

HOUSE HEALTH AND HUMAN SERVICES COMMITTEE SUBSTITUTE FOR
HOUSE BILL 308

54TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2019

AN ACT

RELATING TO DENTAL HEALTH CARE; AMENDING AND ENACTING SECTIONS
OF THE DENTAL HEALTH CARE ACT TO ESTABLISH THE PROFESSION OF
DENTAL THERAPIST; ENACTING A PROVISION OF THE DEPARTMENT OF
HEALTH ACT TO ESTABLISH MINIMUM QUALIFICATIONS FOR THE DIRECTOR
OF THE OFFICE OF ORAL HEALTH; ENACTING A SECTION OF THE PUBLIC
SCHOOL CODE TO REQUIRE STUDENTS TO OBTAIN OR OPT OUT OF DENTAL
EXAMINATIONS PRIOR TO ANNUAL 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 NEW SECTION OF THE PUBLIC HEALTH ACT TO REQUIRE
REPORTING ON DENTAL HEALTH CARE ACCESS AND THE STATUS OF THE
DENTAL THERAPIST LICENSURE PROGRAM; ENACTING A TEMPORARY
PROVISION TO REQUIRE THE DEPARTMENT OF HEALTH TO CONDUCT AND
REPORT ON A STUDY OF THE FIRST FIVE YEARS OF DENTAL THERAPY
PRACTICE IN THE STATE.

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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, as amended) 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, dental therapy and dental hygiene, it is necessary to provide laws and rules controlling the granting and use of the privilege to practice dentistry, dental therapy and dental hygiene and to establish a board of dental health care and a dental hygienists committee to implement and enforce those laws and rules.

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

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

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

(3) to issue licenses to dental hygienists through the New Mexico dental hygienists committee;

(4) to discipline incompetent or unprofessional dentists, dental therapists, dental assistants,

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1 owners of dental practices and, through the dental hygienists
2 committee, dental hygienists; and

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

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

8 "61-5A-3. DEFINITIONS.--As used in the Dental Health Care
9 Act:

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

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

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

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

21 E. "committee" means the New Mexico dental
22 hygienists committee;

23 F. "community dental health coordinator" means a
24 dental assistant, a dental hygienist or other trained personnel
25 certified by the board as a community dental health coordinator

.212933.5

1 to provide educational, preventive and limited palliative care
2 and assessment services working collaboratively under the
3 general supervision of a licensed dentist in settings other
4 than traditional dental offices and clinics;

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

11 H. "dental hygiene-focused assessment" means the
12 documentation of existing oral and relevant system conditions
13 and the identification of potential oral disease to develop,
14 communicate, implement and evaluate a plan of oral hygiene care
15 and treatment;

16 I. "dental assistant certified in expanded
17 functions" means a dental assistant who meets specific
18 qualifications set forth by rule of the board;

19 J. "dental hygienist" means an individual who has
20 graduated and received a degree from a dental hygiene
21 educational program that is accredited by the commission on
22 dental accreditation, that provides a minimum of two academic
23 years of dental hygiene curriculum and that is an institution
24 of higher education; and "dental hygienist" means, except as
25 the context otherwise requires, an individual who holds a

1 license to practice dental hygiene in New Mexico;

2 K. "dental laboratory" means any place where dental
3 restorative, prosthetic, cosmetic and therapeutic devices or
4 orthodontic appliances are fabricated, altered or repaired by
5 one or more persons under the orders and authorization of a
6 dentist;

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

13 M. "dental therapist" means an individual who:

14 (1) is licensed as a dental hygienist;

15 (2) has provided, in accordance with board
16 rules, evidence to the board that the individual has graduated
17 and received a degree from a dental therapy education program
18 that is accredited by the commission on dental accreditation;
19 and

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

22 N. "dental therapy post-graduate clinical
23 experience" means advanced training in patient management and
24 technical competency:

25 (1) that is approved by the board, based on

.212933.5

1 educational and supervisory criteria developed by the board and
2 established by board rule;

3 (2) that is sanctioned by a regionally
4 accredited educational institution with a program accredited by
5 the commission on dental accreditation;

6 (3) that consists of two thousand hours of
7 advanced training or, if the dental therapy educational program
8 graduate has five years of experience as a dental hygienist,
9 one thousand five hundred hours of advanced training; and

10 (4) for which the dental therapist may have
11 been compensated;

12 O. "dental therapy practice agreement" means a
13 contract between a supervising dentist and a dental therapist
14 that outlines the parameters of care, level of supervision and
15 protocols to be followed while performing dental therapy
16 procedures on patients under the supervising dentist's and
17 dental therapist's care;

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

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

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

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

5 (3) evaluates and approves the procedure
6 performed before the patient departs the care setting;

7 ~~[Θ.]~~ R. "expanded-function dental auxiliary" means
8 a dental assistant, dental hygienist or other dental
9 practitioner that has received education beyond that required
10 for licensure or certification in that individual's scope of
11 practice and that has been certified by the board as an
12 expanded-function dental auxiliary who works under the direct
13 supervision of a dentist;

14 S. "federally qualified health center" means a
15 health facility that the United States department of health and
16 human services has deemed to qualify for federal funds as a
17 federally qualified health center;

18 T. "federally qualified health center look-alike
19 facility" means a health facility that the federal centers for
20 medicare and medicaid services certifies as a federally
21 qualified health center look-alike facility;

22 ~~[P.]~~ U. "general supervision" means the
23 authorization by a dentist of the procedures to be used by a
24 dental therapist, community dental health coordinator, dental
25 hygienist, dental assistant or dental student and the execution

.212933.5

1 of the procedures in accordance with a dentist's diagnosis and
2 treatment plan at a time the dentist is not physically present
3 and in facilities as designated by rule of the board;

4 ~~[Q-]~~ V. "indirect supervision" means that a
5 dentist, or in certain settings, a dental therapist, dental
6 hygienist or dental assistant certified in expanded functions,
7 is present in the treatment facility while authorized
8 treatments are being performed by a dental therapist, dental
9 hygienist, dental assistant or dental student;

10 W. "long-term care facility" means a nursing home
11 licensed by the department of health to provide intermediate or
12 skilled nursing care;

13 ~~[R-]~~ X. "non-dentist owner" means an individual not
14 licensed as a dentist in New Mexico or a corporate entity not
15 owned by a majority interest of a New Mexico licensed dentist
16 that employs or contracts with a dentist or dental hygienist to
17 provide dental or dental hygiene services;

18 Y. "nonprofit community dental organization" means
19 a community-supported entity that:

20 (1) provides clinical dental services
21 primarily to low-income patients or medicaid recipients; and

22 (2) has demonstrated to the taxation and
23 revenue department that it has been granted exemption from the
24 federal income tax by the United States commissioner of
25 internal revenue as an organization described in Section

1 501(c)(3) of the United States Internal Revenue Code of 1986,
 2 as amended or renumbered;

3 ~~[S.]~~ Z. "palliative procedures" means nonsurgical,
 4 reversible procedures that are meant to alleviate pain and
 5 stabilize acute or emergent problems; and

6 ~~[T.]~~ AA. "teledentistry" means a dentist's use of
 7 health information technology in real time to provide limited
 8 diagnostic and treatment planning services in cooperation with
 9 another dentist, a dental therapist, a dental hygienist, a
 10 community dental health coordinator or a student enrolled in a
 11 program of study to become a dental assistant, dental
 12 hygienist, dental therapist or dentist."

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

15 "61-5A-5. LICENSE REQUIRED--EXEMPTIONS.--

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

18 (1) practice dentistry;

19 (2) use the title "dentist", "dental surgeon",
 20 "oral surgeon" or any other title, abbreviation, letters,
 21 figures, signs or devices that indicate the person is a
 22 licensed dentist; or

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

.212933.5

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

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

7 (2) New Mexico licensed dental hygienists and
8 community dental health coordinators may provide those services
9 within their scope of practice that are also within the scope
10 of the practice of dentistry;

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

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

25 (5) unlicensed persons performing for a

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

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

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

22 (8) a dental therapy student or graduate of a
 23 dental therapy educational program enrolled in a board-approved
 24 program while engaged in an educational program offered by the
 25 dental therapy educational program or dental therapy post-

.212933.5

1 graduate clinical experience in a private office, public clinic
2 or educational institution within the state of New Mexico under
3 the indirect supervision of a licensed dentist; and

4 (9) a dental therapist who is licensed in New
5 Mexico working under the supervision of a dentist and
6 performing the procedures in accordance with the provisions of
7 Section 10 of this 2019 act.

8 C. Unless licensed to practice as a dental
9 therapist under the Dental Health Care Act, no person shall:

- 10 (1) practice as a dental therapist;
11 (2) use the title, abbreviation "D.T.",
12 letters, figures, signs or devices that indicate the person is
13 a licensed dental therapist; or

14 (3) perform any of the acts defined as the
15 practice of dental therapy in the Dental Health Care Act.

16 ~~[C.]~~ D. Unless licensed to practice as a dental
17 hygienist under the Dental Health Care Act, no person shall:

- 18 (1) practice as a dental hygienist;
19 (2) use the title "dental hygienist" or
20 abbreviation "R.D.H." or any other title, abbreviation,
21 letters, figures, signs or devices that indicate the person is
22 a licensed dental hygienist; or

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

25 ~~[D.]~~ E. The following, under the stipulations

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1 described, may practice dental hygiene or the area of dental
2 hygiene outlined without a New Mexico dental hygiene license:

3 (1) students enrolled in an accredited dental
4 hygiene program engaged in procedures that are part of the
5 curriculum of that program and under the indirect supervision
6 of a licensed faculty member of the accredited program;

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

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

11 (b) perform rubber cup coronal
12 polishing, which is not represented as a prophylaxis, having
13 satisfied the educational requirements as established by rules
14 of the board;

15 (c) apply fluorides as established by
16 rules of the board; and

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

20 (3) dental assistants certified in expanded
21 functions, working under the indirect supervision of a dental
22 hygienist certified for collaborative practice and under the
23 protocols established in a collaborative practice agreement
24 with a consulting dentist.

25 [~~E.~~] F. Dental assistants working under the

.212933.5

1 indirect supervision of a dentist and in accordance with the
2 rules and regulations established by the board may:

- 3 (1) expose dental radiographs;
- 4 (2) perform rubber cup coronal polishing that
5 is not represented as a prophylaxis;
- 6 (3) apply fluoride and pit and fissure
7 sealants without mechanical alteration of the tooth;
- 8 (4) perform those other dental hygienist
9 functions as recommended to the board by the committee and set
10 forth by rule of the board; and
- 11 (5) perform such other related functions that
12 are not expressly prohibited by statute or rules of the board.

13 ~~[F.]~~ G. A community dental health coordinator
14 working under the general supervision of a dentist and in
15 accordance with the rules established by the board may:

- 16 (1) place temporary and sedative restorative
17 material in unexcavated carious lesions and unprepared tooth
18 fractures;
- 19 (2) collect and transmit diagnostic data and
20 images via telemetric connection;
- 21 (3) dispense and apply medications on the
22 specific order of a dentist;
- 23 (4) provide limited palliative procedures for
24 dental emergencies in consultation with a supervising dentist
25 as allowed by the rules the board has promulgated; and

1 (5) perform other related functions for which
 2 the community dental health coordinator meets training and
 3 educational standards established by the board and that are not
 4 expressly prohibited by statute or rules promulgated by the
 5 board.

6 [~~G.~~] H. Unless licensed as a dentist or non-dentist
 7 owner, or as otherwise exempt from the licensing requirements
 8 of the Dental Health Care Act, no individual or corporate
 9 entity shall:

10 (1) employ or contract with a dentist or
 11 dental hygienist for the purpose of providing dental or dental
 12 hygiene services as defined by their respective scopes of
 13 practice; or

14 (2) enter into a managed care or other
 15 agreement to provide dental or dental hygiene services in New
 16 Mexico.

17 [~~H.~~] I. The following, under stipulations
 18 described, may function as a non-dentist owner without a New
 19 Mexico license:

20 (1) government agencies providing dental
 21 services within affiliated facilities;

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

24 (3) spouses of deceased licensed dentists or
 25 dental hygienists for a period of one year following the death

.212933.5

1 of the licensee;

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

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

8 (6) federally qualified health centers, as
9 designated by the United States department of health and human
10 services, providing dental services;

11 (7) nonprofit [~~community-based entities and~~
12 community dental organizations [~~that use public funds to~~
13 ~~provide dental and dental hygiene services for indigent~~
14 ~~persons~~]; and

15 (8) hospitals licensed by the department of
16 health."

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

19 "61-5A-10. POWERS AND DUTIES OF THE BOARD AND
20 COMMITTEE.--In addition to any other authority provided by law,
21 the board and the committee, when designated, shall:

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

25 B. adopt, publish, file and revise, in accordance

1 with the Uniform Licensing Act and the State Rules Act, all
2 rules as may be necessary to:

3 (1) regulate the examination and licensure of
4 dentists and dental therapists and, through the committee,
5 regulate the examination and licensure of dental hygienists;

6 (2) provide for the examination and
7 certification of dental assistants by the board;

8 (3) provide for the regulation of dental
9 technicians by the board;

10 (4) regulate the practice of dentistry, dental
11 therapy and dental assisting and, through the committee,
12 regulate the practice of dental hygiene; and

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

15 C. adopt and use a seal;

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

19 E. keep an accurate record of all meetings,
20 receipts and disbursements;

21 F. grant, deny, review, suspend and revoke licenses
22 and certificates to practice dentistry, dental therapy, dental
23 assisting and, through the committee, dental hygiene and
24 censure, reprimand, fine and place on probation and stipulation
25 dentists, dental therapists, dental assistants and, through the

.212933.5

1 committee, dental hygienists, in accordance with the Uniform
2 Licensing Act for any cause stated in the Dental Health Care
3 Act and the Dental Amalgam Waste Reduction Act;

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

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

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

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

.212933.5

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

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

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

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

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

22 P. establish continuing education or continued
23 competency requirements for dentists, dental therapists,
24 certified dental assistants in expanded functions, dental
25 technicians and, through the committee, dental hygienists."

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

3 "61-5A-15. CONTENT OF ~~[LICENSE]~~ LICENSES AND
4 CERTIFICATES--DISPLAY OF [LICENSE--RENEWALS--RETIRE LICENSE]
5 LICENSES AND CERTIFICATES.--

6 A. All dental licenses issued by the board shall
7 bear:

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

18 B. All dental therapy licenses issued by the board
19 shall bear:

- 20 (1) a serial number;
- 21 (2) the full name of the licensee;
- 22 (3) the date of issue;
- 23 (4) the seal of the board;
- 24 (5) the signatures of a majority of the board
25 members; and

1 (6) the attestation of the board president and
2 secretary.

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

- 5 (1) a serial number;
- 6 (2) the full name of the licensee;
- 7 (3) the date of issue;
- 8 (4) the seal of the board;
- 9 (5) the signatures of a majority of the
10 committee members; and
- 11 (6) the attestation of the board president and
12 secretary.

13 ~~[G.]~~ D. Certificates issued to dental assistants
14 shall bear:

- 15 (1) a serial number;
- 16 (2) the full name of the assistant;
- 17 (3) the date of issue;
- 18 (4) the date of expiration;
- 19 (5) the expanded functions certified to
20 perform; and
- 21 (6) the attestation of the board secretary.

22 ~~[D.]~~ E. All licenses and certificates shall be
23 displayed in a conspicuous place in the office where the holder
24 practices. The license or certificate shall, upon request, be
25 exhibited to any of the members of the board, the committee or

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1 its authorized agent."

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

4 "61-5A-17. RETIREMENT AND INACTIVE STATUS--
5 REACTIVATION.--

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

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

.212933.5

1 the approval of the board or the committee, the license may be
2 placed in inactive status.

3 C. A licensee whose license has been placed in
4 inactive status may not engage in any of the activities
5 contained within the scope of practice of dentistry, dental
6 therapy or dental hygiene in New Mexico described in [~~Section~~
7 ~~61-5A-4 NMSA 1978~~] the Dental Health Care Act.

8 D. Licensees with inactive licenses must renew
9 their licenses triennially and comply with all the requirements
10 set by the board and, if the licensee is a dental hygienist, by
11 the committee.

12 E. If a licensee with an inactive license wishes to
13 resume [~~the~~] active practice [~~of dentistry or dental hygiene~~],
14 the licensee must notify the board or, if the licensee is a
15 dental hygienist, the committee, in writing and provide proof
16 of completion of all requirements to reactivate the license as
17 prescribed by rule of the board or the committee. Upon payment
18 of all fees due, the board may reactivate the license and the
19 licensee may resume [~~the~~] practice [~~of dentistry or dental~~
20 ~~hygiene~~] subject to any stipulations of the board or the
21 committee.

22 F. Inactive licenses must be reactivated or
23 permanently retired within nine years of having been placed in
24 inactive status.

25 G. Assessment of fees pursuant to this section is

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1 not subject to the Uniform Licensing Act."

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

4 "61-5A-19. REINSTATEMENT OF REVOKED OR SUSPENDED
5 LICENSE.--

6 A. Unless otherwise stated in the order of
7 revocation, a motion for reinstatement of a revoked license may
8 not be filed for a period of at least three years from the
9 effective date of the revocation.

10 B. If the motion for reinstatement is denied, no
11 further motions for reinstatement shall be considered for a
12 period of one year.

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

.212933.5

1 D. ~~[Suspended dentists or dental hygienists~~
2 ~~indefinite suspension]~~ Procedure for reinstatement of licensees
3 who have been suspended for an indefinite period of time is as
4 follows:

5 (1) a licensee who has been suspended for an
6 indefinite period of time may, at any time after complying with
7 the conditions of reinstatement, file a petition for
8 reinstatement with the board or committee;

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

12 (3) if the motion for reinstatement is denied,
13 no further motions for reinstatement will be considered for a
14 period of one year.

15 E. Procedure for reinstatement hearings ~~[are]~~ is as
16 follows:

17 (1) applications for reinstatement shall be
18 referred to the board or, if the application is for
19 reinstatement of a license to practice dental hygiene, to the
20 committee for hearing if the applicant meets the criteria set
21 forth in this section;

22 (2) the board or committee shall schedule a
23 hearing as soon as practical at which the applicant shall have
24 the burden of demonstrating that the applicant has the moral
25 qualifications, that the applicant is once again fit to resume

.212933.5

1 the practice of dentistry, dental therapy or dental hygiene and
2 that the resumption of the applicant's practice of dentistry,
3 dental therapy or dental hygiene will not be detrimental to the
4 public interest;

5 (3) the board or committee shall file its
6 findings of fact, conclusions of law and decision within ninety
7 days of the hearing; and

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

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

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

	Dentists	Dental Hygienists
16		
17 A. licensure by examination	\$1,500	\$1,000
18 B. licensure by credential	\$3,000	\$1,500
19 C. specialty license by		
20 examination	\$1,500	
21 D. specialty license by		
22 credential	\$3,000	
23 E. temporary license		
24 48 hours	\$ 50	\$ 50
25 six months	\$ 300	\$ 200

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1	12 months	\$ 450	\$ 300
2	F. application for		
3	certification in local		
4	anesthesia		\$ 40
5	G. examination in local		
6	anesthesia		\$ 150
7	H. triennial license renewal	\$ 600	\$ 450
8	I. late renewal	\$ 100	\$ 100
9	J. reinstatement of license	\$ 450	\$ 300
10	K. administrative fees	\$ 300	\$ 300
11	L. impaired dentist or		
12	dental hygienist	\$ 150	\$ 75
13	M. assistant, expanded-function		
14	dental auxiliary or		
15	community dental health		
16	coordinator certificate		\$ 100
17	N. application for certification for		
18	collaborative practice		\$ 150
19	O. annual renewal for		
20	collaborative practice		\$ 50
21	P. application for inactive		
22	status	\$ 50	\$ 50
23	Q. triennial renewal of		
24	inactive license	\$ 90	\$ 90

Non-dentist Owners

.212933.5

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- 1 R. non-dentist owners license (initial) \$ 300
- 2 S. non-dentist owners license triennial renewal \$ 150
- 3 Dental Therapists
- 4 T. dental therapist license (initial) \$1,000
- 5 U. dental therapist license triennial renewal \$ 300."

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

8 "61-5A-21. DISCIPLINARY PROCEEDINGS--APPLICATION OF
9 UNIFORM LICENSING ACT.--

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

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

20 (2) has been convicted of a crime punishable
21 by incarceration in a federal prison or state penitentiary;
22 provided a copy of the record of conviction, certified to by
23 the clerk of the court entering the conviction, shall be
24 conclusive evidence of such conviction;

25 (3) is guilty of gross incompetence or gross

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1 negligence, as defined by rules of the board, in the practice
2 of dentistry, dental therapy, dental hygiene or dental
3 assisting;

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

7 (5) is guilty of unprofessional conduct as
8 defined by rule;

9 (6) is guilty of any violation of the
10 Controlled Substances Act;

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

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

16 (9) is guilty of practicing dentistry, dental
17 therapy or dental hygiene without a license or aiding or
18 abetting the practice of dentistry, dental therapy or dental
19 hygiene by a person not licensed under the Dental Health Care
20 Act;

21 (10) is guilty of obtaining or attempting to
22 obtain any fee by fraud or misrepresentation or has otherwise
23 acted in a manner or by conduct likely to deceive, defraud or
24 harm the public;

25 (11) is guilty of patient abandonment;

.212933.5

1 (12) is guilty of failing to report to the
2 board any adverse action taken against the licensee by a
3 licensing authority, peer review body, malpractice insurance
4 carrier or other entity as defined in rules of the board and
5 the committee;

6 (13) has had a license, certificate or
7 registration to practice as a dentist, dental therapist or
8 dental hygienist revoked, suspended, denied, stipulated or
9 otherwise limited in any jurisdiction, territory or possession
10 of the United States or another country for actions of the
11 licensee similar to acts described in this subsection. A
12 certified copy of the decision of the jurisdiction taking such
13 disciplinary action will be conclusive evidence; or

14 (14) has failed to furnish the board, its
15 investigators or its representatives with information requested
16 by the board or the committee in the course of an official
17 investigation.

18 B. Disciplinary proceedings may be instituted by
19 sworn complaint by any person, including a board or committee
20 member, and shall conform with the provisions of the Uniform
21 Licensing Act.

22 C. Licensees and certificate holders shall bear the
23 costs of disciplinary proceedings unless exonerated.

24 D. Any person filing a sworn complaint shall be
25 immune from liability arising out of civil action if the

1 complaint is filed in good faith and without actual malice.

2 E. Licensees whose licenses are in a probationary
3 status shall pay reasonable expenses for maintaining
4 probationary status, including [~~but not limited to~~] laboratory
5 costs when laboratory testing of biological fluids or
6 accounting costs when audits are included as a condition of
7 probation."

8 SECTION 10. A new section of the Dental Health Care Act
9 is enacted to read:

10 "[NEW MATERIAL] DENTAL THERAPIST LICENSURE--
11 REQUIREMENTS.--

12 A. The board shall license as a dental therapist
13 any individual who, in accordance with board rules:

14 (1) provides evidence of licensure as a dental
15 hygienist;

16 (2) provides evidence of having graduated and
17 received a degree from a dental therapy education program
18 accredited by the commission on dental accreditation;

19 (3) has passed a written examination covering
20 the statutes and rules relating to the practice of dental
21 therapy in the state within a time frame established in board
22 rules;

23 (4) has passed a practical or clinical
24 examination on the practice of dental therapy administered by
25 the board or its agent that reasonably tests the individual's

.212933.5

1 skill in practicing dental therapy; and

2 (5) has paid any requisite fees and complied
3 with any other reasonable requirements for licensure as a
4 dental therapist that the board has established by rule.

5 B. No dentist shall supervise more than three
6 dental therapists at any one time."

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

9 "[NEW MATERIAL] DENTAL THERAPY--SCOPE OF PRACTICE--
10 SUPERVISION.--

11 A. A dental therapist shall provide care in
12 accordance with a dental therapy practice agreement; provided
13 that the dental therapy practice agreement is limited to:

14 (1) the following activities performed under
15 general supervision:

16 (a) oral evaluation and assessment of
17 dental disease;

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

20 (c) place and shape direct restorations
21 without mechanical preparation;

22 (d) impressions for single-tooth
23 removable prosthesis;

24 (e) temporary cementation;

25 (f) atraumatic restorative therapy;

1 (g) temporary and sedative restorations;

2 (h) extraction of primary teeth without

3 radiological evidence of roots;

4 (i) palliative treatments;

5 (j) fabrication and placement of

6 temporary crowns;

7 (k) recementation of permanent crowns;

8 (l) removal and nonsurgical placement of

9 space maintainers;

10 (m) repairs and adjustments to

11 prostheses;

12 (n) tissue conditioning;

13 (o) administration of analgesics, anti-

14 inflammatory substances and antibiotics that a supervising

15 dentist orders; and

16 (p) other closely related procedures

17 that the board authorizes through rules it has adopted and

18 promulgated; and

19 (2) the following activities that a dental
20 therapist performs under indirect supervision or, if the dental
21 therapist has completed a dental therapy post-graduate clinical
22 experience, under general supervision:

23 (a) preparation and direct restoration

24 of cavities in primary and permanent teeth; and

25 (b) fitting, shaping and cementing of

.212933.5

1 stainless steel crowns on teeth prepared by a dentist.

2 B. A dental therapist may treat a patient prior to
3 a dentist's examination or diagnosis, subject to a dental
4 therapy practice agreement."

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

7 "[NEW MATERIAL] DENTAL THERAPY--PRACTICE ENVIRONMENTS.--A
8 dental therapist shall practice only in the following
9 environments:

10 A. a nonprofit community dental organization;

11 B. a health facility operated by the federal Indian
12 health service;

13 C. a health facility that a tribe operates under
14 Section 638 of the federal Indian Self-Determination and
15 Education Assistance Act;

16 D. a federally qualified health center;

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

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

23 G. a long-term care facility;

24 H. a private residence, when exclusively to treat
25 an individual who, due to disease, disability or condition, is

1 unable to receive care in a dental facility; or

2 I. an educational institution engaged in the
3 training of dental therapists accredited by the commission on
4 dental accreditation."

5 SECTION 13. A new section of the Public Health Act is
6 enacted to read:

7 "[NEW MATERIAL] DEPARTMENT OF HEALTH--NEW MEXICO BOARD OF
8 DENTAL HEALTH CARE--ANNUAL REPORT--BIENNIAL REPORT.--The
9 department of health shall collaborate with the New Mexico
10 board of dental health care and provide to the legislative
11 health and human services committee and the legislative finance
12 committee the following reports:

13 A. by October 1, 2020 and by each October 1
14 thereafter, a report relating to access to dental health care.
15 The department shall compile for the report at least the
16 following information with analysis and recommendations for
17 legislative action relating to this information:

18 (1) the status of dental health care
19 professional education loan-for-service programming;

20 (2) the feasibility of establishing a program
21 allowing bachelor of arts degree recipients to matriculate
22 directly to dental school for a doctor of dental medicine or
23 doctor of dental surgery degree;

24 (3) the status of the state's medicaid
25 program, including:

.212933.5

1 (a) simplification of administrative
2 procedures regarding the provision of dental health care to
3 medicaid recipients; and

4 (b) changes to reimbursement levels that
5 would encourage dental health care professionals to accept more
6 medicaid recipients as patients;

7 (4) the number of dental health care
8 professionals taking advantage of the rural health care
9 practitioner tax credit;

10 (5) other timely issues as determined by the
11 New Mexico board of dental health care to have an impact on
12 access to or the delivery of dental health care in New Mexico;
13 and

14 (6) the identification of activities in the
15 dental therapist's scope of practice that require dental
16 therapy post-graduate clinical experience; and

17 B. by October 1, 2020 and by October 1 every two
18 years thereafter, a report on the status of the dental
19 therapist licensure program, including the:

20 (1) name and number of educational
21 institutions offering accreditation of a dental therapy
22 educational program;

23 (2) number of students enrolled in each dental
24 therapy educational program, per educational institution;

25 (3) number of licensed dental hygienists

1 enrolled in dental therapy educational programs, per
 2 educational institution;

3 (4) number of students who have graduated from
 4 dental therapy educational programs;

5 (5) name and number of locations where
 6 students are completing dental therapy post-graduate
 7 experience;

8 (6) number of graduates practicing under
 9 general supervision;

10 (7) practice location for all licensed dental
 11 therapists in the state, by county; and

12 (8) number of dental therapists in each
 13 county."

14 SECTION 14. A new section of the Department of Health Act
 15 is enacted to read:

16 "[NEW MATERIAL] DEPARTMENT OF HEALTH--OFFICE OF ORAL
 17 HEALTH--DIRECTOR.--The secretary shall appoint a director of
 18 the department's office of oral health, who shall be a dental
 19 health care professional licensed pursuant to the Dental Health
 20 Care Act."

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

23 "[NEW MATERIAL] DENTAL EXAMINATION REQUIREMENT--OPTING
 24 OUT--EDUCATION--OUTREACH.--

25 A. As of July 1, 2021, a student shall not enroll

.212933.5

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1 in school unless the student has provided, in accordance with
2 protocols established by the department:

3 (1) satisfactory evidence of having undergone
4 a dental examination that meets standards established pursuant
5 to department rules; or

6 (2) a form, signed by the student's parent or
7 guardian, that states that the parent understands the risks
8 associated when a student does not undergo a dental examination
9 prior to school enrollment and that the parent or guardian
10 nevertheless opts not to obtain a dental examination for the
11 student.

12 B. Department rules shall specify that students
13 shall obtain dental examinations required pursuant to
14 Subsection A of this section at their own expense or at the
15 expense of any dental health coverage they have.

16 C. By July 1, 2020, the secretary shall:

17 (1) adopt and promulgate rules to prescribe
18 the requirements for dental examination pursuant to this
19 section; and

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

1 D. Beginning July 1, 2022, the department shall
2 collect data regarding student compliance with the provisions
3 of Subsection A of this section and make an annual written
4 report of that data to the legislative finance committee and
5 the legislative health and human services committee."

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

8 "27-2-12. MEDICAL ASSISTANCE PROGRAMS.--

9 A. Consistent with the federal act and subject to
10 the appropriation and availability of federal and state funds,
11 the medical assistance division of the department may by rule
12 provide medical assistance, including the services of licensed
13 doctors of oriental medicine, licensed chiropractic physicians,
14 licensed dental therapists and licensed dental hygienists in
15 collaborating practice, to persons eligible for public
16 assistance programs under the federal act.

17 B. Subject to appropriation and availability of
18 federal, state or other funds received by the state from public
19 or private grants or donations, the medical assistance division
20 of the department may by rule provide medical assistance,
21 including assistance in the payment of premiums for medical or
22 long-term care insurance, to children up to the age of twelve
23 if not part of a sibling group; children up to the age of
24 eighteen if part of a sibling group that includes a child up to
25 the age of twelve; and pregnant women who are residents of the

.212933.5

1 state of New Mexico and who are ineligible for public
2 assistance under the federal act. The department, in
3 implementing the provisions of this subsection, shall:

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

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

8 SECTION 17. Section 59A-47-28.4 NMSA 1978 (being Laws
9 2003, Chapter 343, Section 4) is amended to read:

10 "59A-47-28.4. COVERAGE FOR COLLABORATIVE PRACTICE--DENTAL
11 THERAPISTS--DENTAL HYGIENISTS.--An individual or group
12 subscriber contract delivered or issued for delivery in New
13 Mexico that, on a prepaid, service or indemnity basis, provides
14 for treatment of persons for the prevention, cure or correction
15 of any illness or physical or mental condition shall include
16 coverage for the services of a dental therapist and a dental
17 hygienist in a collaborative practice pursuant to the Dental
18 Health Care Act."

19 SECTION 18. TEMPORARY PROVISION--OUTCOME REPORT.--The
20 department of health shall conduct an outcome report on the
21 first five years of dental therapy practice in the state
22 pursuant to this 2019 act. At a date five years following the
23 date of the first issuance of a license to practice dental
24 therapy in the state, the department of health shall consult
25 with the New Mexico board of dental health care, the New Mexico

.212933.5

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1 dental hygienists' association and the New Mexico dental
2 association to compile and issue a report to the legislative
3 health and human services committee of the department's
4 findings and recommendations regarding dental therapy,
5 including:

- 6 A. its efficacy, effectiveness and cost;
- 7 B. its impact on access to dental health care;
- 8 C. the distribution of dental therapists statewide;
- 9 D. demographic representation among dental
10 therapists;
- 11 E. issues related to supervision of dental
12 therapists and their scope of practice;
- 13 F. evaluation of services delivered under indirect
14 supervision for recommendation to general supervision; and
- 15 G. evaluation of services delivered under general
16 supervision for recommendation to indirect supervision.

17 SECTION 19. EFFECTIVE DATE.--

18 A. The effective date of the provisions of Sections
19 1 through 13 and 15 through 18 of this act is June 14, 2019.

20 B. The effective date of the provisions of Section
21 14 of this act is June 14, 2020.