

1 AN ACT

2 RELATING TO DENTAL HEALTH CARE; AMENDING AND ENACTING  
3 SECTIONS OF THE DENTAL HEALTH CARE ACT TO ESTABLISH THE  
4 PROFESSION OF DENTAL THERAPIST; ENACTING A PROVISION OF THE  
5 DEPARTMENT OF HEALTH ACT TO ESTABLISH MINIMUM QUALIFICATIONS  
6 FOR THE DIRECTOR OF THE OFFICE OF ORAL HEALTH; ENACTING A  
7 SECTION OF THE PUBLIC SCHOOL CODE TO REQUIRE STUDENTS TO  
8 OBTAIN OR OPT OUT OF DENTAL EXAMINATIONS PRIOR TO ANNUAL  
9 SCHOOL ENROLLMENT; AMENDING SECTIONS OF THE PUBLIC ASSISTANCE  
10 ACT AND THE NONPROFIT HEALTH CARE PLAN LAW TO PROVIDE FOR  
11 REIMBURSEMENT OF DENTAL THERAPY; ENACTING A NEW SECTION OF  
12 THE PUBLIC HEALTH ACT TO REQUIRE REPORTING ON DENTAL HEALTH  
13 CARE ACCESS AND THE STATUS OF THE DENTAL THERAPIST LICENSURE  
14 PROGRAM; ENACTING A TEMPORARY PROVISION TO REQUIRE THE  
15 DEPARTMENT OF HEALTH TO CONDUCT AND REPORT ON A STUDY OF THE  
16 FIRST FIVE YEARS OF DENTAL THERAPY PRACTICE IN THE STATE.

17  
18 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

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

21 "61-5A-3. DEFINITIONS.--As used in the Dental Health  
22 Care Act:

23 A. "assessment" means the review and documentation  
24 of the oral condition, and the recognition and documentation  
25 of deviations from the healthy condition, without a diagnosis

1 to determine the cause or nature of disease or its treatment;

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

4 C. "certified dental assistant" means an  
5 individual certified by the dental assisting national board;

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

9 E. "committee" means the New Mexico dental  
10 hygienists committee;

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

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

25 H. "dental hygiene-focused assessment" means the

1 documentation of existing oral and relevant system conditions  
2 and the identification of potential oral disease to develop,  
3 communicate, implement and evaluate a plan of oral hygiene  
4 care and treatment;

5 I. "dental assistant certified in expanded  
6 functions" means a dental assistant who meets specific  
7 qualifications set forth by rule of the board;

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

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

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

1 a dentist;

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

3 (1) is licensed as a dental hygienist;

4 (2) has provided, in accordance with board  
5 rules, evidence to the board that the individual has  
6 graduated and received a degree from a dental therapy  
7 education program that is accredited by the commission on  
8 dental accreditation; and

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

12 N. "dental therapy post-graduate clinical  
13 experience" means advanced training in patient management and  
14 technical competency:

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

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

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

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

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

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

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

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

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

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

23 R. "expanded-function dental auxiliary" means a  
24 dental assistant, dental hygienist or other dental  
25 practitioner that has received education beyond that required

1 for licensure or certification in that individual's scope of  
2 practice and that has been certified by the board as an  
3 expanded-function dental auxiliary who works under the direct  
4 supervision of a dentist;

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

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

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

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

1 dental assistant or dental student;

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

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

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

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

14 (2) has demonstrated to the taxation and  
15 revenue department that it has been granted exemption from  
16 the federal income tax by the United States commissioner of  
17 internal revenue as an organization described in Section  
18 501(c)(3) of the United States Internal Revenue Code of 1986,  
19 as amended or renumbered;

20 Z. "palliative procedures" means nonsurgical,  
21 reversible procedures that are meant to alleviate pain and  
22 stabilize acute or emergent problems; and

23 AA. "teledentistry" means a dentist's use of  
24 health information technology in real time to provide limited  
25 diagnostic and treatment planning services in cooperation

1 with another dentist, a dental therapist, a dental hygienist,  
2 a community dental health coordinator or a student enrolled  
3 in a program of study to become a dental assistant, dental  
4 hygienist, dental therapist or dentist."

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

7 "61-5A-5. LICENSE REQUIRED--EXEMPTIONS.--

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

10 (1) practice dentistry;

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

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

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

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

25 (2) New Mexico licensed dental hygienists



1 and community dental health coordinators may provide those  
2 services within their scope of practice that are also within  
3 the scope of the practice of dentistry;

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

10 (4) any dental hygiene or dental assisting  
11 student duly enrolled in an accredited school of dental  
12 hygiene or dental assisting engaged in procedures within or  
13 outside the scope of dental hygiene that are part of the  
14 curriculum of that program in the school setting and under  
15 the indirect supervision of a faculty member of the  
16 accredited program who is a licensed dentist, dental  
17 hygienist or dental assistant certified in the procedures  
18 being taught;

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

1 authorization by that dentist;

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

10 (7) dental assistants performing adjunctive  
11 services to the provision of dental care, under the indirect  
12 supervision of a dentist, as determined by rule of the board  
13 if such services are not within the practice of dental  
14 hygiene as specifically listed in Subsection B of Section  
15 61-5A-4 NMSA 1978, unless allowed in Subsection F of this  
16 section;

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

25 (9) a dental therapist who is licensed in

1 New Mexico working under the supervision of a dentist and  
2 performing the procedures in accordance with the provisions  
3 of Section 9 of this 2019 act.

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

6 (1) practice as a dental therapist;

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

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

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

14 (1) practice as a dental hygienist;

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

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

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

24 (1) students enrolled in an accredited  
25 dental hygiene program engaged in procedures that are part of

1 the curriculum of that program and under the indirect  
2 supervision of a licensed faculty member of the accredited  
3 program;

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

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

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

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

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

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

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

25 (1) expose dental radiographs;

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

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

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

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

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

14 (1) place temporary and sedative restorative  
15 material in unexcavated carious lesions and unprepared tooth  
16 fractures;

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

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

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

25 (5) perform other related functions for

1 which the community dental health coordinator meets training  
2 and educational standards established by the board and that  
3 are not expressly prohibited by statute or rules promulgated  
4 by the board.

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

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

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

16 I. The following, under stipulations described,  
17 may function as a non-dentist owner without a New Mexico  
18 license:

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

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

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

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

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

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

10 (7) nonprofit community dental  
11 organizations; and

12 (8) hospitals licensed by the department of  
13 health."

14 SECTION 3. Section 61-5A-10 NMSA 1978 (being Laws 1994,  
15 Chapter 55, Section 10, as amended) is amended to read:

16 "61-5A-10. POWERS AND DUTIES OF THE BOARD AND  
17 COMMITTEE.--In addition to any other authority provided by  
18 law, the board and the committee, when designated, shall:

19 A. enforce and administer the provisions of the  
20 Dental Health Care Act and the Dental Amalgam Waste Reduction  
21 Act;

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

25 (1) regulate the examination and licensure

1 of dentists and dental therapists and, through the committee,  
2 regulate the examination and licensure of dental hygienists;

3 (2) provide for the examination and  
4 certification of dental assistants by the board;

5 (3) provide for the regulation of dental  
6 technicians by the board;

7 (4) regulate the practice of dentistry,  
8 dental therapy and dental assisting and, through the  
9 committee, regulate the practice of dental hygiene; and

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

12 C. adopt and use a seal;

13 D. administer oaths to all applicants, witnesses  
14 and others appearing before the board or the committee, as  
15 appropriate;

16 E. keep an accurate record of all meetings,  
17 receipts and disbursements;

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



1 Waste Reduction Act;

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

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

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

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

24 K. have the authority to pay per diem and mileage  
25 to individuals who are appointed by the board or the

1 committee to serve on ad hoc committees;

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

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

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

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

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

25 SECTION 4. Section 61-5A-15 NMSA 1978 (being Laws 1994,

1 Chapter 55, Section 15) is amended to read:

2 "61-5A-15. CONTENT OF LICENSES AND CERTIFICATES--  
3 DISPLAY OF LICENSES AND CERTIFICATES.--

4 A. All dental licenses issued by the board shall  
5 bear:

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

16 B. All dental therapy licenses issued by the board  
17 shall bear:

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

1           C. All dental hygienist licenses issued by the  
2 board shall bear:

3                   (1) a serial number;  
4                   (2) the full name of the licensee;  
5                   (3) the date of issue;  
6                   (4) the seal of the board;  
7                   (5) the signatures of a majority of the  
8 committee members; and

9                   (6) the attestation of the board president  
10 and secretary.

11           D. Certificates issued to dental assistants shall  
12 bear:

13                   (1) a serial number;  
14                   (2) the full name of the assistant;  
15                   (3) the date of issue;  
16                   (4) the date of expiration;  
17                   (5) the expanded functions certified to  
18 perform; and

19                   (6) the attestation of the board secretary.

20           E. All licenses and certificates shall be  
21 displayed in a conspicuous place in the office where the  
22 holder practices. The license or certificate shall, upon  
23 request, be exhibited to any of the members of the board, the  
24 committee or its authorized agent."

25           SECTION 5. Section 61-5A-17 NMSA 1978 (being Laws 1994,

1 Chapter 55, Section 17, as amended) is amended to read:

2 "61-5A-17. RETIREMENT AND INACTIVE STATUS--  
3 REACTIVATION.--

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

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

25 C. A licensee whose license has been placed in

1 inactive status may not engage in any of the activities  
2 contained within the scope of practice of dentistry, dental  
3 therapy or dental hygiene in New Mexico described in the  
4 Dental Health Care Act.

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

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

18 F. Inactive licenses must be reactivated or  
19 permanently retired within nine years of having been placed  
20 in inactive status.

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

23 SECTION 6. Section 61-5A-19 NMSA 1978 (being Laws 1994,  
24 Chapter 55, Section 19) is amended to read:

25 "61-5A-19. REINSTATEMENT OF REVOKED OR SUSPENDED

1 LICENSE.--

2 A. Unless otherwise stated in the order of  
3 revocation, a motion for reinstatement of a revoked license  
4 may not be filed for a period of at least three years from  
5 the effective date of the revocation.

6 B. If the motion for reinstatement is denied, no  
7 further motions for reinstatement shall be considered for a  
8 period of one year.

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

21 D. Procedure for reinstatement of licensees who  
22 have been suspended for an indefinite period of time is as  
23 follows:

24 (1) a licensee who has been suspended for an  
25 indefinite period of time may, at any time after complying

1 with the conditions of reinstatement, file a petition for  
2 reinstatement with the board or committee;

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

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

9 E. Procedure for reinstatement hearings is as  
10 follows:

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

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

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



1 ninety days of the hearing; and

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

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

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

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

1	H. triennial license renewal	\$ 600	\$ 450
2	I. late renewal	\$ 100	\$ 100
3	J. reinstatement of license	\$ 450	\$ 300
4	K. administrative fees	\$ 300	\$ 300
5	L. impaired dentist or		
6	dental hygienist	\$ 150	\$ 75
7	M. assistant, expanded-function		
8	dental auxiliary or		
9	community dental health		
10	coordinator certificate		\$ 100
11	N. application for certification for		
12	collaborative practice		\$ 150
13	O. annual renewal for		
14	collaborative practice		\$ 50
15	P. application for inactive		
16	status	\$ 50	\$ 50
17	Q. triennial renewal of		
18	inactive license	\$ 90	\$ 90
19			Non-dentist Owners
20	R. non-dentist owners license (initial)		\$ 300
21	S. non-dentist owners license triennial renewal		\$ 150
22			Dental Therapists
23	T. dental therapist license (initial)		\$1,000
24	U. dental therapist license triennial renewal		\$ 300."

25       **SECTION 8.** Section 61-5A-21 NMSA 1978 (being Laws 1994, HHHC/HB 308/a  
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1 Chapter 55, Section 21, as amended) is amended to read:

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

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

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

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

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

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

1 (5) is guilty of unprofessional conduct as  
2 defined by rule;

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

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

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

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

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

19 (11) is guilty of patient abandonment;

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

25 (13) has had a license, certificate or

1 registration to practice as a dentist, dental therapist or  
2 dental hygienist revoked, suspended, denied, stipulated or  
3 otherwise limited in any jurisdiction, territory or  
4 possession of the United States or another country for  
5 actions of the licensee similar to acts described in this  
6 subsection. A certified copy of the decision of the  
7 jurisdiction taking such disciplinary action will be  
8 conclusive evidence; or

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

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

17 C. Licensees and certificate holders shall bear  
18 the costs of disciplinary proceedings unless exonerated.

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

22 E. Licensees whose licenses are in a probationary  
23 status shall pay reasonable expenses for maintaining  
24 probationary status, including laboratory costs when  
25 laboratory testing of biological fluids or accounting costs

1 when audits are included as a condition of probation."

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

4 "DENTAL THERAPIST LICENSURE--REQUIREMENTS.--

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

7 (1) provides evidence of licensure as a  
8 dental hygienist;

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

12 (3) has passed a written examination  
13 covering the statutes and rules relating to the practice of  
14 dental therapy in the state within a time frame established  
15 in board rules;

16 (4) has passed a practical or clinical  
17 examination on the practice of dental therapy administered by  
18 the board or its agent that reasonably tests the individual's  
19 skill in practicing dental therapy; and

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

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

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

1 is enacted to read:

2 "DENTAL THERAPY--SCOPE OF PRACTICE--SUPERVISION.--

3 A. A dental therapist shall provide care in  
4 accordance with a dental therapy practice agreement; provided  
5 that the dental therapy practice agreement is limited to:

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

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

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

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

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

16 (e) temporary cementation;

17 (f) atraumatic restorative therapy;

18 (g) temporary and sedative  
19 restorations;

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

22 (i) palliative treatments;

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

25 (k) recementation of permanent crowns;

- 1 (1) removal and nonsurgical placement  
2 of space maintainers;  
3 (m) repairs and adjustments to  
4 prostheses;  
5 (n) tissue conditioning;  
6 (o) administration of analgesics, anti-  
7 inflammatory substances and antibiotics that a supervising  
8 dentist orders; and  
9 (p) other closely related procedures  
10 that the board authorizes through rules it has adopted and  
11 promulgated; and

12 (2) the following activities that a dental  
13 therapist performs under indirect supervision or, if the  
14 dental therapist has completed a dental therapy post-graduate  
15 clinical experience, under general supervision:

16 (a) preparation and direct restoration  
17 of cavities in primary and permanent teeth; and

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

20 B. A dental therapist may treat a patient prior to  
21 a dentist's examination or diagnosis, subject to a dental  
22 therapy practice agreement."

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

25 "DENTAL THERAPY--PRACTICE ENVIRONMENTS.--



1           A. A dental therapist shall practice only in the  
2 following environments:

3                   (1) a nonprofit community dental  
4 organization;

5                   (2) a health facility operated by the  
6 federal Indian health service;

7                   (3) a health facility that a tribe operates  
8 under Section 638 of the federal Indian Self-Determination  
9 and Education Assistance Act;

10                   (4) a federally qualified health center;

11                   (5) a facility certified by the federal  
12 centers for medicare and medicaid services as a "federally  
13 qualified health center look-alike" facility;

14                   (6) a private residence or a facility in  
15 which an individual receives long-term community-based  
16 services under the state's medicaid program;

17                   (7) a long-term care facility;

18                   (8) a private residence, when exclusively to  
19 treat an individual who, due to disease, disability or  
20 condition, is unable to receive care in a dental facility; or

21                   (9) an educational institution engaged in  
22 the training of dental therapists accredited by the  
23 commission on dental accreditation.

24           B. The provisions of this section shall not be  
25 construed to prohibit, restrict or impose state licensure or

1 regulatory requirements or obligations on the practice of  
2 dental therapy:

3 (1) on tribal lands; or

4 (2) by a dental therapist who is employed by  
5 a tribal health program, a federal Indian health program or a  
6 federally operated Indian health service health care site."

7 SECTION 12. A new section of the Public Health Act is  
8 enacted to read:

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

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

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

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

1 (3) the status of the state's medicaid  
2 program, including:

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

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

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

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

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

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

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

25 (2) number of students enrolled in each

1 dental therapy educational program, per educational  
2 institution;

3 (3) number of licensed dental hygienists  
4 enrolled in dental therapy educational programs, per  
5 educational institution;

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

8 (5) name and number of locations where  
9 students are completing dental therapy post-graduate  
10 experience;

11 (6) number of graduates practicing under  
12 general supervision;

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

15 (8) number of dental therapists in each  
16 county."

17 **SECTION 13.** A new section of the Department of Health  
18 Act is enacted to read:

19 "DEPARTMENT OF HEALTH--OFFICE OF ORAL HEALTH--  
20 DIRECTOR.--The secretary shall appoint a director of the  
21 department's office of oral health, who shall be a dental  
22 health care professional licensed pursuant to the Dental  
23 Health Care Act."

24 **SECTION 14.** A new section of the Public School Code is  
25 enacted to read:

1 "DENTAL EXAMINATION REQUIREMENT--OPTING  
2 OUT--EDUCATION--OUTREACH.--

3 A. As of July 1, 2021, a student shall not enroll  
4 in school unless the student has provided, in accordance with  
5 protocols established by the department:

6 (1) satisfactory evidence of having  
7 undergone a dental examination that meets standards  
8 established pursuant to department rules; or

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

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

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

20 (1) adopt and promulgate rules to prescribe  
21 the requirements for dental examination pursuant to this  
22 section; and

23 (2) provide extensive education statewide  
24 for parents and guardians explaining the requirements for  
25 dental examination and providing information regarding where

1 they may receive referrals to dental health care  
2 professionals statewide who are authorized to perform dental  
3 examinations in accordance with those rules.

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

9 SECTION 15. Section 27-2-12 NMSA 1978 (being Laws 1973,  
10 Chapter 376, Section 16, as amended) is amended to read:

11 "27-2-12. MEDICAL ASSISTANCE PROGRAMS.--

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

20 B. Subject to appropriation and availability of  
21 federal, state or other funds received by the state from  
22 public or private grants or donations, the medical assistance  
23 division of the department may by rule provide medical  
24 assistance, including assistance in the payment of premiums  
25 for medical or long-term care insurance, to children up to

1 the age of twelve if not part of a sibling group; children up  
2 to the age of eighteen if part of a sibling group that  
3 includes a child up to the age of twelve; and pregnant women  
4 who are residents of the state of New Mexico and who are  
5 ineligible for public assistance under the federal act. The  
6 department, in implementing the provisions of this  
7 subsection, shall:

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

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

12 **SECTION 16.** Section 59A-47-28.4 NMSA 1978 (being Laws  
13 2003, Chapter 343, Section 4) is amended to read:

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

23 **SECTION 17.** TEMPORARY PROVISION--OUTCOME REPORT.--The  
24 department of health shall conduct an outcome report on the  
25 first five years of dental therapy practice in the state

1 pursuant to this 2019 act. At a date five years following  
2 the date of the first issuance of a license to practice  
3 dental therapy in the state, the department of health shall  
4 consult with the New Mexico board of dental health care, the  
5 New Mexico dental hygienists' association and the New Mexico  
6 dental association to compile and issue a report to the  
7 legislative health and human services committee of the  
8 department's findings and recommendations regarding dental  
9 therapy, including:

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

22 **SECTION 18. REPEAL.**--Section 61-5A-2 NMSA 1978 (being  
23 Laws 1994, Chapter 55, Section 2, as amended) is repealed.

24 **SECTION 19. EFFECTIVE DATE.**--

- 25 A. The effective date of the provisions of



1 Sections 1 through 12 and 14 through 18 of this act is June  
2 14, 2019.

3 B. The effective date of the provisions of Section  
4 13 of this act is June 14, 2020. \_\_\_\_\_

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