LFC Requester:	Noah Montano

AGENCY BILL ANALYSIS - 2026 REGULAR SESSION

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SECTION I: GENERAL INFORMATION

{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}

Date Prepared: *2/2/2026*
Bill Number: *House Bill 258*

Check all that apply:
Original *X* Correction __
Amendment __ Substitute __

Sponsor: Rep. Pamelya Herndon
Short Title: Dental Hygienists in Dental Health Act

Agency Name and Code Number: Regulation & Licensing Dept. (RLD), 420
Person Writing Jen Rodriguez
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SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY26	**FY27**		
N/A	N/A	N/A	N/A

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY26	**FY27**	**FY28**		
N/A	Unknown*	Unknown*	Recurring	Dental Health Care Fund

(Parenthesis ( ) indicate revenue decreases)

*The Regulations and Licensing Department (RLD) anticipates that HB 258 will increase revenue by providing for a new license type and a new certification, however, it is not clear how much demand for these new licenses exists in New Mexico.

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY26	FY27	FY28	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	N/A	60.0	N/A	60.0	Nonrecurring	Dental Health Care Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis: House Bill 258 (HB 258)

HB 258 amends the Dental Health Care Act, §§ 61-5A-1 through -29, NMSA 1978 (Act) to expand the scope of practice for dental hygienists and clarify roles for licensees under the Act. HB 258 updates definitions to modernize terminology, recognize collaborating dentists, dental hygiene diagnosis, public health dental hygienists, and expand the definition of collaborative dental hygiene practice.

HB 258 allows dental hygienists, particularly those in collaborative practices or public health settings, to provide a broader range of services with reduced or no dentist supervision. The scope of practice for all dental hygienists is expanded to include dental hygiene diagnosis allowing a hygienist to identify, interpret and determine certain oral health conditions within their scope of practice, and that may be addressed through dental hygiene services or by referral to another professional.

Public health dental hygienists are a new category and license type, certified by the dental hygienists committee (committee), to practice without supervision in a public health setting, without requiring a collaborative agreement. Collaborative dental hygienists and public health dental hygienists may administer local anesthesia without supervision if they are certified by the committee, if they have administered local anesthesia with indirect supervision for at least two (2) years and at least twenty (20) cases.

The rest of the changes made by HB 258 to the Act are language and term corrections that do not substantively impact the Act.

The effective date of HB 258 is May 20, 2026.

FISCAL IMPLICATIONS

A significant direct fiscal impact is anticipated for the Regulation and Licensing Department (RLD) if HB 258 is enacted. This fiscal impact would result from essential additions and updates that would have to be made to the NM Plus online licensing system that is utilized by the RLD for all licensing under the Act. Contracting fees for information technology development and implementation of the necessary changes to the NM Plus licensing system to implement the new license application and certification are estimated to be between sixty thousand dollars ($60,000) and three hundred thousand ($300,000) in FY27, depending on whether the RLD information

technology (IT) bureau staff is able to perform a large part of the work necessary or if the RLD must contract with outside vendors to complete the project. The ability of the RLD IT staff to perform the software development and implementation work depends in great part on the time they will have available to devote to this project in the coming year. At present the RLD anticipates there may be multiple bills passed during the 2026 Legislative Session related to interstate licensing compacts for medical professionals. Several of those bills deal with boards and commissions that are administratively attached to the RLD. If those interstate licensing compacts are authorized for New Mexico, the RLD will have to move quickly to perform the IT work necessary to update the licensing software for each impacted board or commission, plus build all necessary interconnectivity to each individual licensing compact's data system. Performing that work would consume all available internal IT resources/staff at the RLD for at least the next year, if not longer. While the RLD is hopeful that the IT work necessary to implement HB 258 could be completed within the cost of sixty thousand dollars ($60,000) by maximizing the use of internal IT resources, without knowing how many other IT projects will be required of the RLD in the coming year due to new legislation the RLD cannot be certain of this cost projection.

An administrative rulemaking process, including a public hearing and all required publication of notices and proposed rules, would be required to update and amend current administrative rules issued pursuant to the Act if HB 258 is enacted. RLD believes it can absorb the costs associated with the rulemaking processes for this bill within existing resources.

SIGNIFICANT ISSUES

New license types and new certifications require significant software and database upgrades and testing. The RLD requests an extension of the effective date of HB 258 until January 1, 2027, to ensure that this application is available online in the NM Plus online licensing system utilized for all licensing by the Dental Health Care Board when the new requirements of the bill go into effect. [This suggestion is reiterated in the "Amendments" section, below.]

PERFORMANCE IMPLICATIONS

ADMINISTRATIVE IMPLICATIONS

As noted in the "Fiscal Implications" section (above) enactment of HB 258 would necessitate and administrative rulemaking process to be conducted by the Board to adopt rules in accordance with the requirements. A new license type and a new certification require an enhancement to the current NM Plus online licensing system that is expected to involve IT and contracting expenses of at least sixty thousand dollars ($60,000) in FY27. No appropriation is included in the bill to cover these expenses.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

TECHNICAL ISSUES

OTHER SUBSTANTIVE ISSUES

Comments on HB 258 were received by the RLD from Jennifer L. Thompson, DDS, Chair of the New Mexico Board of Dental Health Care. Chair Thompson's comments have been attached to the RLD's FIR (please see below).

ALTERNATIVES

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

AMENDMENTS

New license types and certifications require significant software and database upgrades and testing. The RLD requests an extension of the effective date of HB 258 until January 1, 2027, to ensure that this application is available online in the NM Plus system as of the effective date.

Comments of the Chair of the New Mexico Board of Dental Healthcare, Jennifer L. Thomson, DDS, February 3, 2026:

HB 258 amends the Dental Health Care Act to expand the statutory scope of practice for dental hygienists. Several provisions of the bill raise significant regulatory, patient protection, and administrative concerns.

1. Expansion of scope of practice through diagnosis and removal of supervision

HB 258 significantly expands the scope of practice for all dental hygienists in all practice settings by modifying Section 61-5A-4(B) NMSA 1978. The bill adds "dental hygiene diagnostic" services to the statutory definition of the practice of dental hygiene and removes the phrase "under the general supervision of a dentist."

Under existing law, diagnosis is expressly included within the definition of the practice of dentistry. Sections 61-5A-4(A)(1) and 61-5A-4(A)(5)(c) NMSA 1978 reserve diagnosis of oral disease, conditions, and treatment planning to licensed dentists. Supervision, as defined in Section 61-5A-3(U) NMSA 1978, functions as a statutory control linking dental hygiene services to a dentist's diagnosis and treatment plan when the dentist is not physically present.

By authorizing dental hygienists to perform diagnostic services while simultaneously removing the default supervision requirement, HB 258 creates independent diagnostic and practice authority where none previously existed. This change is structural and substantive. It alters how scope, responsibility, and accountability are defined in statute rather than clarifying existing assessment authority.

The removal of the general supervision clause also fragments the supervision framework. Supervision requirements appear later in statute only for specific procedures, leaving no clear default supervision standard for other dental hygiene functions listed in Section 61-5A-4(B). This ambiguity complicates the Board's ability to address supervision through rulemaking, enforcement, and adjudication.

2. Incomplete nature of "dental hygiene diagnosis" and risk of patient confusion

HB 258 introduces a new definition of "dental hygiene diagnosis" as the professional judgment rendered by a licensed dental hygienist to identify oral health conditions, risks, and patient needs addressable through preventive, therapeutic, or nonsurgical dental hygiene services, education, counseling, and referral (Section 61-5A-3(I) NMSA 1978, as amended).

While limited, this diagnostic construct is incomplete when compared to the comprehensive diagnostic process performed by dentists. A dentist's diagnosis integrates periodontal findings with caries detection, evaluation of defective restorations, occlusal assessment, radiographic interpretation, oral cancer screening, systemic health considerations, and development of an overall treatment plan, all of which fall within the statutory definition of the practice of dentistry under Section 61-5A-4(A) NMSA 1978.

HB 258 does not clearly delineate the boundaries between a dental hygiene diagnosis and a comprehensive dental diagnosis for patients or licensees. Patients may reasonably believe they have received a full oral diagnosis when only a hygiene-limited judgment has been rendered. This creates risk of delayed or missed diagnoses, fragmented care, and confusion regarding which conditions have and

have not been evaluated. The bill also does not address how conflicting diagnoses between a dentist and a dental hygienist would be resolved or which diagnosis would govern treatment planning and referrals, particularly where periodontal and restorative treatment planning are clinically interdependent.

3. Conflict with HIPAA-recognized dental coding standards

Under HIPAA Administrative Simplification rules, Current Dental Terminology (CDT) is the nationally recognized standard code set for reporting dental procedures and services for claims submission, billing, and coverage determinations in the United States. Dental claims submitted to public programs, including Medicaid, and to commercial dental plans rely on CDT.

CDT does not contain a code for a "dental hygiene diagnosis" as a billable diagnostic service. Diagnostic evaluation and treatment planning are incorporated into dentist oral evaluation codes, including comprehensive, periodic, and periodontal evaluations, and are not reported as independent dental hygiene diagnoses.

By introducing "dental hygiene diagnosis" as a statutory concept without a corresponding HIPAA-recognized coding construct, HB 258 creates inconsistency between state scope of practice law and national billing and documentation standards. This increases the risk of patient misunderstanding, payer confusion, and compliance challenges, particularly in Medicaid and FQHC settings.

4. Overbroad and undefined public health practice settings

HB 258 amends the definition of "public health dental hygienist" in Section 61-5A-3(AA) NMSA 1978 to allow practice without supervision in "public health and nontraditional settings." The term "nontraditional settings" is undefined in the Dental Health Care Act and is not tied to any objective designation or regulatory standard. This lack of definition expands scope by setting and geography without clear legislative guardrails, complicates enforcement, and increases risk to public protection.

If the legislative intent is to improve access to care in safety-net environments, that intent can be more narrowly and clearly addressed by limiting unsupervised public health dental hygiene practice to objectively verifiable public health sites such as federally qualified health centers and federally qualified health center look-alikes. Existing law already provides pathways for hygienists to deliver services in community and public settings through collaborative dental hygiene practice agreements and specified preventive service authorizations. HB 258 should not imply that unsupervised authority in undefined settings is necessary to achieve access where collaborative mechanisms already exist.

5. Inconsistent governance of certification criteria

HB 258 creates an inconsistency with the governance framework established in Sections 61-5A-10 and 61-5A-11 NMSA 1978. Under those provisions, the Dental Hygienists Committee develops recommendations related to dental hygiene practice, and all recommendations require Board ratification.

The bill requires educational and experience criteria for collaborative dental hygiene practice to be established collaboratively by the committee and the board. In contrast, it allows certification criteria for public health dental hygienists, who may practice without supervision or collaborative agreement, to be established by the committee alone. Because certification criteria ultimately become Board-ratified

standards subject to Board enforcement and adjudication, excluding the Board from the development of criteria for an unsupervised practice category increases administrative and legal risk and departs from the shared governance structure set forth in the Dental Health Care Act.