 soluble substance poisonous to laboratory animals or humans in
19 doses of one milliliter or less of the product and, following
20 the injection of nonfatal doses into an animal, having the
21 property of or causing to be produced therein another soluble
22 substance that specifically neutralizes the poisonous
23 substance and that is demonstrable in the serum of the animal
24 thus immunized; and

25 (4) an "antitoxin" is a product containing

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1 the soluble substance in serum or other body fluid of an
2 immunized animal that specifically neutralizes the toxin
3 against which the animal is immune;

4 D. "controlled substance" means a drug, substance
5 or immediate precursor enumerated in Schedules I through V of
6 the Controlled Substances Act;

7 E. "drug" means articles:

8 (1) recognized in an official compendium;

9 (2) intended for use in the diagnosis, cure,
10 mitigation, treatment or prevention of disease in humans or
11 other animals and includes the domestic animal biological
12 products regulated under the federal Virus-Serum-Toxin Act, 37
13 Stat 832-833, 21 U.S.C. 151-158, and the biological products
14 applicable to humans regulated under Federal 58 Stat 690, as
15 amended, 42 U.S.C. 216, Section 351, 58 Stat 702, as amended,
16 and 42 U.S.C. 262;

17 (3) other than food, that affect the
18 structure or any function of the human body or the bodies of
19 other animals; and

20 (4) intended for use as a component of
21 Paragraph (1), (2) or (3) of this subsection, but "drug" does
22 not include devices or their component parts or accessories;

23 F. "dangerous drug" means a drug, other than a
24 controlled substance enumerated in Schedule I of the
25 Controlled Substances Act, that because of a potentiality for

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1 harmful effect or the method of its use or the collateral
2 measures necessary to its use is not safe except under the
3 supervision of a practitioner licensed by law to direct the
4 use of such drug and hence for which adequate directions for
5 use cannot be prepared. "Adequate directions for use" means
6 directions under which the layperson can use a drug or device
7 safely and for the purposes for which it is intended. A drug
8 shall be dispensed only upon the prescription or drug order of
9 a practitioner licensed by law to administer or prescribe the
10 drug if it:

11 (1) is a habit-forming drug and contains any
12 quantity of a narcotic or hypnotic substance or a chemical
13 derivative of such substance that has been found under the
14 federal act and the board to be habit forming;

15 (2) because of its toxicity or other
16 potential for harmful effect or the method of its use or the
17 collateral measures necessary to its use is not safe for use
18 except under the supervision of a practitioner licensed by law
19 to administer or prescribe the drug;

20 (3) is limited by an approved application by
21 Section 505 of the federal act to the use under the
22 professional supervision of a practitioner licensed by law to
23 administer or prescribe the drug;

24 (4) bears the legend: "Caution: federal
25 law prohibits dispensing without prescription.";

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1 (5) bears the legend: "Caution: federal
2 law restricts this drug to use by or on the order of a
3 licensed veterinarian."; or

4 (6) bears the legend "RX only";

5 G. "counterfeit drug" means a drug that is
6 deliberately and fraudulently mislabeled with respect to its
7 identity, ingredients or sources. Types of such
8 pharmaceutical counterfeits may include:

9 (1) "identical copies", which are
10 counterfeits made with the same ingredients, formulas and
11 packaging as the originals but not made by the original
12 manufacturer;

13 (2) "look-alikes", which are products that
14 feature high-quality packaging and convincing appearances but
15 contain little or no active ingredients and may contain
16 harmful substances;

17 (3) "rejects", which are drugs that have
18 been rejected by the manufacturer for not meeting quality
19 standards; and

20 (4) "relabels", which are drugs that have
21 passed their expiration dates or have been distributed by
22 unauthorized foreign sources and may include placebos created
23 for late-phase clinical trials;

24 H. "device", except when used in Subsection P of
25 this section and in Subsection G of Section 26-1-3, Subsection

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1 L and Paragraph (4) of Subsection A of Section 26-1-11 and
2 Subsection C of Section 26-1-24 NMSA 1978, means an
3 instrument, apparatus, implement, machine, contrivance,
4 implant, in vitro reagent or other similar or related article,
5 including any component, part or accessory, that is:

6 (1) recognized in an official compendium;

7 (2) intended for use in the diagnosis of
8 disease or other conditions or in the cure, mitigation,
9 treatment or prevention of disease in humans or other animals;
10 or

11 (3) intended to affect the structure or a
12 function of the human body or the bodies of other animals and
13 that does not achieve any of its principal intended purposes
14 through chemical action within or on the human body or the
15 bodies of other animals and that is not dependent on being
16 metabolized for achievement of any of its principal intended
17 purposes;

18 I. "prescription" means an order given
19 individually for the person for whom prescribed, either
20 directly from a licensed practitioner or the practitioner's
21 agent to the pharmacist, including by means of electronic
22 transmission, or indirectly by means of a written order signed
23 by the prescriber, and bearing the name and address of the
24 prescriber, the prescriber's license classification, the name
25 and address of the patient, the name and quantity of the drug

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1 prescribed, directions for use and the date of issue;

2 J. "practitioner" means a certified advanced
3 practice chiropractic physician, physician, doctor of oriental
4 medicine, dentist, dental therapist, dental hygienist,
5 veterinarian, euthanasia technician, certified nurse
6 practitioner, clinical nurse specialist, pharmacist,
7 pharmacist clinician, certified nurse-midwife, physician
8 assistant, prescribing psychologist, [~~dental hygienist~~]
9 optometrist or other person licensed or certified to prescribe
10 and administer drugs that are subject to the New Mexico Drug,
11 Device and Cosmetic Act;

12 K. "cosmetic" means:

13 (1) articles intended to be rubbed, poured,
14 sprinkled or sprayed on, introduced into or otherwise applied
15 to the human body or any part thereof for cleansing,
16 beautifying, promoting attractiveness or altering the
17 appearance; and

18 (2) articles intended for use as a component
19 of any articles enumerated in Paragraph (1) of this
20 subsection, except that the term shall not include soap;

21 L. "official compendium" means the official United
22 States pharmacopoeia national formulary or the official
23 homeopathic pharmacopoeia of the United States or any
24 supplement to either of them;

25 M. "label" means a display of written, printed or

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1 graphic matter upon the immediate container of an article. A
2 requirement made by or under the authority of the New Mexico
3 Drug, Device and Cosmetic Act that any word, statement or
4 other information appear on the label shall not be considered
5 to be complied with unless the word, statement or other
6 information also appears on the outside container or wrapper,
7 if any, of the retail package of the article or is easily
8 legible through the outside container or wrapper;

9 N. "immediate container" does not include package
10 liners;

11 O. "labeling" means all labels and other written,
12 printed or graphic matter:

13 (1) on an article or its containers or
14 wrappers; or

15 (2) accompanying an article;

16 P. "misbranded" means a label to an article that
17 is misleading. In determining whether the label is
18 misleading, there shall be taken into account, among other
19 things, not only representations made or suggested by
20 statement, word, design, device or any combination of the
21 foregoing, but also the extent to which the label fails to
22 reveal facts material in the light of such representations or
23 material with respect to consequences that may result from the
24 use of the article to which the label relates under the
25 conditions of use prescribed in the label or under such

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1 conditions of use as are customary or usual;

2 Q. "advertisement" means all representations
3 disseminated in any manner or by any means, other than by
4 labeling, for the purpose of inducing, or that are likely to
5 induce, directly or indirectly, the purchase of drugs, devices
6 or cosmetics;

7 R. "antiseptic", when used in the labeling or
8 advertisement of an antiseptic, shall be considered to be a
9 representation that it is a germicide, except in the case of a
10 drug purporting to be or represented as an antiseptic for
11 inhibitory use as a wet dressing, ointment, dusting powder or
12 such other use as involves prolonged contact with the body;

13 S. "new drug" means a drug:

14 (1) the composition of which is such that
15 the drug is not generally recognized, among experts qualified
16 by scientific training and experience to evaluate the safety
17 and efficacy of drugs, as safe and effective for use under the
18 conditions prescribed, recommended or suggested in the
19 labeling thereof; or

20 (2) the composition of which is such that
21 the drug, as a result of investigation to determine its safety
22 and efficacy for use under such conditions, has become so
23 recognized, but that has not, otherwise than in such
24 investigations, been used to a material extent or for a
25 material time under such conditions;

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1 T. "contaminated with filth" applies to a drug,
2 device or cosmetic not securely protected from dirt, dust and,
3 as far as may be necessary by all reasonable means, from all
4 foreign or injurious contaminations, or a drug, device or
5 cosmetic found to contain dirt, dust, foreign or injurious
6 contamination or infestation;

7 U. "selling of drugs, devices or cosmetics" shall
8 be considered to include the manufacture, production,
9 processing, packing, exposure, offer, possession and holding
10 of any such article for sale and the sale and the supplying or
11 applying of any such article in the conduct of a drug or
12 cosmetic establishment;

13 V. "color additive" means a material that:

14 (1) is a dye, pigment or other substance
15 made by a process of synthesis or similar artifice or
16 extracted, isolated or otherwise derived, with or without
17 intermediate or final change of identity, from a vegetable,
18 mineral, animal or other source; or

19 (2) when added or applied to a drug or
20 cosmetic or to the human body or a part thereof, is capable,
21 alone or through reaction with other substances, of imparting
22 color thereto; except that such term does not include any
23 material that has been or hereafter is exempted under the
24 federal act;

25 W. "federal act" means the Federal Food, Drug, and

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1 Cosmetic Act;

2 X. "restricted device" means a device for which
3 the sale, distribution or use is lawful only upon the written
4 or oral authorization of a practitioner licensed by law to
5 administer, prescribe or use the device and for which the
6 federal food and drug administration requires special training
7 or skills of the practitioner to use or prescribe. This
8 definition does not include custom devices defined in the
9 federal act and exempt from performance standards or premarket
10 approval requirements under Section 520(b) of the federal act;

11 Y. "prescription device" means a device that,
12 because of its potential for harm, the method of its use or
13 the collateral measures necessary to its use, is not safe
14 except under the supervision of a practitioner licensed in
15 this state to direct the use of such device and for which
16 "adequate directions for use" cannot be prepared, but that
17 bears the label: "Caution: federal law restricts this device
18 to sale by or on the order of a _____", the blank to be
19 filled with the word "physician", "physician assistant",
20 "certified advanced practice chiropractic physician", "doctor
21 of oriental medicine", "dentist", "dental therapist", "dental
22 hygienist", "veterinarian", "euthanasia technician",
23 "certified nurse practitioner", "clinical nurse specialist",
24 "pharmacist", "pharmacist clinician", "certified nurse-
25 midwife", [~~or "dental hygienist"~~] "optometrist" or with the

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1 descriptive designation of any other practitioner licensed in
2 this state to use or order the use of the device;

3 Z. "valid practitioner-patient relationship" means
4 a professional relationship, as defined by the practitioner's
5 licensing board, between the practitioner and the patient;

6 AA. "pedigree" means the recorded history of a
7 drug; and

8 BB. "drug order" means an order either directly
9 from a licensed practitioner or the practitioner's agent to
10 the pharmacist, including by means of electronic transmission
11 or indirectly by means of a written order signed by the
12 licensed practitioner or the practitioner's agent, and bearing
13 the name and address of the practitioner and the
14 practitioner's license classification and the name and
15 quantity of the drug or device ordered for use at an inpatient
16 or outpatient facility."

17 SECTION 17. Section 27-2-12 NMSA 1978 (being Laws 1973,
18 Chapter 376, Section 16, as amended) is amended to read:

19 "27-2-12. MEDICAL ASSISTANCE PROGRAMS.--

20 A. Consistent with the federal act and subject to
21 the appropriation and availability of federal and state funds,
22 the medical assistance division of the department may by rule
23 provide medical assistance, including the services of licensed
24 doctors of oriental medicine, licensed chiropractic
25 physicians, licensed dental therapists and licensed dental

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1 hygienists in collaborating practice, to persons eligible for
2 public assistance programs under the federal act.

3 B. Subject to appropriation and availability of
4 federal, state or other funds received by the state from
5 public or private grants or donations, the medical assistance
6 division of the department may by rule provide medical
7 assistance, including assistance in the payment of premiums
8 for medical or long-term care insurance, to children up to the
9 age of twelve if not part of a sibling group; children up to
10 the age of eighteen if part of a sibling group that includes a
11 child up to the age of twelve; and pregnant women who are
12 residents of the state of New Mexico and who are ineligible
13 for public assistance under the federal act. The department,
14 in implementing the provisions of this subsection, shall:

15 (1) establish rules that encourage pregnant
16 women to participate in prenatal care; and

17 (2) not provide a benefit package that
18 exceeds the benefit package provided to state employees."

19 **SECTION 18.** Section 59A-47-28.4 NMSA 1978 (being Laws
20 2003, Chapter 343, Section 4) is amended to read:

21 "59A-47-28.4. COVERAGE FOR COLLABORATIVE PRACTICE--
22 DENTAL THERAPISTS--DENTAL HYGIENISTS.--An individual or group
23 subscriber contract delivered or issued for delivery in New
24 Mexico that, on a prepaid, service or indemnity basis,
25 provides for treatment of persons for the prevention, cure or

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underscored material = new
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1 correction of any illness or physical or mental condition
2 shall include coverage for the services of a dental therapist
3 and a dental hygienist in a collaborative practice pursuant to
4 the Dental Health Care Act."

5 SECTION 19. TEMPORARY PROVISION.--The department of
6 health shall conduct an outcome report on the first five years
7 of dental therapy practice in the state pursuant to this act.
8 At a date five years following the date of the first issuance
9 of a license to practice dental therapy in the state, the
10 department of health shall consult with the New Mexico board
11 of dental health care, the New Mexico dental hygienists'
12 association and the New Mexico dental association to compile
13 and issue a report to the legislative health and human
14 services committee of the department's findings and
15 recommendations regarding dental therapy, including:

- 16 A. its efficacy, effectiveness and cost;
- 17 B. its impact on access to dental health care;
- 18 C. the distribution of dental therapists
19 statewide;
- 20 D. demographic representation among dental
21 therapists;
- 22 E. issues related to supervision of dental
23 therapists and their scope of practice;
- 24 F. evaluation of services delivered under indirect
25 supervision for recommendation to general supervision; and

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underscored material = new
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G. evaluation of services delivered under general supervision for recommendation to indirect supervision.