HOUSE BILL

**58TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2027**

INTRODUCED BY

DISCUSSION DRAFT

AN ACT

RELATING TO LICENSURE; AMENDING THE DENTAL HEALTH CARE ACT TO EXPAND THE SCOPE OF PRACTICE OF CERTAIN TYPES OF DENTAL HYGIENISTS.

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

**SECTION 1.** Section 61-5A-3 NMSA 1978 (being Laws 1994, Chapter 55, Section 3, as amended) is amended to read:

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

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

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

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C. "certified dental assistant" means [~~an individual~~] a person certified by the dental assisting national board;

D. "collaborating dentist" means a dentist who has entered into an agreement to provide consultation and create protocols with a collaborating dental hygienist in accordance with the rules of the board and the committee;

[~~D.~~] E. "collaborative dental hygiene practice" means [~~a New Mexico licensed dental hygienist practicing according to Subsections D through G of Section 61-5A-4 NMSA 1978~~] the application of the science of prevention and treatment of oral disease through the practice of dental hygiene and in a cooperative working relationship with a collaborating dentist;

[~~E.~~] F. "committee" means the New Mexico dental hygienists committee;

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

[~~G. "consulting dentist" means a dentist who has entered into an approved agreement to provide consultation and~~

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~~create protocols with a collaborating dental hygienist and, when required, to provide diagnosis and authorization for services, in accordance with the rules of the board and the committee;~~

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

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

I. "dental hygiene diagnosis" means the professional judgment rendered by a licensed dental hygienist to identify, interpret and determine oral health conditions, risks and patient needs that are within the dental hygienist's scope of practice and that may be addressed through preventive, therapeutic or nonsurgical dental hygiene services, education, counseling and referral;

J. "dental hygienist" means [~~an individual~~] a person who has graduated and received a degree from a dental hygiene educational program that is accredited by the commission on dental accreditation, that provides a minimum of two academic years of dental hygiene curriculum and that is an institution of higher education; and "dental hygienist" means,

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except as the context otherwise requires, [~~an individual~~] a person who holds a license to practice dental hygiene in New Mexico;

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

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

M. "dental therapist" means [~~an individual~~] a person who:

(1) is licensed as a dental hygienist;

(2) has provided, in accordance with board rules, evidence to the board that the [~~individual~~] person has graduated and received a degree from a dental therapy education program that is accredited by the commission on dental accreditation; and

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

N. "dental therapy post-graduate clinical

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experience" means advanced training in patient management and technical competency:

(1) that is approved by the board, based on educational and supervisory criteria developed by the board and established by board rule;

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

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

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

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

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

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Q. "direct supervision" means the process under which an act is performed when a dentist licensed pursuant to the Dental Health Care Act:

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

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

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

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

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

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

U. "general supervision" means the authorization by

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a dentist of the procedures to be used by a dental therapist, community dental health coordinator, dental hygienist, dental assistant or dental student and the execution of the procedures in accordance with a dentist's diagnosis and treatment plan at a time the dentist is not physically present and in facilities as designated by rule of the board;

V. "indirect supervision" means that a dentist, or in certain settings, a dental therapist, dental hygienist or dental assistant certified in expanded functions, is present in the treatment facility while authorized treatments are being performed by a dental therapist, dental hygienist, dental assistant or dental student;

W. "long-term care facility" means a nursing home licensed by the [~~department of~~] health care authority to provide intermediate or skilled nursing care;

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

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

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

(2) has demonstrated to the taxation and

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revenue department that it has been granted exemption from the federal income tax by the United States commissioner of internal revenue as an organization described in Section 501(c)(3) of the United States Internal Revenue Code of 1986, as amended or renumbered;

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

AA. "public health dental hygienist" means a licensed dental hygienist who is certified by the committee to practice without supervision in public health and nontraditional settings by delivering educational, assessment, preventive, clinical, therapeutic and dental hygiene diagnostic services within the dental hygienist's scope of practice; and

[~~AA.~~] BB. "teledentistry" means a dentist's, dental hygienist's or dental therapist's use of electronic information, imaging and communication technologies, including interactive audio, video and data communications as well as store-and-forward technologies, to provide and support dental health care delivery, diagnosis, consultation, treatment, transfer of dental data and education."

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

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

A. As used in the Dental Health Care Act, "practice

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of dentistry" means:

(1) the diagnosis, treatment, correction, change, relief, prevention, prescription of remedy, surgical operation and adjunctive treatment for any disease, pain, deformity, deficiency, injury, defect, lesion or physical condition involving both the functional and aesthetic aspects of the teeth, gingivae, jaws and adjacent hard and soft tissue of the oral and maxillofacial regions, including the prescription or administration of any drug, medicine, biologic, apparatus, brace, anesthetic or other therapeutic or diagnostic substance or technique by [~~an individual~~] a person or the [~~individual's~~] person's agent or employee gratuitously or for any fee, reward, emolument or any other form of compensation whether direct or indirect;

(2) representation of an ability or willingness to do any act mentioned in Paragraph (1) of this subsection;

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

(4) the offering of advice or authoritative comment regarding the appropriateness of dental therapies, the need for recommended treatment or the efficacy of specific treatment modalities for other than the purpose of consultation

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to another dentist; or

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

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

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

(c) diagnose or treat a condition, disease, pain, deformity, deficiency, injury, lesion or other physical condition;

(d) correct a malposition;

(e) treat a fracture;

(f) remove calcareous deposits;

(g) replace missing anatomy with an artificial substitute;

(h) construct, make, furnish, supply, reproduce, alter or repair an artificial substitute or restorative or corrective appliance or place an artificial

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substitute or restorative or corrective appliance in the mouth or attempt to adjust it;

(i) give interpretations or readings of dental radiographs;

(j) provide limited diagnostic and treatment planning via teledentistry; or

(k) do any other remedial, corrective or restorative work.

B. As used in the Dental Health Care Act, "the practice of dental hygiene" means the application of the science of the prevention and treatment of oral disease through the provision of educational, assessment, preventive, clinical, dental hygiene diagnostic and other therapeutic services [~~under the general supervision of a dentist~~]. A dental hygienist in a collaborative practice [~~may perform the procedures listed in this section without general supervision while the hygienist is in a cooperative working relationship with a consulting dentist~~] or a public health dental hygienist may perform the procedures listed in this section, pursuant to rules promulgated by the board and the committee. "The practice of dental hygiene" includes:

(1) prophylaxis, which is the removal of plaque, calculus and stains from the tooth structures as a means to control local irritational factors;

(2) removing diseased crevicular tissue and

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related nonsurgical periodontal procedures;

(3) except in cases where a tooth exhibits cavitation of the enamel surface, assessing without a dentist's evaluation whether the application of pit and fissure sealants is indicated;

(4) except in cases where a tooth exhibits cavitation of the enamel surface, applying pit and fissure sealants without mechanical alteration of the tooth;

(5) applying fluorides and other topical therapeutic and preventive agents;

(6) exposing and assessing oral radiographs for abnormalities;

(7) screening to identify indications of oral abnormalities;

(8) performing dental [~~hygiene-focused assessments~~] hygiene diagnosis;

(9) assessing periodontal conditions; and

(10) such other closely related services as permitted by the rules of the committee and the board.

C. In addition to performing dental hygiene as defined in Subsection B of this section, a dental hygienist may apply preventive topical fluorides and remineralization agents without supervision in public and community medical facilities, schools, hospitals, long-term care facilities and such other settings as the committee may determine by rule ratified by the

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board, so long as the dental hygienist's license is not restricted pursuant to the Impaired Dentists and Dental Hygienists Act.

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

E. The board may certify a dental hygienist to administer local anesthetic under the general supervision of a dentist if the dental hygienist, in addition to performing dental hygiene as defined in Subsection B of this section:

(1) has administered local anesthesia under the indirect supervision of a dentist for at least two years, during which time the dental hygienist has competently administered at least twenty cases of local anesthesia and can document this with a signed affirmation by the supervising dentist;

(2) administers local anesthetic under the written prescription or order of a dentist; and

(3) emergency medical services are available in accordance with rules promulgated by the board.

F. The board may certify a public health dental hygienist or a dental hygienist certified for collaborative dental hygiene practice to administer local anesthetic without

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supervision if the dental hygienist, in addition to performing dental hygiene as defined in Subsection B of this section, has administered local anesthesia under the indirect supervision of a dentist for at least two years, during which time the dental hygienist has competently administered at least twenty cases of local anesthesia and can document this with a signed affirmation by the supervising dentist.

[~~F.~~] G. A dental hygienist:

(1) may prescribe, administer and dispense a fluoride supplement, topically applied fluoride or topically applied antimicrobial only when the prescribing, administering or dispensing is performed:

(a) under the supervision of a dentist, unless the dental hygienist is a public health dental hygienist or certified for collaborative dental hygiene practice;

(b) pursuant to rules the board and the committee have adopted;

(c) within the parameters of a drug formulary approved by the board in consultation with the board of pharmacy;

(d) within the parameters of guidelines established pursuant to Section 61-5A-10 NMSA 1978; and

(e) in compliance with state laws concerning prescription packaging, labeling and recordkeeping requirements; and

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(2) shall not otherwise dispense [~~dangerous drugs or~~] controlled substances.

[~~G.~~] H. A New Mexico licensed dental hygienist may be certified:

(1) for collaborative dental hygiene practice in accordance with the educational and experience criteria established collaboratively by the committee and the board; and

(2) as a public health dental hygienist to practice without supervision or collaborative agreement in public health settings and in accordance with the educational and experience criteria established by the committee.

[~~H.~~] I. An expanded-function dental auxiliary may perform the following procedures under the direct supervision of a dentist:

(1) placing and shaping direct restorations;

(2) taking final impressions, excluding those for fixed or removable prosthetics involving multiple teeth;

(3) cementing indirect and provisional restorations for temporary use;

(4) applying pit and fissure sealants without mechanical alteration of the tooth;

(5) placing temporary and sedative restorative material in hand-excavated carious lesions and unprepared tooth fractures;

(6) removal of orthodontic bracket cement; and

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(7) fitting and shaping of stainless steel crowns to be cemented by a dentist.

[~~I.~~] J. An expanded-function dental auxiliary may re-cement temporary or permanent crowns with temporary cement under the general supervision of a dentist in a situation that a dentist deems to be an emergency.

[~~J.~~] K. An expanded-function dental auxiliary may perform other related functions for which the expanded-function dental auxiliary meets the training and educational standards established by the board and that are not expressly prohibited by the board.

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

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

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

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

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(1) practice dentistry;

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

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

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

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

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

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

(4) any dental hygiene or dental assisting

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student duly enrolled in an accredited school of dental hygiene or dental assisting engaged in procedures within or outside the scope of dental hygiene that are part of the curriculum of that program in the school setting and under the indirect supervision of a faculty member of the accredited program who is a licensed dentist, dental hygienist or dental assistant certified in the procedures being taught;

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

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

(7) dental assistants performing adjunctive services to the provision of dental care, under the indirect

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supervision of a dentist, as determined by rule of the board if such services are not within the practice of dental hygiene as specifically listed in Subsection B of Section 61-5A-4 NMSA 1978, unless allowed in Subsection F of this section;

(8) a dental therapy student or graduate of a dental therapy educational program enrolled in a board-approved program while engaged in an educational program offered by the dental therapy educational program or dental therapy post-graduate clinical experience in a private office, public clinic or educational institution within the state of New Mexico under the indirect supervision of a licensed dentist; and

(9) a dental therapist who is licensed in New Mexico working under the supervision of a dentist and performing the procedures in accordance with the provisions of Section [~~9 of this 2019 act~~] 61-5A-13.1 NMSA 1978.

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

(1) practice as a dental therapist;

(2) use the title, abbreviation "D.T.", letters, figures, signs or devices that indicate the person is a licensed dental therapist; or

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

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

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(1) practice as a dental hygienist;

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

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

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

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

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

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

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

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

(d) perform those other dental hygienist

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functions as recommended to the board by the committee and set forth by rule of the board; and

(3) dental assistants certified in expanded functions, working under the indirect supervision of a dental hygienist certified for collaborative practice and under the protocols established in a collaborative practice agreement with a [~~consulting~~] collaborating dentist.

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

(1) expose dental radiographs;

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

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

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

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

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

(1) place temporary and sedative restorative material in unexcavated carious lesions and unprepared tooth

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fractures;

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

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

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

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

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

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

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

I. The following, under stipulations described, may

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function as a non-dentist owner without a New Mexico license:

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

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

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

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

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

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

(7) nonprofit community dental organizations; and

(8) hospitals licensed by the [~~department of~~] health care authority."



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