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HOUSE BILL 265

44TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1999

INTRODUCED BY

Luciano "Lucky" Varela

FOR THE LEGISLATIVE FINANCE COMMITTEE

AN ACT

RELATING TO DENTISTRY; CHANGING THE LICENSING OF DENTISTS AND
DENTAL HYGIENISTS BY CREDENTIAL; EXPANDING THE SCOPE OF
PRACTICE 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) is amended to read:

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

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

B. "certified dental assistant" means an
individual certified by the dental assistant national board;

C. "committee" means the New Mexico dental
hygienists committee;

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1 D. "dental assistant certified in expanded
2 functions" means a dental assistant who meets specific
3 qualifications set forth by rule of the board;

4 E. "dental hygienist" means an individual who has
5 graduated and received a diploma from an accredited dental
6 hygiene educational program, which provides a minimum of two
7 academic years of dental hygiene curriculum and is an
8 institution of higher education accredited by the American
9 dental association commission on dental accreditation, and,
10 except as the context otherwise requires, who holds a license
11 to practice dental hygiene in New Mexico;

12 F. "dental laboratory" means any place where
13 bridges, crowns, dentures or other prosthetic or orthodontic
14 appliances are fabricated, altered or repaired by one or more
15 persons;

16 G. "dental technician" means an individual, other
17 than a licensed dentist, who fabricates, alters, repairs or
18 assists in the fabrication, alteration or repair of bridges,
19 crowns, dentures or other prosthetic or orthodontic
20 appliances;

21 H. "dentist" means an individual who has graduated
22 and received a diploma from a dental college or school of
23 dentistry of a university that is accredited by the American
24 dental association commission on dental accreditation and,
25 except as the context otherwise requires, who holds a license

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1 to practice dentistry in New Mexico;

2 I. "general supervision" means the authorization
3 by a dentist of the procedures to be used by a [~~dental~~
4 ~~hygienist~~] dental assistant or dental student and the
5 execution of the procedures in accordance with a dentist's
6 diagnosis and treatment plan and in facilities as designated
7 by rule of the board; and

8 J. "indirect supervision" means that a dentist is
9 present in the treatment facility while authorized treatments
10 are being performed by a [~~dental-hygienist~~] dental assistant
11 or dental student. "

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

14 "61-5A-4. SCOPE OF PRACTICE. --

15 A. As used in the Dental Health Care Act,
16 "practice of dentistry" means:

17 (1) the diagnosis, treatment, correction,
18 change, relief, prevention, prescription of remedy, surgical
19 operation and adjunctive treatment for any disease, pain,
20 deformity, deficiency, injury, defect, lesion or physical
21 condition involving both the functional and aesthetic aspects
22 of the teeth, gingivae, jaws and adjacent hard and soft tissue
23 of the oral and maxillofacial regions, including the
24 prescription or administration of any drug, medicine,
25 biologic, apparatus, brace, anesthetic or other therapeutic or

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1 diagnostic substance or technique by an individual or his
2 agent or employee gratuitously or for any fee, reward,
3 emolument or any other form of compensation whether direct or
4 indirect;

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

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

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

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

21 (c) diagnose or treat any condition,
22 disease, pain, deformity, deficiency, injury, lesion or other
23 physical condition;

24 (d) correct a malposition;

25 (e) treat a fracture;

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- 1 (f) remove calcareous deposits;
- 2 (g) replace missing anatomy with an
- 3 artificial substitute;
- 4 (h) construct, make, furnish, supply,
- 5 reproduce, alter or repair an artificial substitute or
- 6 restorative or corrective appliance or place an artificial
- 7 substitute or restorative or corrective appliance in the mouth
- 8 or attempt to adjust it;
- 9 (i) give interpretations or readings of
- 10 dental roentgenograms; or
- 11 (j) do any other remedial, corrective
- 12 or restorative work.

13 B. As used in the Dental Health Care Act,
14 "practice as a dental hygienist" means the science of the
15 prevention and treatment of oral disease through the provision
16 of educational, assessment, preventive, clinical and other
17 therapeutic services [~~under the general supervision of a~~
18 ~~dentist~~]. "Dental hygiene" includes:

- 19 (1) prophylaxis, which is the treatment of
- 20 human teeth by removing from their surface calcareous deposits
- 21 and stain, removing accumulated accretions and polishing the
- 22 surfaces of the teeth;
- 23 (2) removing diseased crevicular tissue;
- 24 (3) the application of pit and fissure
- 25 sealants, fluorides and other topical therapeutic and

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- 1 preventive agents;
- 2 (4) exposing and referring to oral
- 3 radiographs;
- 4 (5) screening to identify indications of oral
- 5 abnormalities;
- 6 (6) preliminary assessment of periodontal
- 7 conditions; and
- 8 (7) such other closely related services as
- 9 permitted by the rules and regulations of the committee and
- 10 the board.

11 C. In addition to performing dental hygiene as
12 defined in Subsection B of this section, dental hygienists who
13 have met such criteria as the committee shall establish and
14 the board ratify may administer local anesthesia [~~under~~
15 ~~indirect supervision of a dentist~~]. "

16 Section 3. Section 61-5A-12 NMSA 1978 (being Laws 1994,
17 Chapter 55, Section 12) is amended to read:

18 "61-5A-12. DENTISTS--REQUIREMENTS FOR LICENSURE--
19 SPECIALTY LICENSE. --

20 A. All applicants for licensure as a dentist
21 [~~must~~] shall have graduated and received a diploma from an
22 accredited dental college or school of dentistry of a
23 university that is accredited by the American dental
24 association commission on dental accreditation and have passed
25 the written portion of the dental examination administered by

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1 the joint commission on national dental examinations of the
2 American dental association or, if the test is not available,
3 [~~then~~] another written examination determined by the board.

4 B. Applicants for general dentistry licensure by
5 examination shall be required, in addition to the requirements
6 set forth in Subsection A of this section, to pass a test
7 covering the laws and regulations for the practice of
8 dentistry in New Mexico. Written examinations shall be
9 supplemented by the board or its agents administering to each
10 applicant a practical or clinical examination that reasonably
11 tests the applicant's qualifications to practice general
12 dentistry. Upon an applicant [~~successfully~~] passing the
13 written and clinical examinations and payment in advance of
14 the necessary fees, the board shall issue a license to
15 practice dentistry.

16 C. The board [~~may~~] shall issue a general dentistry
17 license by credentials without a practical or clinical
18 examination to an applicant who is duly licensed by
19 examination as a dentist under the laws of another state or
20 territory of the United States and whose license is in good
21 standing in that jurisdiction. The applicant [~~must~~] shall
22 otherwise meet the [~~same~~] requirements [~~necessary to sit for~~
23 ~~such examination by the board or its examining agents along~~
24 ~~with other qualifications as deemed necessary by regulation of~~
25 ~~the board~~] of the Dental Health Care Act, including payment of

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1 appropriate fees and passing an examination covering the laws
2 and regulations of the practice of dentistry in New Mexico.

3 D. The board may issue a specialty license by
4 examination to an applicant who has [~~successfully~~] passed a
5 clinical and written examination given by the board or its
6 examining agents that covers the applicant's specialty. The
7 applicant [~~must~~] shall have a postgraduate degree or
8 certificate from an accredited dental college, school of
9 dentistry of a university or other residency program that is
10 accredited by the American dental association commission on
11 dental accreditation in one of the specialty areas of
12 dentistry recognized by the American dental association. The
13 applicant [~~must~~] shall also meet all other requirements as
14 established by rules of the board, which shall include an
15 examination covering the laws and regulations of the practice
16 of dentistry in New Mexico. A specialty license limits the
17 licensee to practice only in that specialty area.

18 E. The board may issue a specialty license by
19 credentials to an applicant who is duly licensed by
20 examination as a dentist under the laws of another state or
21 territory of the United States and has a postgraduate degree
22 or certificate from an accredited dental college, school of
23 dentistry of a university or other residency program that is
24 accredited by the American dental association commission on
25 dental accreditation in one of the specialty areas of

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1 dentistry recognized by the American dental association. The
2 applicant [~~must~~] shall also meet all other qualifications as
3 deemed necessary by [~~regulation~~] rules of the board, which
4 shall include an examination covering the laws and
5 [~~regulations~~] rules of the practice of dentistry in New
6 Mexico. A specialty license limits the licensee to practice
7 only in that specialty area. "

8 Section 4. Section 61-5A-13 NMSA 1978 (being Laws 1994,
9 Chapter 55, Section 13) is amended to read:

10 "61-5A-13. DENTAL HYGIENIST LICENSURE. --

11 A. Applicants for licensure [~~must~~] shall have
12 graduated and received a diploma from an accredited dental
13 hygiene educational program that provides a minimum of two
14 academic years of dental hygiene curriculum and is a
15 post-secondary educational institution accredited by the
16 American dental association commission on dental accreditation
17 and shall have passed the written portion of the dental
18 hygiene examination administered by the joint commission on
19 national dental examinations of the American dental
20 association or, if this test is not available, [~~then~~] another
21 written examination determined by the committee.

22 B. Applicants for licensure by examination shall
23 be required, in addition to the [~~provisions of~~] requirements
24 set forth in Subsection A of this section, to [~~also~~] pass a
25 written examination covering the laws and [~~regulations~~] rules

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1 for practice in New Mexico. Each written examination shall be
2 supplemented by a practical or clinical examination
3 administered by the committee or its agents that reasonably
4 tests the applicant's qualifications to practice as a dental
5 hygienist. Upon an applicant [~~successfully~~] passing the
6 written and clinical examinations, the board, upon
7 recommendation of the committee, shall issue a license [~~for~~
8 ~~practicing~~] to practice as a dental hygienist.

9 C. The board, upon the committee's recommendation,
10 shall issue a license to practice as a dental hygienist by
11 credentials without examination, including practical or
12 clinical examination, to an applicant who is a duly licensed
13 dental hygienist by examination under the laws of another
14 state or territory of the United States and whose licence is
15 in good standing in that jurisdiction and if the applicant
16 otherwise meets [~~the same~~] all other requirements [~~to sit for~~
17 ~~examination by the committee or its examining agents. The~~
18 ~~applicant must meet other qualifications as deemed necessary~~
19 ~~by regulations recommended by the committee and ratified by~~
20 ~~the board. These qualifications shall include~~] of the Dental
21 Health Care Act, including payment of appropriate fees and
22 passing an examination covering the laws and [~~regulations~~]
23 rules pertaining to practice as a dental hygienist in New
24 Mexico. "

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2 FIRST SESSION, 1999
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6 February 23, 1999
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8 Mr. Speaker:
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10 Your BUSINESS AND INDUSTRY COMMITTEE, to whom has
11 been referred
12

13 HOUSE BILL 265
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15 has had it under consideration and reports same with
16 recommendation that it DO PASS, amended as follows:

17 1. On pages 1 through 3, strike Section 1 in its
18 entirety.

19 2. Renumber succeeding sections accordingly.
20

21 3. On page 5, lines 17 and 18, remove the brackets and
22 line through "under the general supervision of a dentist".
23

24 4. On page 6, lines 14 and 15, remove the brackets and
25 line through "under indirect supervision of a dentist" and

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4 on line 15, strike the quotation mark.

5
6 5. On page 6, between lines 15 and 16, insert the
7 following new subsections:

8
9 "D. A dental hygienist may be certified for
10 collaborative dental hygiene practice in accordance with the
11 educational and experience criteria established
12 collaboratively by the committee and board. The board may
13 charge a fee not to exceed one hundred fifty dollars (\$150)
14 for each application for certification for collaborative
15 dental hygiene practice.

16 E. For the purpose of this section,
17 "collaborative practice of dental hygiene" means the science
18 of the prevention and treatment of oral disease through the
19 provision of educational, assessment, preventive, clinical
20 and other therapeutic services as specified in Subsection B
21 of this

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4 section in a cooperative working relationship with a
5 consulting dentist, but without general supervision, as set
6 forth by the rules jointly established by the board and the
7 committee."".

8
9 6. On page 7, line 18, after "by" insert "a clinical".

10
11 7. On page 7, line 20, after "is" insert "active and".

12
13 8. On page 7, line 21, before the period insert:

14 "and in good standing in any other jurisdiction where the
15 applicant has held a license; provided there are no
16 proceedings pending against the applicant's license and that
17 a standard national practitioner data bank or other
18 nationally recognized data resource that records actions
19 against a dentist within the United States does not reveal
20 any activities that could reasonably be construed to
21 constitute evidence of danger to patients".

22 9. On page 8, between lines 2 and 3, insert the
23 following new subsection:

24 "D. The board may issue a general dentistry
25 license by credentials to an applicant who meets the

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4 requirements, including payment of appropriate fees and the
5 passing of an examination covering the laws and rules of the
6 practice of dentistry in New Mexico, of the Dental Health
7 Care Act and rules promulgated pursuant to that act, and
8 who:

9
10 (1) has maintained a uniform service
11 practice in the United States military or public health
12 service for three years immediately preceding the
13 application; or

14 (2) is duly licensed by examination as a
15 dentist pursuant to the laws of another state or territory
16 of the United States."

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18 10. Reletter the succeeding subsections accordingly.
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Respectfully submitted,

Debbie A. Rodella, Chairwoman

Adopted _____

Not Adopted _____

(Chief Clerk)

(Chief Clerk)

Date _____

The roll call vote was 9 For 0 Against

Yes: 9

Excused: Hobbs, Sanchez

Absent: Kissner

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March 7, 1999

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Mr. President:

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Your PUBLIC AFFAIRS COMMITTEE, to whom has been

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referred

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14

HOUSE BILL 265, as amended

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16

has had it under consideration and reports same with

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recommendation that it DO PASS, and thence referred to the

18

CORPORATIONS & TRANSPORTATION COMMITTEE.

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Respectfully submitted,

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Shannon Robinson, Chairman

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Adopted _____ Not

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Adopted _____

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(Chief Clerk)

(Chief Clerk)

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Date _____

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The roll call vote was 4 For 1 Against

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Yes: 4

13

No: Smith

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Excused: Boitano, Garcia, Howes, Ingle

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Absent: None

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underscored material = new
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March 11, 1999

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Mr. President:

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Your CORPORATIONS & TRANSPORTATION COMMITTEE, to

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whom has been referred

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HOUSE BILL 265, as amended

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has had it under consideration and reports same with
recommendation that it DO PASS.

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Respectfully submitted,

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Roman M. Maes, Chairman

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. 126246. 1

underscored material = new
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Adopted _____ Not

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Adopted _____

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(Chief Clerk)

(Chief Clerk)

6

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Date _____

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The roll call vote was 6 For 0 Against

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Yes: 6

13

No: 0

14

Excused: Aragon, McKibben, Rawson, Robinson

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Absent: None

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underscored material = new
[bracketed material] = delete