

HOUSE HEALTH, GOVERNMENT AND INDIAN AFFAIRS  
COMMITTEE SUBSTITUTE FOR  
HOUSE BILL 17

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**51ST LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2013**

AN ACT

RELATING TO HEALTH CARE PROVIDERS; AMENDING AND ENACTING  
SECTIONS OF THE DENTAL HEALTH CARE ACT TO PROVIDE FOR DENTAL  
THERAPIST-HYGIENIST REGULATION, LICENSURE AND SCOPE OF  
PRACTICE; AMENDING SECTIONS OF THE IMPAIRED DENTISTS AND DENTAL  
HYGIENISTS ACT; RENAMING THE IMPAIRED DENTISTS AND DENTAL  
HYGIENISTS ACT AS THE IMPAIRED DENTISTS, DENTAL THERAPIST-  
HYGIENISTS AND DENTAL HYGIENISTS ACT; AMENDING A SECTION OF THE  
NEW MEXICO DRUG, DEVICE AND COSMETIC ACT TO PROVIDE FOR DENTAL  
THERAPIST-HYGIENIST PRESCRIBING; AMENDING A SECTION OF THE  
INCOME TAX ACT TO MAKE DENTAL THERAPIST-HYGIENISTS ELIGIBLE FOR  
THE RURAL HEALTH CARE PRACTITIONER TAX CREDIT; AMENDING  
SECTIONS OF THE ALLIED HEALTH STUDENT LOAN FOR SERVICE ACT AND  
THE HEALTH SERVICE CORPS ACT TO MAKE DENTAL THERAPIST-  
HYGIENISTS ELIGIBLE FOR PARTICIPATION; PROVIDING PENALTIES;  
RECONCILING MULTIPLE AMENDMENTS TO SECTIONS OF LAW IN LAWS

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2  
3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

4 SECTION 1. Section 7-2-18.22 NMSA 1978 (being Laws 2007,  
5 Chapter 361, Section 2) is amended to read:

6 "7-2-18.22. [~~TAX CREDIT~~] RURAL HEALTH CARE PRACTITIONER  
7 TAX CREDIT.--

8 A. A taxpayer who files an individual New Mexico  
9 tax return, who is not a dependent of another individual, who  
10 is an eligible health care practitioner and who has provided  
11 health care services in New Mexico in a rural health care  
12 underserved area in a taxable year may claim a credit against  
13 the tax liability imposed by the Income Tax Act. The credit  
14 provided in this section may be referred to as the "rural  
15 health care practitioner tax credit".

16 B. The rural health care practitioner tax credit  
17 may be claimed and allowed in an amount that shall not exceed  
18 five thousand dollars (\$5,000) for all eligible physicians,  
19 osteopathic physicians, dentists, clinical psychologists,  
20 podiatrists and optometrists who qualify pursuant to the  
21 provisions of this section, except the credit shall not exceed  
22 three thousand dollars (\$3,000) for all eligible dental  
23 hygienists, dental therapist-hygienists, physician assistants,  
24 certified nurse-midwives, certified registered nurse  
25 anesthetists, certified nurse practitioners and clinical nurse

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1 specialists.

2 C. To qualify for the rural health care  
3 practitioner tax credit, an eligible health care practitioner  
4 shall have provided health care during a taxable year for at  
5 least two thousand eighty hours at a practice site located in  
6 an approved, rural health care underserved area. An eligible  
7 rural health care practitioner who provided health care  
8 services for at least one thousand forty hours but less than  
9 two thousand eighty hours at a practice site located in an  
10 approved rural health care underserved area during a taxable  
11 year is eligible for one-half of the credit amount.

12 D. Before an eligible health care practitioner may  
13 claim the rural health care practitioner tax credit, the  
14 practitioner shall submit an application to the department of  
15 health that describes the practitioner's clinical practice and  
16 contains additional information that the department of health  
17 may require. The department of health shall determine whether  
18 an eligible health care practitioner qualifies for the rural  
19 health care practitioner tax credit and shall issue a  
20 certificate to each qualifying eligible health care  
21 practitioner. The department of health shall provide the  
22 taxation and revenue department appropriate information for all  
23 eligible health care practitioners to whom certificates are  
24 issued.

25 E. A taxpayer claiming the credit provided by this

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1 section shall submit a copy of the certificate issued by the  
2 department of health with the taxpayer's New Mexico income tax  
3 return for the taxable year. If the amount of the credit  
4 claimed exceeds a taxpayer's tax liability for the taxable year  
5 in which the credit is being claimed, the excess may be carried  
6 forward for three consecutive taxable years.

7 F. As used in this section:

8 (1) "eligible health care practitioner" means:

9 (a) a certified nurse-midwife licensed  
10 by the board of nursing as a registered nurse and licensed by  
11 the public health division of the department of health to  
12 practice nurse-midwifery as a certified nurse-midwife;

13 (b) a dentist, dental therapist-  
14 hygienist or dental hygienist licensed pursuant to the Dental  
15 Health Care Act;

16 (c) an optometrist licensed pursuant to  
17 the provisions of the Optometry Act;

18 (d) an osteopathic physician licensed  
19 pursuant to the provisions of Chapter 61, Article 10 NMSA 1978  
20 or an osteopathic physician assistant licensed pursuant to the  
21 provisions of the Osteopathic Physicians' Assistants Act;

22 (e) a physician or physician assistant  
23 licensed pursuant to the provisions of Chapter 61, Article 6  
24 NMSA 1978;

25 (f) a podiatrist licensed pursuant to

1 the provisions of the Podiatry Act;

2 (g) a clinical psychologist licensed  
3 pursuant to the provisions of the Professional Psychologist  
4 Act; and

5 (h) a registered nurse in advanced  
6 practice who has been prepared through additional formal  
7 education as provided in Sections 61-3-23.2 through 61-3-23.4  
8 NMSA 1978 to function beyond the scope of practice of  
9 professional registered nursing, including certified nurse  
10 practitioners, certified registered nurse anesthetists and  
11 clinical nurse specialists;

12 (2) "health care underserved area" means a  
13 geographic area or practice location in which it has been  
14 determined by the department of health, through the use of  
15 indices and other standards set by the department of health,  
16 that sufficient health care services are not being provided;

17 (3) "practice site" means a private practice,  
18 public health clinic, hospital, public or private nonprofit  
19 primary care clinic or other health care service location in a  
20 health care underserved area; and

21 (4) "rural" means an area or location  
22 identified by the department of health as falling outside of an  
23 urban area."

24 **SECTION 2.** Section 21-22C-3 NMSA 1978 (being Laws 1994,  
25 Chapter 57, Section 5, as amended) is amended to read:

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1 "21-22C-3. DEFINITIONS.--As used in the Allied Health  
2 Student Loan for Service Act:

3 A. "allied health profession" means physical  
4 therapy, occupational therapy, speech-language pathology,  
5 audiology, pharmacy, nutrition, respiratory care, laboratory  
6 technology, radiologic technology, dental therapy-hygiene,  
7 dental hygiene, mental health services, emergency medical  
8 services or a licensed or certified health profession as  
9 defined by the department;

10 B. "department" means the higher education  
11 department;

12 C. "loan" means a grant of money to defray the  
13 costs incidental to an allied health profession education,  
14 under a contract between the department and an allied health  
15 profession student, requiring repayment with services or  
16 repayment of principal and interest; and

17 D. "student" means a resident of New Mexico who is  
18 enrolled in an accredited program for one of the allied health  
19 professions."

20 SECTION 3. Section 24-1D-2 NMSA 1978 (being Laws 1994,  
21 Chapter 63, Section 2, as amended) is amended to read:

22 "24-1D-2. DEFINITIONS.--As used in the Health Service  
23 Corps Act:

24 A. "corps" means the New Mexico health service  
25 corps;

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1 B. "department" means the department of health;

2 C. "health professional" means a physician,  
3 physician assistant, nurse practitioner, nurse-midwife,  
4 emergency medical technician-paramedic, dentist, dental  
5 therapist-hygienist or dental hygienist;

6 D. "physician" means a medical doctor or doctor of  
7 osteopathic medicine;

8 E. "physician assistant" means a physician  
9 assistant or osteopathic physician assistant; and

10 F. "practice site" means a public health clinic  
11 or public or private nonprofit primary care clinic that is  
12 located in a state-designated medically underserved area or  
13 that serves a high-needs population and that uses a sliding  
14 fee scale approved by the department."

15 SECTION 4. Section 26-1-2 NMSA 1978 (being Laws 1967,  
16 Chapter 23, Section 2, as amended) is amended to read:

17 "26-1-2. DEFINITIONS.--As used in the New Mexico Drug,  
18 Device and Cosmetic Act:

19 A. "board" means the board of pharmacy or its  
20 duly authorized agent;

21 B. "person" includes an individual, partnership,  
22 corporation, association, institution or establishment;

23 C. "biological product" means a virus,  
24 therapeutic serum, toxin, antitoxin or analogous product  
25 applicable to the prevention, treatment or cure of diseases

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1 or injuries of humans and domestic animals, and, as used  
2 within the meaning of this definition:

3 (1) a "virus" is interpreted to be a product  
4 containing the minute living cause of an infectious disease  
5 and includes filterable viruses, bacteria, rickettsia, fungi  
6 and protozoa;

7 (2) a "therapeutic serum" is a product  
8 obtained from blood by removing the clot or clot components  
9 and the blood cells;

10 (3) a "toxin" is a product containing a  
11 soluble substance poisonous to laboratory animals or humans  
12 in doses of one milliliter or less of the product and,  
13 following the injection of nonfatal doses into an animal,  
14 having the property of or causing to be produced therein  
15 another soluble substance that specifically neutralizes the  
16 poisonous substance and that is demonstrable in the serum of  
17 the animal thus immunized; and

18 (4) an "antitoxin" is a product containing  
19 the soluble substance in serum or other body fluid of an  
20 immunized animal that specifically neutralizes the toxin  
21 against which the animal is immune;

22 D. "controlled substance" means a drug, substance  
23 or immediate precursor enumerated in Schedules I through V of  
24 the Controlled Substances Act;

25 E. "drug" means articles:

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1 (1) recognized in an official compendium;

2 (2) intended for use in the diagnosis, cure,  
3 mitigation, treatment or prevention of disease in humans or  
4 other animals and includes the domestic animal biological  
5 products regulated under the federal Virus-Serum-Toxin Act,  
6 37 Stat 832-833, 21 U.S.C. 151-158, and the biological  
7 products applicable to humans regulated under Federal 58 Stat  
8 690, as amended, 42 U.S.C. 216, Section 351, 58 Stat 702, as  
9 amended, and 42 U.S.C. 262;

10 (3) other than food, that affect the  
11 structure or any function of the human body or the bodies of  
12 other animals; and

13 (4) intended for use as a component of  
14 Paragraph (1), (2) or (3) of this subsection, but "drug" does  
15 not include devices or their component parts or accessories;

16 F. "dangerous drug" means a drug, other than a  
17 controlled substance enumerated in Schedule I of the  
18 Controlled Substances Act, that because of a potentiality for  
19 harmful effect or the method of its use or the collateral  
20 measures necessary to its use is not safe except under the  
21 supervision of a practitioner licensed by law to direct the  
22 use of such drug and hence for which adequate directions for  
23 use cannot be prepared. "Adequate directions for use" means  
24 directions under which the layperson can use a drug or device  
25 safely and for the purposes for which it is intended. A drug

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1 shall be dispensed only upon the prescription of a  
2 practitioner licensed by law to administer or prescribe the  
3 drug if it:

4 (1) is a habit-forming drug and contains any  
5 quantity of a narcotic or hypnotic substance or a chemical  
6 derivative of such substance that has been found under the  
7 federal act and the board to be habit forming;

8 (2) because of its toxicity or other  
9 potential for harmful effect or the method of its use or the  
10 collateral measures necessary to its use is not safe for use  
11 except under the supervision of a practitioner licensed by  
12 law to administer or prescribe the drug;

13 (3) is limited by an approved application by  
14 Section 505 of the federal act to the use under the  
15 professional supervision of a practitioner licensed by law to  
16 administer or prescribe the drug;

17 (4) bears the legend: "Caution: federal  
18 law prohibits dispensing without prescription.";

19 (5) bears the legend: "Caution: federal  
20 law restricts this drug to use by or on the order of a  
21 licensed veterinarian."; or

22 (6) bears the legend "RX only";

23 G. "counterfeit drug" means a drug that is  
24 deliberately and fraudulently mislabeled with respect to its  
25 identity, ingredients or sources. Types of such

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1 pharmaceutical counterfeits may include:

2 (1) "identical copies", which are  
3 counterfeits made with the same ingredients, formulas and  
4 packaging as the originals but not made by the original  
5 manufacturer;

6 (2) "look-alikes", which are products that  
7 feature high-quality packaging and convincing appearances but  
8 contain little or no active ingredients and may contain  
9 harmful substances;

10 (3) "rejects", which are drugs that have  
11 been rejected by the manufacturer for not meeting quality  
12 standards; and

13 (4) "relabels", which are drugs that have  
14 passed their expiration dates or have been distributed by  
15 unauthorized foreign sources and may include placebos created  
16 for late-phase clinical trials;

17 H. "device", except when used in Subsection P of  
18 this section and in Subsection G of Section 26-1-3,  
19 Subsection L and Paragraph (4) of Subsection A of Section  
20 26-1-11 and Subsection C of Section 26-1-24 NMSA 1978, means  
21 an instrument, apparatus, implement, machine, contrivance,  
22 implant, in vitro reagent or other similar or related  
23 article, including any component, part or accessory, that is:

24 (1) recognized in an official compendium;

25 (2) intended for use in the diagnosis of

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1 disease or other conditions or in the cure, mitigation,  
2 treatment or prevention of disease in humans or other  
3 animals; or

4 (3) intended to affect the structure or a  
5 function of the human body or the bodies of other animals and  
6 that does not achieve any of its principal intended purposes  
7 through chemical action within or on the human body or the  
8 bodies of other animals and that is not dependent on being  
9 metabolized for achievement of any of its principal intended  
10 purposes;

11 I. "prescription" means an order given  
12 individually for the person for whom prescribed, either  
13 directly from a licensed practitioner or the practitioner's  
14 agent to the pharmacist, including by means of electronic  
15 transmission, or indirectly by means of a written order  
16 signed by the prescriber, and bearing the name and address of  
17 the prescriber, the prescriber's license classification, the  
18 name and address of the patient, the name and quantity of the  
19 drug prescribed, directions for use and the date of issue;

20 J. "practitioner" means a certified advanced  
21 practice chiropractic physician, physician, doctor of  
22 oriental medicine, dentist, veterinarian, euthanasia  
23 technician, certified nurse practitioner, clinical nurse  
24 specialist, pharmacist, pharmacist clinician, certified  
25 nurse-midwife, physician assistant, prescribing psychologist,

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1 dental therapist-hygienist, dental hygienist or other person  
2 licensed or certified to prescribe and administer drugs that  
3 are subject to the New Mexico Drug, Device and Cosmetic Act;

4 K. "cosmetic" means:

5 (1) articles intended to be rubbed, poured,  
6 sprinkled or sprayed on, introduced into or otherwise applied  
7 to the human body or any part thereof for cleansing,  
8 beautifying, promoting attractiveness or altering the  
9 appearance; and

10 (2) articles intended for use as a component  
11 of any articles enumerated in Paragraph (1) of this  
12 subsection, except that the term shall not include soap;

13 L. "official compendium" means the official  
14 United States pharmacopoeia national formulary or the  
15 official homeopathic pharmacopoeia of the United States or  
16 any supplement to either of them;

17 M. "label" means a display of written, printed or  
18 graphic matter upon the immediate container of an article. A  
19 requirement made by or under the authority of the New Mexico  
20 Drug, Device and Cosmetic Act that any word, statement or  
21 other information appear on the label shall not be considered  
22 to be complied with unless the word, statement or other  
23 information also appears on the outside container or wrapper,  
24 if any, of the retail package of the article or is easily  
25 legible through the outside container or wrapper;

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1 N. "immediate container" does not include package  
2 liners;

3 O. "labeling" means all labels and other written,  
4 printed or graphic matter:

5 (1) on an article or its containers or  
6 wrappers; or

7 (2) accompanying an article;

8 P. "misbranded" means a label to an article that  
9 is misleading. In determining whether the label is  
10 misleading, there shall be taken into account, among other  
11 things, not only representations made or suggested by  
12 statement, word, design, device or any combination of the  
13 foregoing, but also the extent to which the label fails to  
14 reveal facts material in the light of such representations or  
15 material with respect to consequences that may result from  
16 the use of the article to which the label relates under the  
17 conditions of use prescribed in the label or under such  
18 conditions of use as are customary or usual;

19 Q. "advertisement" means all representations  
20 disseminated in any manner or by any means, other than by  
21 labeling, for the purpose of inducing, or that are likely to  
22 induce, directly or indirectly, the purchase of drugs,  
23 devices or cosmetics;

24 R. "antiseptic", when used in the labeling or  
25 advertisement of an antiseptic, shall be considered to be a

1 representation that it is a germicide, except in the case of  
2 a drug purporting to be or represented as an antiseptic for  
3 inhibitory use as a wet dressing, ointment, dusting powder or  
4 such other use as involves prolonged contact with the body;

5 S. "new drug" means a drug:

6 (1) the composition of which is such that  
7 the drug is not generally recognized, among experts qualified  
8 by scientific training and experience to evaluate the safety  
9 and efficacy of drugs, as safe and effective for use under  
10 the conditions prescribed, recommended or suggested in the  
11 labeling thereof; or

12 (2) the composition of which is such that  
13 the drug, as a result of investigation to determine its  
14 safety and efficacy for use under such conditions, has become  
15 so recognized, but that has not, otherwise than in such  
16 investigations, been used to a material extent or for a  
17 material time under such conditions;

18 T. "contaminated with filth" applies to a drug,  
19 device or cosmetic not securely protected from dirt, dust  
20 and, as far as may be necessary by all reasonable means, from  
21 all foreign or injurious contaminations, or a drug, device or  
22 cosmetic found to contain dirt, dust, foreign or injurious  
23 contamination or infestation;

24 U. "selling of drugs, devices or cosmetics" shall  
25 be considered to include the manufacture, production,

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1 processing, packing, exposure, offer, possession and holding  
2 of any such article for sale and the sale and the supplying  
3 or applying of any such article in the conduct of a drug or  
4 cosmetic establishment;

5 V. "color additive" means a material that:

6 (1) is a dye, pigment or other substance  
7 made by a process of synthesis or similar artifice or  
8 extracted, isolated or otherwise derived, with or without  
9 intermediate or final change of identity, from a vegetable,  
10 mineral, animal or other source; or

11 (2) when added or applied to a drug or  
12 cosmetic or to the human body or a part thereof, is capable,  
13 alone or through reaction with other substances, of imparting  
14 color thereto; except that such term does not include any  
15 material that has been or hereafter is exempted under the  
16 federal act;

17 W. "federal act" means the Federal Food, Drug and  
18 Cosmetic Act;

19 X. "restricted device" means a device for which  
20 the sale, distribution or use is lawful only upon the written  
21 or oral authorization of a practitioner licensed by law to  
22 administer, prescribe or use the device and for which the  
23 federal food and drug administration requires special  
24 training or skills of the practitioner to use or prescribe.  
25 This definition does not include custom devices defined in

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1 the federal act and exempt from performance standards or  
2 premarket approval requirements under Section 520(b) of the  
3 federal act;

4 Y. "prescription device" means a device that,  
5 because of its potential for harm, the method of its use or  
6 the collateral measures necessary to its use, is not safe  
7 except under the supervision of a practitioner licensed in  
8 this state to direct the use of such device and for which  
9 "adequate directions for use" cannot be prepared, but that  
10 bears the label: "Caution: federal law restricts this  
11 device to sale by or on the order of a \_\_\_\_\_", the blank  
12 to be filled with the word "physician", "physician  
13 assistant", "certified advanced practice chiropractic  
14 physician", "doctor of oriental medicine", "dentist",  
15 "veterinarian", "euthanasia technician", "certified nurse  
16 practitioner", "clinical nurse specialist", "pharmacist",  
17 "pharmacist clinician", "certified nurse-midwife", "dental  
18 therapist-hygienist" or "dental hygienist" or with the  
19 descriptive designation of any other practitioner licensed in  
20 this state to use or order the use of the device;

21 Z. "valid practitioner-patient relationship"  
22 means a professional relationship, as defined by the  
23 practitioner's licensing board, between the practitioner and  
24 the patient; and

25 AA. "pedigree" means the recorded history of a

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1 drug."

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

4 "61-5A-2. PURPOSE.--

5 A. In the interest of the public health, safety  
6 and welfare and to protect the public from the improper,  
7 unprofessional, incompetent and unlawful practice of  
8 dentistry, dental therapy-hygiene and dental hygiene, it is  
9 necessary to provide laws and rules controlling the granting  
10 and use of the privilege to practice dentistry, dental  
11 therapy-hygiene and dental hygiene and to establish a board  
12 of dental health care, a joint committee and a dental  
13 hygienists committee to implement and enforce those laws and  
14 rules.

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

17 (1) to issue licenses to qualified dentists  
18 and owners of dental practices;

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

22 (3) to license dental therapist-hygienists  
23 through the joint committee;

24 [~~(3)~~] (4) to issue licenses to dental  
25 hygienists through the dental hygienists committee;

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1                    [~~(4)~~] (5) to discipline incompetent or  
 2 unprofessional dentists, dental assistants and owners of  
 3 dental practices [~~and, through the dental hygienists~~  
 4 ~~committee, dental hygienists; and~~];

5                    (6) through the committee, to discipline  
 6 incompetent or unprofessional dental hygienists;

7                    (7) through the joint committee, to  
 8 discipline incompetent or unprofessional dental therapist-  
 9 hygienists; and

10                    [~~(5)~~] (8) to aid in the rehabilitation of  
 11 impaired dentists, dental therapist-hygienists and dental  
 12 hygienists for the purpose of protecting the public."

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

15                    "61-5A-3. DEFINITIONS.--As used in the Dental Health  
 16 Care Act:

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

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

24                    C. "certified dental assistant" means an  
 25 individual certified by the dental assisting national board;

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

4           E. "committee" means the New Mexico dental  
5 hygienists committee;

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

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

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

25           I. "dental assistant certified in expanded

1 functions" means a dental assistant who meets specific  
2 qualifications set forth by rule of the board;

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

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

16 L. "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 dental  
19 restorative, prosthetic, cosmetic and therapeutic devices or  
20 orthodontic appliances under the orders and authorization of  
21 a dentist;

22 M. "dental therapist-hygienist" means an  
23 individual who:

24 (1) has graduated and received a degree from  
25 a dental therapist-hygienist educational program that

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1 provides a minimum of three years of dental hygiene and  
2 dental therapy competency-based curriculum that has been  
3 developed in partnership with an accredited institution of  
4 higher education;

5 (2) has met the requirements for licensure  
6 as a dental hygienist pursuant to the Dental Health Care Act;

7 (3) is from or supported by the community or  
8 similarly situated community where the individual intends to  
9 practice as a dental therapist-hygienist;

10 (4) has received a letter of recommendation  
11 from a person in the community or from the sponsoring entity  
12 as part of the application process for the dental-therapist  
13 education program;

14 (5) maintains an ongoing relationship with  
15 the sponsoring entity, including undertaking one community  
16 dental prevention project in the supporting community or a  
17 similarly situated community during the individual's  
18 participation in the dental therapist-hygienist educational  
19 program;

20 (6) has passed a competency-based  
21 examination administered by a nationally recognized regional  
22 testing agency, if available. If an examination is not  
23 available through a nationally recognized regional testing  
24 agency, the individual shall have passed a competency-based  
25 examination administered by an institution of higher

1 education with a dental therapist-hygienist education  
 2 program, following the individual's completion of a dental  
 3 therapist-hygienist educational program that the joint  
 4 committee has approved;

5 (7) after graduation from the dental  
 6 therapist-hygienist education program, has completed a  
 7 minimum of four hundred clinical hours under the indirect  
 8 supervision of a dentist;

9 (8) has passed a written examination  
 10 covering the laws and rules for practice in the state;

11 (9) holds a license to practice as a dental  
 12 hygienist and as a dental therapist-hygienist in the state;  
 13 and

14 (10) once licensed, practices under the  
 15 general supervision of a dentist under a written dental  
 16 therapist-hygienist management agreement;

17 N. "dental therapist advocate" means an  
 18 individual who publicly supports or recommends the practice  
 19 of dental therapy in the state and who has been nominated by  
 20 a representative of New Mexico health resources, health  
 21 action New Mexico, a state or regional dental therapists'  
 22 association or a state institution of higher education that  
 23 has a dental therapist-hygienist education program;

24 O. "dental therapist-hygienist management  
 25 agreement" means a written general supervision agreement

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1 between a dentist and a dental therapist-hygienist that  
2 conforms to the requirements of Subsection P of Section  
3 61-5A-4 NMSA 1978;

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

9 [N-] Q. "direct supervision" means the process  
10 under which an act is performed when a dentist licensed  
11 pursuant to the Dental Health Care Act:

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

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

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

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



1           [~~P.~~] S. "general supervision" means [~~the~~  
 2           ~~authorization by a dentist of the procedures to be used by a~~  
 3           ~~dental hygienist, dental assistant or dental student and the~~  
 4           ~~execution of the procedures in accordance with a dentist's~~  
 5           ~~diagnosis and treatment plan at a time the dentist is not~~  
 6           ~~physically present and in facilities as designated by rule of~~  
 7           ~~the board]~~ a dentist's authorization of the procedures that  
 8           are executed:

9                       (1) by a dental therapist-hygienist, dental  
 10           hygienist, dental assistant or dental student while the  
 11           dentist is not physically present in the facility where a  
 12           procedure is taking place; and

13                       (2) in accordance with the following:

14                               (a) for a dental therapist-hygienist,  
 15           in accordance with the dental therapist-hygienist's diagnosis  
 16           and treatment plan; and

17                               (b) for a dental hygienist, dental  
 18           assistant or dental student, in accordance with a dentist's  
 19           diagnosis and treatment plan;

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

1 dental student;

2 U. "joint committee" means a committee that is  
3 made up of the board, one dental therapist-hygienist or  
4 dental therapist advocate, the dental hygienists committee  
5 and two public members and that licenses and supervises the  
6 practice of dental therapy-hygiene;

7 V. "licensing authority" means:

8 (1) for dentists, the board;

9 (2) for dental hygienists, the committee;

10 and

11 (3) for dental therapist-hygienists, the  
12 joint committee;

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

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

22 ~~[and]~~

23 Y. "person" means an individual, corporation,  
24 business trust, estate, trust, partnership, limited liability  
25 company, association, joint venture or any legal or

1 commercial entity; and

2           ~~[F.]~~ Z. "teledentistry" means a dentist's use of  
3 health information technology in real time to provide  
4 ~~[limited]~~ diagnostic and treatment planning services in  
5 cooperation with another dentist, a dental therapist-  
6 hygienist, a dental hygienist, a community dental health  
7 coordinator or a student enrolled in a program of study to  
8 become a dental assistant, dental therapist-hygienist, dental  
9 hygienist or dentist."

10           SECTION 7. Section 61-5A-4 NMSA 1978 (being Laws 1994,  
11 Chapter 55, Section 4, as amended) is amended to read:

12           "61-5A-4. SCOPE OF PRACTICE.--

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

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

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1 reward, emolument or any other form of compensation whether  
2 direct or indirect;

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

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

10 (4) the offering of advice or authoritative  
11 comment regarding the appropriateness of dental therapies,  
12 the need for recommended treatment or the efficacy of  
13 specific treatment modalities for other than the purpose of  
14 consultation to another dentist; or

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

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

25 (b) perform surgery, an extraction or

1 any other operation or to administer an anesthetic in  
2 connection therewith;

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

6 (d) correct a malposition;

7 (e) treat a fracture;

8 (f) remove calcareous deposits;

9 (g) replace missing anatomy with an  
10 artificial substitute;

11 (h) construct, make, furnish, supply,  
12 reproduce, alter or repair an artificial substitute or  
13 restorative or corrective appliance or place an artificial  
14 substitute or restorative or corrective appliance in the  
15 mouth or attempt to adjust it;

16 (i) give interpretations or readings  
17 of dental radiographs;

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

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

22 B. As used in the Dental Health Care Act, [the]  
23 "practice of dental hygiene" means the application of the  
24 science of the prevention and treatment of oral disease  
25 through the provision of educational, assessment, preventive,

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1 clinical and other therapeutic services under the general  
2 supervision of a dentist. A dental hygienist in a  
3 collaborative practice may perform the procedures listed in  
4 this section without general supervision while the hygienist  
5 is in a cooperative working relationship with a consulting  
6 dentist, pursuant to rules promulgated by the board and the  
7 committee. "The practice of dental hygiene" includes:

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

11 (2) removing diseased crevicular tissue and  
12 related nonsurgical periodontal procedures;

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

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

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

22 (6) exposing and assessing oral radiographs  
23 for abnormalities;

24 (7) screening to identify indications of  
25 oral abnormalities;

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1 (8) performing dental hygiene-focused  
2 assessments;

3 (9) assessing periodontal conditions; and

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

6 C. In addition to performing dental hygiene as  
7 defined in Subsection B of this section, a dental hygienist  
8 may apply preventive topical fluorides and remineralization  
9 agents without supervision in public and community medical  
10 facilities, schools, hospitals, long-term care facilities and  
11 such other settings as the committee may determine by rule  
12 ratified by the board, so long as the dental hygienist's  
13 license is not restricted pursuant to the Impaired Dentists,  
14 Dental Therapist-Hygienists and Dental Hygienists Act.

15 D. In addition to performing dental hygiene as  
16 defined in Subsection B of this section, dental hygienists  
17 who have met the criteria as the committee [~~shall establish~~]  
18 establishes and the board [~~shall ratify~~] ratifies may  
19 administer local anesthesia under indirect supervision of a  
20 dentist.

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

25 (1) has administered local anesthesia under

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

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

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

10 F. A dental hygienist:

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

15 (a) under the supervision of a  
16 dentist;

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

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

22 (d) within the parameters of  
23 guidelines established pursuant to Section 61-5A-10 NMSA  
24 1978; and

25 (e) in compliance with state laws



1 concerning prescription packaging, labeling and recordkeeping  
2 requirements; and

3 (2) shall not otherwise dispense dangerous  
4 drugs or controlled substances.

5 G. A New Mexico licensed dental hygienist may be  
6 certified for collaborative dental hygiene practice in  
7 accordance with the educational and experience criteria  
8 established collaboratively by the committee and the board.

9 H. An expanded-function dental auxiliary may  
10 perform the following procedures under the direct supervision  
11 of a dentist:

12 (1) placing and shaping direct restorations;

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

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

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

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

23 (6) removal of orthodontic bracket cement;

24 and

25 (7) fitting and shaping of stainless steel

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1 crowns to be cemented by a dentist.

2 I. An expanded-function dental auxiliary may re-  
3 cement temporary or permanent crowns with temporary cement  
4 under the general supervision of a dentist in a situation  
5 that a dentist deems to be an emergency.

6 J. An expanded-function dental auxiliary may  
7 perform other related functions for which the expanded-  
8 function dental auxiliary meets the training and educational  
9 standards established by the board and that are not expressly  
10 prohibited by the board.

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

20 L. As used in the Dental Health Care Act, "dental  
21 therapy-hygiene practice" means the application of the  
22 science of the prevention and treatment of oral disease by  
23 providing education, prevention, assessment, diagnosis and  
24 clinical and other therapeutic services under the general  
25 supervision of a dentist. "Dental therapy-hygiene practice"

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1 includes the practice of dental hygiene, as provided in  
2 Subsection B of this section, and:

3 (1) behavioral management, oral health  
4 instruction and disease prevention education, including  
5 nutritional counseling and dietary analysis;

6 (2) diagnosis of dental disease and the  
7 formulation of an individualized treatment plan, including  
8 caries risk assessment;

9 (3) preliminary charting of the oral cavity;

10 (4) prescribing, exposing and interpreting  
11 radiographs;

12 (5) mechanical polishing of teeth and  
13 restorations;

14 (6) application of topical preventive or  
15 prophylactic agents, including fluoride varnishes and pit and  
16 fissure sealants;

17 (7) pulp vitality testing;

18 (8) application of desensitizing medication  
19 or resin;

20 (9) fabrication of athletic mouthguards;

21 (10) placement of temporary restoration;

22 (11) tissue conditioning and soft reline;

23 (12) atraumatic restorative therapy;

24 (13) dressing changes;

25 (14) tooth reimplantation and stabilization

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1 of reimplanted teeth;

2 (15) administration of local anesthetic and  
3 nitrous oxide;

4 (16) extractions of primary teeth;

5 (17) extractions of permanent teeth that  
6 have a class three or class four mobility, no impactions and  
7 no need of sectioning for removal;

8 (18) emergency palliative treatment of  
9 dental pain;

10 (19) placement and removal of space  
11 maintainers;

12 (20) cavity preparation;

13 (21) restoration of primary and permanent  
14 teeth;

15 (22) placement of temporary crowns;

16 (23) preparation and placement of pre-formed  
17 crowns;

18 (24) pulpotomy of primary teeth;

19 (25) indirect and direct pulp capping on  
20 primary and permanent teeth;

21 (26) suture removal;

22 (27) brush biopsies;

23 (28) simple repairs and adjustments to  
24 removable prosthetic appliances;

25 (29) re-cementing of permanent crowns;

1                   (30) prevention of potential orthodontic  
 2 problems by early identification and appropriate referral;

3                   (31) prevention, identification and  
 4 management of dental and medical emergencies, and maintenance  
 5 of current basic life-support certification;

6                   (32) prescribing, dispensing and  
 7 administration of analgesics, anti-inflammatory medications  
 8 and antibiotics only in the following circumstances:

9                           (a) within the parameters of a dental  
 10 therapist-hygienist management agreement;

11                           (b) within the scope of practice of a  
 12 dental therapist-hygienist; and

13                           (c) with the authorization of the  
 14 supervising dentist; and

15                   (33) other closely related services as  
 16 permitted by board rules.

17                   M. The joint committee shall regulate, license  
 18 and discipline dental therapist-hygienists. To achieve a  
 19 quorum at a meeting of the joint committee, a dental  
 20 therapist-hygienist or dental therapist advocate member of  
 21 the joint committee shall be in attendance.

22                   N. A dental therapist-hygienist shall practice  
 23 under the general supervision of a dentist pursuant to a  
 24 written supervision agreement between the dentist and the  
 25 dental therapist-hygienist. The joint committee may

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1 establish minimum requirements for dental therapist-hygienist  
2 management agreements.

3 O. A dental therapist-hygienist may provide  
4 dental therapy-hygiene services in private and public dental  
5 and medical offices, public and community medical facilities,  
6 schools, hospitals and long-term care facilities and other  
7 settings as determined by joint committee rules.

8 P. To practice under the general supervision of a  
9 dentist, a dental therapist-hygienist shall enter into a  
10 dental therapist-hygienist management agreement with that  
11 dentist. The dental therapist-hygienist management agreement  
12 shall set forth the scope of practice and conditions under  
13 which the dentist will provide general supervision of the  
14 dental therapist-hygienist. A dental therapist-hygienist  
15 management agreement shall not be subject to board, committee  
16 or joint committee approval. The dental therapist-hygienist  
17 management agreement shall be:

18 (1) submitted annually to the board; and

19 (2) signed and maintained by the dentist and  
20 dental therapist-hygienist.

21 Q. A dentist and a dental therapist-hygienist  
22 shall notify the board upon the dissolution of their dental  
23 therapist-hygienist management agreement."

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

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1 "61-5A-5. LICENSE REQUIRED--EXEMPTIONS.--

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

4 (1) practice dentistry;

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

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

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

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

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

23 (3) a dental therapist-hygienist licensed in  
24 the state may provide those dental services that are within  
25 the dental therapist-hygienist's scope of practice that are

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1 also within the scope of practice of dentistry;

2 [~~3~~] (4) any dental student duly enrolled  
3 in an accredited school of dentistry recognized by the board,  
4 while engaged in educational programs offered by the school  
5 in private offices, public clinics or educational  
6 institutions within the state of New Mexico under the  
7 indirect supervision of a licensed dentist;

8 (5) a dental therapy-hygiene, dental hygiene  
9 or dental assisting student enrolled in an accredited school  
10 of dentistry, dental hygiene or dental assisting, or a dental  
11 therapy-hygiene student enrolled in a school of dental  
12 therapy-hygiene, who performs procedures within or outside  
13 the respective scope of dental therapy-hygiene or dental  
14 hygiene practice that are part of the curriculum or program  
15 in the school setting and under the indirect supervision of a  
16 faculty member of the program who is a licensed dentist,  
17 dental therapist-hygienist or dental assistant certified in  
18 the procedures being taught;

19 (6) an applicant for licensure in dental  
20 therapy-hygiene who has graduated from a dental therapy-  
21 hygiene education program, passed a competency-based  
22 examination in dental therapy-hygiene and received a permit  
23 to practice during fulfillment of the applicant's four-  
24 hundred-clinical-hour requirement;

25 [~~4~~] (7) any dental hygiene or dental



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

9 [~~(5)~~] (8) unlicensed persons performing for  
10 a licensed dentist merely mechanical work upon inert matter  
11 in the construction, making, alteration or repairing of any  
12 artificial dental substitute, dental restorative or  
13 corrective appliance, when the casts or impressions for the  
14 work have been furnished by a licensed dentist and where the  
15 work is prescribed by a dentist pursuant to a written  
16 authorization by that dentist;

17 [~~(6)~~] (9) commissioned dental officers of  
18 the uniformed forces of the United States and dentists  
19 providing services to the United States public health  
20 service, the United States department of veterans affairs or  
21 within federally controlled facilities in the discharge of  
22 their official duties, provided that such persons who hold  
23 dental licenses in New Mexico shall be subject to the  
24 provisions of the Dental Health Care Act; and

25 [~~(7)~~] (10) dental assistants performing

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1 adjunctive services to the provision of dental care, under  
2 the indirect supervision of a dentist, as determined by rule  
3 of the board if such services are not within the practice of  
4 dental hygiene as specifically listed in Subsection B of  
5 Section 61-5A-4 NMSA 1978, unless allowed in Subsection E of  
6 this section.

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

9 (1) practice as a dental hygienist;

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

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

16 D. The following, under the stipulations  
17 described, may practice dental hygiene, dental therapy-  
18 hygiene or the area of dental hygiene outlined without a New  
19 Mexico dental hygiene license or dental therapy-hygiene  
20 license:

21 (1) students enrolled in a dental therapy-  
22 hygiene program or an accredited dental hygiene program  
23 engaged in procedures that are part of the curriculum of that  
24 program and under the indirect supervision of a licensed  
25 faculty member of the accredited program;

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

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

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

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

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

14                   (3) dental assistants certified in expanded  
15 functions, working under the indirect supervision of a dental  
16 hygienist certified for collaborative practice and under the  
17 protocols established in a collaborative practice agreement;  
18 or dental therapist-hygienists, working under a dental  
19 therapist-hygienist management agreement with a consulting  
20 dentist.

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

24                   (1) expose dental radiographs;

25                   (2) perform rubber cup coronal polishing

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1 that is not represented as a prophylaxis;

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

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

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

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

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

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

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

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

24 (5) perform other related functions for  
25 which the community dental health coordinator meets training

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1 and educational standards established by the board and that  
2 are not expressly prohibited by statute or rules promulgated  
3 by the board.

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

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

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

16 H. 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;

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

4 (5) a school of dental therapy-hygiene that  
5 provides dental services solely in an educational setting;

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

9 (7) dental therapist-hygienists licensed in  
10 New Mexico or corporate entities with a majority interest  
11 owned by a dental therapist-hygienist licensed in New Mexico;

12 [~~6~~] (8) federally qualified health  
13 centers, as designated by the United States department of  
14 health and human services, providing dental services;

15 [~~7~~] (9) nonprofit community-based entities  
16 and organizations that use public funds to provide dental,  
17 dental therapy-hygiene and dental hygiene services for  
18 indigent persons; and

19 [~~8~~] (10) hospitals licensed by the  
20 department of health.

21 I. Except as provided in Subsection M of Section  
22 61-5A-5 NMSA 1978, unless licensed to practice as a dental  
23 therapist-hygienist pursuant to the Dental Health Care Act, a  
24 person shall not:

25 (1) practice as a dental therapist-

1 hygienist;

2                   (2) use the title "dental therapist-  
 3 hygienist" or any other title, abbreviation, letters, figure,  
 4 sign or device to indicate that the person is a licensed  
 5 dental therapist-hygienist; or

6                   (3) perform any of the acts defined as  
 7 dental therapy-hygiene practice in the Dental Health Care  
 8 Act."

9           SECTION 9. Section 61-5A-5.1 NMSA 1978 (being Laws  
 10 2003, Chapter 409, Section 12) is amended to read:

11           "61-5A-5.1. NON-DENTIST OWNER--EMPLOYING OR CONTRACTING  
 12 FOR DENTAL SERVICES.--

13           A. A person, corporation or agency that desires  
 14 to function as a non-dentist owner in New Mexico shall apply  
 15 to the board for the proper license and shall adhere to the  
 16 requirements, re-licensure criteria and fees as established  
 17 by the rules of the board.

18           B. Unless licensed as a dentist or non-dentist  
 19 owner, or as otherwise exempt from the licensing requirements  
 20 of the Dental Health Care Act, an individual or corporate  
 21 entity shall not:

22                   (1) employ or contract with a dentist,  
 23 dental therapist-hygienist or dental hygienist for the  
 24 purpose of providing dental, dental therapy-hygiene or dental  
 25 hygiene services as defined by their respective scopes of

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underscored material = new  
 [bracketed material] = delete

1 practice; or

2 (2) enter into a managed care or other  
3 agreement to provide dental, dental therapy-hygiene or dental  
4 hygiene services in New Mexico."

5 SECTION 10. Section 61-5A-8 NMSA 1978 (being Laws 1994,  
6 Chapter 55, Section 8, as amended by Laws 2003, Chapter 408,  
7 Section 4 and by Laws 2003, Chapter 409, Section 6) is  
8 amended to read:

9 "61-5A-8. BOARD CREATED.--

10 A. There is created the [~~nine-member~~] ten-member  
11 "New Mexico board of dental health care". The board [~~shall~~  
12 ~~be~~] is administratively attached to the regulation and  
13 licensing department. The board [~~shall consist~~] consists of  
14 five dentists, one dental therapist-hygienist or dental  
15 therapist advocate, two dental hygienists and two public  
16 members. The dentists shall be actively practicing and shall  
17 have been licensed practitioners and residents of New Mexico  
18 for a period of five years preceding the date of appointment.  
19 The dental therapist-hygienist or dental therapist advocate  
20 member shall be a member of the committee. The dental  
21 hygienist members shall be members of the committee and shall  
22 be elected annually to sit on the board by those sitting on  
23 the committee. The appointed public members shall be  
24 residents of New Mexico and shall have no financial interest,  
25 direct or indirect, in the professions regulated in the

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1 Dental Health Care Act.

2 B. The governor may appoint the dentist members  
3 from a list of names submitted by the New Mexico dental  
4 association. There shall be one member from each district.  
5 All board members shall serve until their successors have  
6 been appointed. No more than one member may be employed by  
7 or receive remuneration from a dental or dental hygiene  
8 educational institution.

9 C. Appointments for dentists and public members  
10 shall be for terms of five years. Dentists' appointments  
11 shall be made so that the term of one dentist member expires  
12 on July 1 of each year. Public members' five-year terms  
13 begin at the date of appointment.

14 D. A board member failing to attend three board  
15 or committee meetings, either regular or special, during the  
16 board member's term shall automatically be removed as a  
17 member of the board unless excused from attendance by the  
18 board for good cause shown. Members of the board not sitting  
19 on the committee shall not be required or allowed to attend  
20 committee disciplinary hearings.

21 E. A board member shall not serve more than two  
22 full terms on any state-chartered board whose responsibility  
23 includes the regulation of practice or licensure of dentistry  
24 or dental hygiene in New Mexico. A partial term of three or  
25 more years shall be considered a full term.

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1           F. In the event of a vacancy, the secretary of  
2 the board shall immediately notify the governor, the board  
3 and committee members and the New Mexico dental association  
4 of the reason for its occurrence and action taken by the  
5 board, so as to expedite appointment of a new board member.

6           G. The board shall meet at least four times every  
7 year, and no more than two meetings shall be public rules  
8 hearings. Regular meetings shall not be more than one  
9 hundred twenty days apart. The board may also hold special  
10 meetings and emergency meetings in accordance with rules of  
11 the board upon written notice to all members of the board and  
12 the committee.

13           H. Members of the board shall be reimbursed as  
14 provided in the Per Diem and Mileage Act and shall receive no  
15 other compensation, perquisite or allowance; however, the  
16 secretary-treasurer may be compensated at the discretion of  
17 the board.

18           I. A simple majority of the board members  
19 currently serving shall constitute a quorum, provided at  
20 least two of that quorum are not dentist members and three  
21 are dentist members.

22           J. The board shall elect officers annually as  
23 deemed necessary to administer its duties and as provided in  
24 its rules."

25           SECTION 11. Section 61-5A-9 NMSA 1978 (being Laws 1994,

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1 Chapter 55, Section 9, as amended by Laws 2003, Chapter 408,  
2 Section 5 and by Laws 2003, Chapter 409, Section 7) is  
3 amended to read:

4 "61-5A-9. COMMITTEE CREATED.--

5 A. There is created the [~~nine-member~~] ten-member  
6 "New Mexico dental hygienists committee". The committee  
7 [~~shall be~~] is administratively attached to the regulation and  
8 licensing department. The committee [~~shall consist~~] consists  
9 of five dental hygienists, two dentists, [~~and~~] two public  
10 members and one dental therapist-hygienist or dental  
11 therapist advocate. The dental therapist-hygienist or dental  
12 therapist advocate shall be a member of the board. The  
13 dental hygienists shall be actively practicing and shall have  
14 been licensed practitioners and residents of New Mexico for a  
15 period of five years preceding the date of their appointment.  
16 The dentists and public members shall be members of the board  
17 and shall be elected annually to sit on the committee by  
18 those members sitting on the board.

19 B. The governor may appoint the dental hygienists  
20 from a list of names submitted by the New Mexico dental  
21 hygienists association. There shall be one member from each  
22 district. Members shall serve until their successors have  
23 been appointed. No more than one member may be employed by  
24 or receive remuneration from a dental or dental hygiene  
25 educational institution.

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1 C. Appointments for dental hygienist members  
2 shall be for terms of five years. Appointments shall be made  
3 so that the term of one dental hygienist expires on July 1 of  
4 each year.

5 D. Within thirty days of the effective date of  
6 this 2013 act, the governor shall appoint the dental  
7 therapist-hygienist or dental therapist advocate members from  
8 a list of names submitted by New Mexico health resources,  
9 health action New Mexico, a state or regional dental  
10 therapists' association or a state institution of higher  
11 education that has a dental therapy-hygiene education  
12 program.

13 E. Appointments for dental therapist-hygienist or  
14 dental therapist advocate members shall be for terms of five  
15 years.

16 F. Within six months of the appointment of the  
17 dental therapist-hygienist or dental therapist advocate  
18 members, the joint committee shall adopt and promulgate rules  
19 relating to the practice of dental therapy-hygiene.

20 [~~D.~~] G. A committee member failing to attend  
21 three committee or board meetings, either regular or special,  
22 during the committee member's term shall automatically be  
23 removed as a member of the committee unless excused from  
24 attendance by the committee for good cause shown. Members of  
25 the committee not sitting on the board shall not be required

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1 or allowed to attend board disciplinary hearings.

2 ~~[E.]~~ H. A committee member shall not serve more  
3 than two full terms on any state-chartered board whose  
4 responsibility includes the regulation of practice or  
5 licensure of dentistry or dental hygiene in New Mexico. A  
6 partial term of three or more years shall be considered a  
7 full term.

8 ~~[F.]~~ I. In the event of a vacancy, the secretary  
9 of the committee shall immediately notify the governor, the  
10 committee and board members and the New Mexico dental  
11 hygienists association of the reason for its occurrence and  
12 action taken by the committee, so as to expedite appointment  
13 of a new committee member.

14 ~~[G.]~~ J. The committee shall meet at least four  
15 times every year, and no more than two meetings shall be  
16 public rules hearings. Regular meetings shall not be more  
17 than one hundred twenty days apart. The committee may also  
18 hold special meetings and emergency meetings in accordance  
19 with the rules of the board and committee, upon written  
20 notification to all members of the committee and the board.

21 ~~[H.]~~ K. Members of the committee shall be  
22 reimbursed as provided in the Per Diem and Mileage Act and  
23 shall receive no other compensation, perquisite or allowance.

24 ~~[I.]~~ L. A simple majority of the committee  
25 members currently serving shall constitute a quorum, provided

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1 at least two of that quorum are not hygienist members and  
2 three are hygienist members.

3 M. A decision that has a potential impact upon,  
4 or otherwise relates to, the practice of dental therapy-  
5 hygiene shall be referred to the joint committee.

6 [~~J.~~] N. The committee shall elect officers  
7 annually as deemed necessary to administer its duties and as  
8 provided in rules [~~and regulations~~] of the board and  
9 committee."

10 SECTION 12. Section 61-5A-10 NMSA 1978 (being Laws  
11 1994, Chapter 55, Section 10, as amended) is amended to read:

12 "61-5A-10. POWERS AND DUTIES OF THE BOARD, [~~AND~~] THE  
13 COMMITTEE AND THE JOINT COMMITTEE.--In addition to any other  
14 authority provided by law, the board, [~~and~~] the committee and  
15 the joint committee, when designated, shall:

16 A. enforce and administer the provisions of the  
17 Dental Health Care Act;

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

21 (1) regulate the examination and licensure  
22 of dentists [~~and, through the committee, regulate the~~  
23 ~~examination and licensure of dental hygienists~~];

24 (2) through the committee, regulate the  
25 examination and licensure of dental hygienists;

1                   (3) through the joint committee, regulate  
 2 the examination and licensure of dental therapist-hygienists;

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

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

7                   ~~[(4)]~~ (6) regulate the practice of dentistry  
 8 and dental assisting ~~[and, through the committee, regulate~~  
 9 ~~the practice of dental hygiene; and];~~

10                   (7) through the committee, regulate the  
 11 practice of dental hygiene;

12                   (8) through the joint committee, regulate  
 13 the practice of dental therapy-hygiene; and

14                   ~~[(5)]~~ (9) provide for the regulation and  
 15 licensure of non-dentist owners by the board;

16                   C. adopt and use a seal;

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

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

22                   ~~[F. grant, deny, review, suspend and revoke~~  
 23 ~~licenses and certificates to practice dentistry, dental~~  
 24 ~~assisting and, through the committee, dental hygiene and~~  
 25 ~~censure, reprimand, fine and place on probation and~~

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1 ~~stipulation dentists, dental assistants and, through the~~  
2 ~~committee, dental hygienists, in accordance with the Uniform~~  
3 ~~Licensing Act for any cause stated in the Dental Health Care~~  
4 ~~Act;]~~

5 F. in accordance with the Uniform Licensing Act,  
6 for any cause stated in the Dental Health Care Act, grant,  
7 deny, review, censure, reprimand, fine and place on probation  
8 and stipulation, suspend and revoke:

9 (1) licenses to practice dentistry;

10 (2) certificates to practice dental  
11 assisting;

12 (3) through the committee, licenses to  
13 practice dental hygiene; and

14 (4) through the joint committee, licenses to  
15 practice dental therapy-hygiene;

16 G. grant, deny, review, suspend and revoke  
17 licenses to own dental practices and censure, reprimand, fine  
18 and place on probation and stipulation non-dentist owners, in  
19 accordance with the Uniform Licensing Act, for any cause  
20 stated in the Dental Health Care Act;

21 H. maintain records of the name, address, license  
22 number and such other demographic data as may serve the needs  
23 of the board of licensees, together with a record of license  
24 renewals, suspensions, revocations, probations, stipulations,  
25 censures, reprimands and fines. The board shall make



1 available composite reports of demographic data but shall  
2 limit public access to information regarding individuals to  
3 their names, addresses, license numbers and license actions  
4 or as required by statute;

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

7 J. establish ad hoc committees whose members  
8 shall be appointed by the chair with the advice and consent  
9 of the board or committee and shall include at least one  
10 member of the board or committee as it deems necessary for  
11 carrying on its business. An ad hoc committee that the board  
12 or committee establishes to address issues related to the  
13 practice of dental therapy-hygiene shall include at least one  
14 joint committee member who is a dental therapist-hygienist or  
15 dental therapist advocate;

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

19 L. have the authority to hire or contract with  
20 investigators to investigate possible violations of the  
21 Dental Health Care Act;

22 M. have the authority to issue investigative  
23 subpoenas prior to the issuance of a notice of contemplated  
24 action for the purpose of investigating complaints against  
25 dentists; dental assistants; ~~and~~ through the joint

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1 committee, dental therapist-hygienists; and through the  
2 committee, dental hygienists [~~licensed under the Dental~~  
3 ~~Health Care Act~~];

4 N. have the authority to sue or be sued and to  
5 retain the services of an attorney at law for counsel and  
6 representation regarding the carrying out of the board's  
7 duties;

8 O. have the authority to create and maintain a  
9 formulary, in consultation with the board of pharmacy, of  
10 medications that a dental therapist-hygienist or dental  
11 hygienist may prescribe, administer or dispense in accordance  
12 with rules the board has promulgated; and

13 P. establish continuing education or continued  
14 competency requirements for [~~dentists, certified dental~~  
15 ~~assistants in expanded functions, dental technicians and,~~  
16 ~~through the committee, dental hygienists]~~:

17 (1) dentists;

18 (2) certified dental assistants in expanded  
19 functions;

20 (3) dental technicians;

21 (4) through the board and joint committee,  
22 dental therapist-hygienists; and

23 (5) through the committee, dental  
24 hygienists."

25 SECTION 13. Section 61-5A-14 NMSA 1978 (being Laws

1 1994, Chapter 55, Section 14, as amended) is amended to read:

2 "61-5A-14. TEMPORARY LICENSURE.--~~[The board or the~~  
3 ~~committee]~~

4 A. A licensing authority may issue a temporary  
5 license to practice dentistry, dental therapy-hygiene or  
6 dental hygiene to ~~[any]~~ an applicant who is licensed to  
7 practice dentistry, dental therapy-hygiene or dental hygiene  
8 in another state or territory of the United States and who is  
9 otherwise qualified to practice dentistry, dental therapy-  
10 hygiene or dental hygiene in ~~[this]~~ the state. The following  
11 provisions shall apply:

12 ~~[A.]~~ (1) the applicant shall hold a valid  
13 license in good standing in another state or territory of the  
14 United States;

15 ~~[B.]~~ (2) the applicant shall practice  
16 dentistry, dental therapy-hygiene or dental hygiene under the  
17 sponsorship of or in association with a licensed New Mexico  
18 dentist, dental therapist-hygienist or dental hygienist;

19 ~~[C.]~~ (3) the temporary license may be issued  
20 for those activities as stipulated by the ~~[board or~~  
21 ~~committee]~~ licensing authority in the rules of the board. It  
22 may be issued upon written application of the applicant when  
23 accompanied by such proof of qualifications as the  
24 secretary-treasurer of the board or committee, in ~~[his]~~ the  
25 secretary-treasurer's discretion, may require. Temporary

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1 licensees shall engage in only those activities specified on  
2 the temporary license for the time designated, and the  
3 temporary license shall identify the licensed New Mexico  
4 dentist, dental therapist-hygienist or dental hygienist who  
5 will sponsor or associate with the applicant during the time  
6 the applicant practices dentistry, dental therapy-hygiene or  
7 dental hygiene in New Mexico;

8 ~~[D.]~~ (4) the sponsoring or associating  
9 dentist, dental therapist-hygienist or dental hygienist shall  
10 submit an affidavit attesting to the qualifications of the  
11 applicant and the activities the applicant will perform;

12 ~~[E.]~~ (5) the temporary license shall be  
13 issued for a period not to exceed twelve months and may be  
14 renewed upon application and payment of required fees;

15 ~~[F.]~~ (6) the application for a temporary  
16 license under this section shall be accompanied by a license  
17 fee; and

18 ~~[G.]~~ (7) the temporary licensee shall be  
19 required to comply with the Dental Health Care Act and all  
20 rules promulgated pursuant thereto.

21 B. A licensing authority may grant to a dentist,  
22 dental therapist-hygienist or dental hygienist who meets the  
23 requirements of Subsection A of this section and who is  
24 licensed to practice dentistry, dental therapy-hygiene or  
25 dental hygiene in another state or territory of the United

1 States temporary licensure to practice and serve as faculty  
 2 for a dental therapy-hygiene education program in a state  
 3 institution, a program approved or maintained by the  
 4 department of health or a program or clinic that the  
 5 department of health designates as serving a health care  
 6 underserved area."

7 SECTION 14. Section 61-5A-15 NMSA 1978 (being Laws  
 8 1994, Chapter 55, Section 15) is amended to read:

9 "61-5A-15. CONTENT OF ~~[LICENSE]~~ LICENSES AND  
 10 CERTIFICATES--DISPLAY OF [LICENSE--RENEWALS--RETIRE LICENSE]  
 11 LICENSES AND CERTIFICATES.--

12 A. All dental licenses issued by the board shall  
 13 bear:

- 14 (1) a serial number;
- 15 (2) the full name of the licensee;
- 16 (3) the date of issue;
- 17 (4) the seal of the board;
- 18 (5) if the license is a specialty license,  
 19 the specialty to which practice is limited;
- 20 (6) the signatures of a majority of the  
 21 board members; and
- 22 (7) the attestation of the board president  
 23 and secretary.

24 B. All dental hygienist licenses issued by the  
 25 board shall bear:

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

9 C. A dental therapist-hygienist license shall  
10 bear:

- 11 (1) a serial number;
- 12 (2) the full name of the licensee;
- 13 (3) the date of issue;
- 14 (4) the seal of the board;
- 15 (5) the signatures of a majority of the
- 16 members of the joint committee; and
- 17 (6) the attestation of the board president
- 18 and secretary.

19 [~~G.~~] D. Certificates issued to dental assistants  
20 shall bear:

- 21 (1) a serial number;
- 22 (2) the full name of the assistant;
- 23 (3) the date of issue;
- 24 (4) the date of expiration;
- 25 (5) the expanded functions certified to

1 perform; and

2 (6) the attestation of the board secretary.

3 ~~[D.]~~ E. All licenses and certificates shall be  
4 displayed in a conspicuous place in the office where the  
5 holder practices. The license or certificate shall, upon  
6 request, be exhibited to any of the members of the board, the  
7 committee or its authorized agent."

8 **SECTION 15.** Section 61-5A-16 NMSA 1978 (being Laws  
9 1994, Chapter 55, Section 16, as amended) is amended to read:

10 "61-5A-16. LICENSE AND CERTIFICATE RENEWALS.--

11 A. Except as provided in Subsection I of this  
12 section, all licensees and certificate holders shall ~~[be~~  
13 ~~required to]~~ renew their licenses or certificates triennially  
14 as established by board rules ~~[of the board]~~.

15 B. All dental assistants certified in expanded  
16 functions, expanded-function dental auxiliaries and community  
17 dental health coordinators shall ~~[be required to]~~ renew their  
18 certificates triennially as established by board rules ~~[of~~  
19 ~~the board]~~.

20 C. ~~[The board or committee may establish a method~~  
21 ~~to provide for]~~ Terms of licensure and certification may be  
22 in staggered triennial terms. ~~[and may prorate]~~ Triennial  
23 renewal fees and impaired dentist, dental therapist-hygienist  
24 and dental hygienist fees may be prorated until staggered  
25 triennial renewal is established. The fact that a licensee

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1 or certificate holder has not received a renewal form [~~from~~  
2 ~~the board or committee~~] shall not relieve the licensee or  
3 certificate holder of the duty to renew the license or  
4 certificate nor [~~shall such omission on the part of the board~~  
5 ~~or committee operate to exempt the~~] exempt a licensee or  
6 certificate holder from the penalties for failure to renew  
7 [~~the licensee's~~] a license or certificate.

8 D. All licensees and certificate holders shall  
9 pay a triennial renewal fee and [~~an~~] a fee for impaired  
10 [~~dentist and dental hygienist fee, and~~] dentists, dental  
11 therapist-hygienists and dental hygienists. All licensees  
12 and certificate holders shall return a completed renewal  
13 application form that includes proof of continuing education  
14 or continued competency.

15 E. Each application for triennial renewal of  
16 license or certificate shall state the licensee's or  
17 certificate holder's full name, business address, the date  
18 and number of the license or certificate and all other  
19 information requested [~~by the board or committee~~].

20 F. A licensee or certificate holder who fails to  
21 submit an application for triennial renewal on or before July  
22 1 but who submits an application for triennial renewal within  
23 thirty days thereafter shall be assessed a late fee.

24 G. A licensee or certificate holder who fails to  
25 submit application for triennial renewal between thirty and



1 sixty days of the July 1 deadline may have the licensee's or  
 2 certificate holder's license or certificate suspended. If  
 3 the licensee or certificate holder renews by that time, the  
 4 licensee or certificate holder shall be assessed a cumulative  
 5 late fee.

6 H. [~~The board or the committee may summarily~~  
 7 ~~revoke~~] For nonpayment of fees or failure to comply with  
 8 continuing education or continued competency requirements, a  
 9 licensing authority may revoke the license or certificate of  
 10 a licensee or certificate holder who has failed to renew the  
 11 license or certificate on or before August 31.

12 I. A license for a non-dentist owner shall be  
 13 renewed triennially as established by rules. An application  
 14 for renewal of a non-dentist owner license shall state the  
 15 name, business address, date and number of the license and  
 16 all other information as required by board rule [~~of the~~  
 17 ~~board~~]. If a non-dentist owner fails to submit the  
 18 application for renewal of the license by July 1, the board  
 19 may assess a late fee. If the non-dentist owner fails to  
 20 submit the application for a renewal license within sixty  
 21 days of the July 1 renewal deadline, the board may suspend  
 22 the license. The license of a non-dentist owner may be  
 23 summarily revoked by the board for nonpayment of fees.

24 J. Assessment of fees pursuant to this section is  
 25 not subject to the Uniform Licensing Act."

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1           SECTION 16. Section 61-5A-17 NMSA 1978 (being Laws  
2 1994, Chapter 55, Section 17, as amended) is amended to read:

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

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

21           B. At any time during the three-year period  
22 following retirement, a ~~[dentist or dental hygienist]~~  
23 licensee with a retired New Mexico license may request in  
24 writing to the ~~[board or the committee]~~ licensee's respective  
25 licensing authority that ~~[his]~~ the licensee's license be

1 placed in inactive status. Upon the receipt of the  
 2 application and fees as ~~[determined by the board or the~~  
 3 ~~committee]~~ the licensing authority determines and with the  
 4 approval of the ~~[board or the committee]~~ licensing authority,  
 5 the license may be placed in inactive status.

6 C. A licensee whose license has been placed in  
 7 inactive status may not engage in any of the activities  
 8 contained within the licensee's respective scope of practice  
 9 ~~[of dentistry or dental hygiene]~~ in New Mexico described in  
 10 Section 61-5A-4 NMSA 1978.

11 D. ~~[Licensees with]~~ A licensee holding an  
 12 inactive ~~[licenses must]~~ license shall renew ~~[their licenses]~~  
 13 the license triennially and comply with all the requirements  
 14 set by the ~~[board and the committee]~~ licensing authority.

15 E. If a licensee with an inactive license wishes  
 16 to resume ~~[the]~~ active practice ~~[of dentistry or dental~~  
 17 ~~hygiene]~~, the licensee must notify the ~~[board or the~~  
 18 ~~committee]~~ licensing authority in writing and provide proof  
 19 of completion of all requirements to reactivate the license  
 20 as prescribed by ~~[rule of the board or the committee]~~ board  
 21 rules. Upon payment of all fees due, the ~~[board]~~ licensing  
 22 authority may reactivate the license and the licensee may  
 23 resume the practice of dentistry, dental therapy-hygiene or  
 24 dental hygiene subject to any stipulations of the ~~[board or~~  
 25 ~~the committee]~~ licensing authority.

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1           F. ~~[Inactive licenses must]~~ An inactive license  
2 shall be reactivated or permanently retired within nine years  
3 of having been placed in inactive status.

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

6           **SECTION 17.** Section 61-5A-18 NMSA 1978 (being Laws  
7 1994, Chapter 55, Section 18, as amended) is amended to read:

8           "61-5A-18. PRACTICING WITHOUT A LICENSE--PENALTY.--

9           A. Any person who practices dentistry or who  
10 attempts to practice dentistry without first complying with  
11 the provisions of the Dental Health Care Act and without  
12 being the holder of a license entitling the practitioner to  
13 practice dentistry in New Mexico is guilty of a fourth degree  
14 felony and upon conviction shall be sentenced pursuant to the  
15 provisions of the Criminal Sentencing Act to imprisonment for  
16 a definite period not to exceed eighteen months and, in the  
17 discretion of the sentencing court, to a fine not to exceed  
18 five thousand dollars (\$5,000), or both. Each occurrence of  
19 practicing dentistry or attempting to practice dentistry  
20 without complying with the Dental Health Care Act shall be a  
21 separate violation.

22           B. Any person who practices as a dental hygienist  
23 or who attempts to practice as a dental hygienist without  
24 first complying with the provisions of the Dental Health Care  
25 Act and without being the holder of a license entitling the

1 ~~[practitioner]~~ person to practice as a dental hygienist in  
 2 New Mexico is guilty of a misdemeanor and upon conviction  
 3 shall be sentenced under the provisions of the Criminal  
 4 Sentencing Act to imprisonment for a definite period of less  
 5 than one year and, in the discretion of the sentencing court,  
 6 to a fine not to exceed one thousand dollars (\$1,000), or  
 7 both. Each occurrence of practicing as a dental hygienist or  
 8 attempting to practice as a dental hygienist without  
 9 complying with the Dental Health Care Act shall be a separate  
 10 violation.

11 C. A person who practices as a dental therapist-  
 12 hygienist or who attempts to practice as a dental therapist-  
 13 hygienist without first complying with the provisions of the  
 14 Dental Health Care Act and without being the holder of a  
 15 license entitling the person to practice as a dental  
 16 therapist-hygienist in the state is guilty of a misdemeanor  
 17 and upon conviction shall be sentenced to imprisonment for a  
 18 definite period of less than one year and, in the discretion  
 19 of the sentencing court, to a fine not to exceed one thousand  
 20 dollars (\$1,000), or both. Each occurrence of practicing as  
 21 a dental therapist-hygienist or attempting to practice as a  
 22 dental therapist-hygienist without complying with the Dental  
 23 Health Care Act shall be a separate violation.

24 ~~[G.]~~ D. A person that functions or attempts to  
 25 function as a non-dentist owner or who is an officer of a

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1 corporate entity that functions or attempts to function as a  
2 non-dentist owner in New Mexico without first complying with  
3 the provisions of the Dental Health Care Act is guilty of a  
4 misdemeanor and upon conviction shall be sentenced pursuant  
5 to the provisions of the Criminal Sentencing Act to  
6 imprisonment for a definite period not to exceed one year  
7 and, in the discretion of the sentencing court, to a fine not  
8 to exceed one thousand dollars (\$1,000), or both. Each  
9 occurrence of functioning as a non-dentist owner without  
10 complying with the Dental Health Care Act shall be a separate  
11 violation.

12 ~~[D-]~~ E. The attorney general or district attorney  
13 shall prosecute all violations of the Dental Health Care Act.

14 ~~[E-]~~ F. Upon conviction of any person for  
15 violation of any provision of the Dental Health Care Act, the  
16 convicting court may, in addition to the penalty provided in  
17 this section, enjoin the person from any further or continued  
18 violations of the Dental Health Care Act and enforce the  
19 order of contempt proceedings."

20 **SECTION 18.** Section 61-5A-19 NMSA 1978 (being Laws  
21 1994, Chapter 55, Section 19) is amended to read:

22 "61-5A-19. REINSTATEMENT OF REVOKED OR SUSPENDED  
23 LICENSE.--

24 A. Unless otherwise stated in the order of  
25 revocation, a motion for reinstatement of a revoked license

1 may not be filed for a period of at least three years from  
2 the effective date of the revocation.

3 B. If the motion for reinstatement is denied, no  
4 further motions for reinstatement shall be considered for a  
5 period of one year.

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

20 D. ~~[Suspended dentists or dental hygienists~~  
21 ~~indefinite suspension]~~ Procedures for reinstatement of  
22 licensees who have been suspended for an indefinite period of  
23 time are as follows:

24 (1) at any time after complying with the  
25 conditions of reinstatement, a licensee who has been

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1 suspended for an indefinite period of time may [~~at any time~~  
2 ~~after complying with the conditions of reinstatement~~] file a  
3 petition for reinstatement with the board [~~or committee~~];

4 (2) the petition shall be referred to the  
5 [~~board or committee~~] applicant's respective licensing  
6 authority for hearing [~~under~~] pursuant to provisions of  
7 Subsection E of this section; and

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

11 E. [~~Procedure~~] Procedures for reinstatement  
12 hearings are as follows:

13 (1) applications for reinstatement shall be  
14 referred to the [~~board or committee~~] applicant's respective  
15 licensing authority for hearing if the applicant meets the  
16 criteria set forth in this section;

17 (2) the [~~board or committee~~] applicant's  
18 respective licensing authority shall schedule a hearing as  
19 soon as practical at which the applicant shall have the  
20 burden of demonstrating that the applicant has the moral  
21 qualifications for reinstatement, that the applicant is once  
22 again fit to resume the practice of dentistry, dental  
23 therapy-hygiene or dental hygiene and that the resumption of  
24 the applicant's practice of dentistry, dental therapy-hygiene  
25 or dental hygiene will not be detrimental to the public



1 interest;

2 (3) the ~~[board or committee]~~ applicant's  
 3 licensing authority shall file its findings of fact,  
 4 conclusions of law and decision within ninety days of the  
 5 hearing; and

6 (4) the ~~[board's or committee's]~~ licensing  
 7 authority's decision to refuse to reinstate a license shall  
 8 not be reviewable except for an abuse of discretion."

9 SECTION 19. Section 61-5A-20 NMSA 1978 (being Laws  
 10 1994, Chapter 55, Section 20, as amended) is amended to read:

11 "61-5A-20. FEES.--The board, ~~[and]~~ the committee and  
 12 the joint committee shall establish a schedule of reasonable  
 13 fees not to exceed the following:

		<u>Dental</u>	
		<u>Therapist-</u>	<u>Dental</u>
	<u>Dentists</u>	<u>Hygienists</u>	<u>Hygienists</u>
14			
15			
16			
17	A. licensure by		
18	examination	\$1,500	<u>\$1,000</u> \$1,000
19	B. licensure by		
20	credential	\$3,000	<u>\$1,500</u> \$1,500
21	C. specialty license		
22	by examination	\$1,500	
23	D. specialty license		
24	by credential	\$3,000	
25	E. temporary license		

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1	48 hours	\$ 50	<u>\$ 50</u>	\$ 50
2	six months	\$ 300	<u>\$ 200</u>	\$ 200
3	12 months	\$ 450	<u>\$ 300</u>	\$ 300
4	F. application for			
5	certification			
6	in local anesthesia			\$ 40
7	G. examination in local			
8	anesthesia			\$ 150
9	H. triennial license			
10	renewal	\$ 600	<u>\$ 450</u>	\$ 450
11	I. late renewal	\$ 100	<u>\$ 100</u>	\$ 100
12	J. reinstatement of			
13	license	\$ 450	<u>\$ 300</u>	\$ 300
14	K. administrative fees	\$ 300	<u>\$ 300</u>	\$ 300
15	L. impaired dentist or			
16	dental hygienist	\$ 150	<u>\$ 75</u>	\$ 75
17	M. assistant, expanded-			
18	function dental			
19	auxiliary or			
20	community dental			
21	health coordinator			
22	certificate			\$ 100
23	N. application for certification for			
24	collaborative practice		<u>\$ 150</u>	\$ 150
25	O. annual renewal for			

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1	collaborative practice		\$ 50	\$ 50
2	P. application for inactive			
3	status	\$ 50	\$ 50	\$ 50
4	Q. triennial renewal of			
5	inactive license	\$ 90	\$ 90	\$ 90

Non-dentist Owners

7	R. non-dentist owners license (initial)		\$ 300	
8	S. non-dentist owners license triennial renewal		\$ 150."	

9           **SECTION 20.** Section 61-5A-21 NMSA 1978 (being Laws  
10 1994, Chapter 55, Section 21, as amended) is amended to read:

11           "61-5A-21. DISCIPLINARY PROCEEDINGS--APPLICATION OF  
12 UNIFORM LICENSING ACT.--

13           A. In accordance with the Uniform Licensing Act  
14 and board rules, [~~of the board, the board and committee~~] a  
15 licensing authority may fine and may deny, revoke, suspend,  
16 stipulate or otherwise limit any license or certificate,  
17 including those of licensed non-dentist owners, held or  
18 applied for under the Dental Health Care Act, upon findings by  
19 the [~~board or the committee~~] licensing authority that the  
20 licensee, certificate holder or applicant:

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

23                   (2) has been convicted of a crime punishable  
24 by incarceration in a federal prison or state penitentiary;  
25 provided that a copy of the record of conviction, certified to

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1 by the clerk of the court entering the conviction, shall be  
2 conclusive evidence of such conviction;

3 (3) is guilty of gross incompetence or gross  
4 negligence, as defined by rules of the board, in the practice  
5 of dentistry, dental hygiene, dental therapy-hygiene or dental  
6 assisting;

7 (4) is habitually intemperate or is addicted  
8 to the use of habit-forming drugs or is addicted to any vice  
9 to such degree as to render the licensee or certificate holder  
10 unfit to practice;

11 (5) is guilty of unprofessional conduct as  
12 defined by rule;

13 (6) is guilty of any violation of the  
14 Controlled Substances Act;

15 (7) has violated any provisions of the  
16 Dental Health Care Act or rule or regulation of the board or  
17 the committee;

18 (8) is guilty of willfully or negligently  
19 practicing beyond the scope of licensure or certification;

20 (9) is guilty of practicing dentistry, [~~or~~]  
21 dental therapy-hygiene, dental hygiene [~~without a license~~] or  
22 dental assisting without the required licensure or  
23 certification or aiding or abetting the practice of dentistry,  
24 [~~or~~] dental therapy-hygiene, dental hygiene or dental  
25 assisting by a person not licensed or certified as required

1 under the Dental Health Care Act;

2 (10) is guilty of obtaining or attempting to  
3 obtain any fee by fraud or misrepresentation or has otherwise  
4 acted in a manner or by conduct likely to deceive, defraud or  
5 harm the public;

6 (11) is guilty of patient abandonment;

7 (12) is guilty of failing to report to the  
8 ~~[board]~~ licensing authority any adverse action taken against  
9 the licensee or certificate holder by a licensing authority,  
10 peer review body, malpractice insurance carrier or other  
11 entity as defined in board rules ~~[of the board and the~~  
12 ~~committee]~~;

13 (13) has had a license, certificate or  
14 registration to practice as a dentist, dental therapist-  
15 hygienist or dental hygienist revoked, suspended, denied,  
16 stipulated or otherwise limited in any jurisdiction, territory  
17 or possession of the United States or another country for  
18 actions of the licensee or certificate holder similar to acts  
19 described in this subsection. A certified copy of the  
20 decision of the jurisdiction taking such disciplinary action  
21 will be conclusive evidence; or

22 (14) has failed to furnish the ~~[board]~~  
23 licensing authority, its investigators or its representatives  
24 with information requested by the ~~[board or the committee]~~  
25 licensing authority in the course of an official

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1 investigation.

2 B. Disciplinary proceedings may be instituted by  
3 sworn complaint by any person, including a board, [~~or~~]  
4 committee or joint committee member, and shall conform with  
5 the provisions of the Uniform Licensing Act.

6 C. Licensees and certificate holders shall bear  
7 the costs of disciplinary proceedings unless exonerated.

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

11 E. [~~Licensee whose licenses are~~] A licensee or  
12 certificate holder whose license or certificate is in a  
13 probationary status shall pay reasonable expenses for  
14 maintaining probationary status, including but not limited to  
15 laboratory costs when laboratory testing of biological fluids  
16 or accounting costs when audits are included as a condition of  
17 probation."

18 SECTION 21. Section 61-5A-24 NMSA 1978 (being Laws  
19 1994, Chapter 55, Section 24) is amended to read:

20 "61-5A-24. INJUNCTION TO STOP [~~UNLICENSED~~] UNAUTHORIZED  
21 DENTAL, DENTAL THERAPY-HYGIENE, [~~OR~~] DENTAL HYGIENE OR DENTAL  
22 ASSISTING PRACTICE.--

23 A. The attorney general, the district attorney,  
24 the board, the committee, the joint committee or any citizen  
25 of any county where any person practices dentistry, [~~or~~]

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1 dental therapy-hygiene, dental hygiene or dental assisting  
 2 without possessing a valid license or certificate to do so  
 3 may, in accordance with the laws of New Mexico governing  
 4 injunctions, maintain an action in the name of the state to  
 5 enjoin such person from practicing dentistry, [~~or~~] dental  
 6 therapy-hygiene, dental hygiene or dental assisting until a  
 7 valid license to practice dentistry, [~~or~~] dental therapy-  
 8 hygiene, dental hygiene or dental assisting is secured. [~~and~~]  
 9 Any person who has been enjoined and who violates the  
 10 injunction shall be punished for contempt of court; provided  
 11 that the injunction does not relieve any person practicing  
 12 dentistry, [~~or~~] dental therapy-hygiene, dental hygiene or  
 13 dental assisting without a valid license or certificate from a  
 14 criminal prosecution [~~therefore~~] as provided by law.

15 B. In charging any person in a complaint for  
 16 injunction, or in an affidavit, information or indictment with  
 17 practicing dentistry, [~~or~~] dental therapy-hygiene, dental  
 18 hygiene or dental assisting without a valid license or  
 19 certificate, it is sufficient to charge that the person did,  
 20 upon a certain day and in a certain county, engage in the  
 21 practice of dentistry, [~~or~~] dental therapy-hygiene, dental  
 22 hygiene or dental assisting without a valid license or  
 23 certificate, without averring any further or more particular  
 24 facts concerning the same."

25 SECTION 22. Section 61-5B-1 NMSA 1978 (being Laws 1994,

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1 Chapter 55, Section 30) is amended to read:

2 "61-5B-1. SHORT TITLE.--~~[Sections 31 through 41 of this~~  
3 ~~act]~~ Chapter 61, Article 5B NMSA 1978 shall be cited as the  
4 "Impaired Dentists, Dental Therapist-Hygienists and Dental  
5 Hygienists Act".

6 SECTION 23. Section 61-5B-2 NMSA 1978 (being Laws 1994,  
7 Chapter 55, Section 31, as amended) is amended to read:

8 "61-5B-2. DEFINITIONS.--As used in the Impaired  
9 Dentists, Dental Therapist-Hygienists and Dental Hygienists  
10 Act:

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

13 B. "dental hygienists committee" means the New  
14 Mexico dental hygienists committee;

15 C. "dentistry or dental hygiene" means the  
16 practice of dentistry or dental hygiene; ~~and]~~

17 D. "joint committee" means a committee made up of  
18 the board and the dental hygienists committee that licenses  
19 and supervises the practice of dental therapy-hygiene;

20 ~~[D-]~~ E. "licensee" means a dentist or dental  
21 hygienist licensed by the board; and

22 F. "licensing authority" means:

23 (1) for dentists, the board;

24 (2) for dental hygienists, the dental  
25 hygienists committee; and



1                   (3) for dental therapist-hygienists, the  
 2                   joint committee."

3                   SECTION 24. Section 61-5B-3 NMSA 1978 (being Laws 1994,  
 4 Chapter 55, Section 32) is amended to read:

5                   "61-5B-3. GROUNDS FOR RESTRICTION, SUSPENSION,  
 6 REVOCATION, STIPULATION OR OTHER LIMITATION OF LICENSE OR  
 7 CERTIFICATE--The license of any [~~dentist or dental hygienist~~]  
 8 licensee to practice dentistry, dental therapy-hygiene or  
 9 dental hygiene or the certificate of a dental assistant to  
 10 practice dental assisting in this state shall be subject to  
 11 restriction, suspension, revocation or stipulation or may  
 12 otherwise be limited in case of inability of the licensee or  
 13 certificate holder to practice with reasonable skill and  
 14 safety to patients by reason of one or more of the following:

15                   A. mental illness;

16                   B. physical illness, including but not limited to  
 17 deterioration through the aging process or loss of motor  
 18 skills;

19                   C. habitual or excessive use or abuse of drugs, as  
 20 defined in the Controlled Substances Act; or

21                   D. habitual or excessive use or abuse of alcohol."

22                   SECTION 25. Section 61-5B-4 NMSA 1978 (being Laws 1994,  
 23 Chapter 55, Section 33) is amended to read:

24                   "61-5B-4. BOARD, [~~OR~~] DENTAL HYGIENISTS COMMITTEE OR  
 25 JOINT COMMITTEE--ADDITIONAL POWERS AND DUTIES AS RELATED TO

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1 THE IMPAIRED DENTISTS, DENTAL THERAPIST-HYGIENISTS AND DENTAL  
2 HYGIENISTS ACT.--

3 A. If ~~[the board or dental hygienists committee]~~ a  
4 licensing authority has reasonable cause to believe that a  
5 ~~[person licensed to practice dentistry or dental hygiene]~~  
6 licensee is unable to practice with reasonable skill and  
7 safety to patients because of a condition described in the  
8 Impaired Dentists, Dental Therapist-Hygienists and Dental  
9 Hygienists Act, the ~~[board]~~ licensing authority shall cause an  
10 examination of ~~[such]~~ the licensee to be made and shall,  
11 following the examination, take appropriate action within the  
12 provisions of the Impaired Dentists, Dental Therapist-  
13 Hygienists and Dental Hygienists Act.

14 B. Examination of a licensee pursuant to an order  
15 of the ~~[board]~~ licensee's respective licensing authority shall  
16 be conducted by an examining committee designated by the  
17 ~~[board. Each examining committee shall be composed of two~~  
18 ~~duly licensed dentists, or two duly licensed dental hygienists~~  
19 ~~if the licensee is a dental hygienist, and two duly licensed~~  
20 ~~physicians, one of whom shall be a psychiatrist who is~~  
21 ~~knowledgeable and experienced in the field of chemical~~  
22 ~~dependency if a question of mental illness or dependency is~~  
23 ~~involved. Whenever possible, examining committee members~~  
24 ~~shall be selected for their knowledge or experience in the~~  
25 ~~areas of alcoholism, chemical dependency, mental health and~~

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1 ~~geriatrics and may be rehabilitated impaired dentists, dental~~  
2 ~~hygienists or physicians. In designating the members of such~~  
3 ~~examining committee, the board may consider nominations from~~  
4 ~~the New Mexico dental association for the dentist member, the~~  
5 ~~New Mexico dental hygienists' association for dental hygiene~~  
6 ~~members thereof and nomination from the New Mexico medical~~  
7 ~~society for the physician members thereof. No current members~~  
8 ~~of the board, dental hygienists committee or New Mexico board~~  
9 ~~of medical examiners shall be designated as a member of an~~  
10 ~~examining committee] licensing authority. An examining~~  
11 ~~committee shall be composed of two licensed physicians, one of~~  
12 ~~whom shall be a psychiatrist who is knowledgeable and~~  
13 ~~experienced in the field of chemical dependency if a question~~  
14 ~~of mental illness or dependency is involved. An examining~~  
15 ~~committee shall also include additional members in the~~  
16 ~~following manner:~~  
17 ~~(1) if the licensee is a dentist, the~~  
18 ~~examining committee shall include two licensed dentists;~~  
19 ~~(2) if the licensee is a dental therapist-~~  
20 ~~hygienist, the examining committee shall include two licensed~~  
21 ~~dental therapist-hygienists or two dental therapist advocates;~~  
22 ~~and~~  
23 ~~(3) if the licensee is a dental hygienist,~~  
24 ~~the examining committee shall include two licensed dental~~  
25 ~~hygienists.~~

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1           C. Whenever possible, examining committee members  
2 shall be selected for their knowledge of or experience in the  
3 areas of alcoholism, chemical dependency, mental health and  
4 geriatrics. Members of the examining committee may be  
5 rehabilitated impaired dentists, dental therapist-hygienists,  
6 dental hygienists or physicians.

7           D. In designating the members of an examining  
8 committee, the licensing authority may consider nominations  
9 from the New Mexico medical society for physician members and  
10 nominations from the following entities:

11                   (1) for dentist members, from the New Mexico  
12 dental association;

13                   (2) for dental therapist-hygienist members,  
14 a state or regional dental therapists' association, if  
15 available, or dental therapy-hygiene education program  
16 faculty; and

17                   (3) for dental hygienist members, the New  
18 Mexico dental hygienists' association.

19           E. A current member of the board, the dental  
20 hygienists committee or the New Mexico board of medical  
21 examiners shall not be designated as a member of an examining  
22 committee."

23           SECTION 26. Section 61-5B-5 NMSA 1978 (being Laws 1994,  
24 Chapter 55, Section 34) is amended to read:

25           "61-5B-5. EXAMINATION BY COMMITTEE.--

1           A. The examining committee assigned to examine a  
2     licensee pursuant to referral by the ~~[board]~~ licensee's  
3     licensing authority shall conduct an examination of the  
4     licensee for the purpose of determining the fitness of the  
5     licensee to practice dentistry, dental therapy-hygiene or  
6     dental hygiene with reasonable skill and safety to patients,  
7     either on a restricted or unrestricted basis, and shall report  
8     its findings and recommendations to the ~~[board]~~ licensee's  
9     licensing authority. The findings and recommendations shall  
10    be based on findings by the examining committee that the  
11    licensee examined possesses one or more of the impairments set  
12    forth in the Impaired Dentists, Dental Therapist-Hygienists  
13    and Dental Hygienists Act and ~~[such]~~ the impairment does, in  
14    fact, affect the ability of the licensee to skillfully and  
15    safely practice dentistry, dental therapy-hygiene or dental  
16    hygiene. The examining committee shall order the licensee to  
17    appear before it for hearing and give the licensee fifteen  
18    days' notice of the time and place of the hearing, together  
19    with a statement of the cause for ~~[such examination]~~ the  
20    hearing. The notice shall be served upon the licensee either  
21    personally or by registered or certified mail with return  
22    receipt requested.

23           B. If the examining committee, in its discretion,  
24    deems a mental or physical examination of the licensee  
25    necessary to its determination of the fitness of the licensee

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1 to practice, the examining committee shall order the licensee  
2 to submit to such examination. Any [~~person licensed to~~  
3 ~~practice dentistry or dental hygiene~~] licensee in this state  
4 shall, by so practicing or by making or filing an annual  
5 registration to practice dentistry, dental therapy-hygiene or  
6 dental hygiene in this state, be deemed to have:

7 (1) given consent to submit to mental or  
8 physical examination when so directed by the examining  
9 committee; and

10 (2) waived all objections to the  
11 admissibility of the report of the examining committee to the  
12 [~~board or the dental hygienists committee~~] licensee's  
13 licensing authority on the grounds of privileged  
14 communication.

15 C. Any licensee who submits to a diagnostic mental  
16 or physical examination as ordered by the examining committee  
17 shall have a right to designate an accompanying individual to  
18 be present at the examination and make an independent report  
19 to the [~~board~~] licensee's licensing authority.

20 D. Failure of a licensee to comply with an  
21 examining committee order under Subsection B of this section  
22 to appear before it for hearing or to submit to mental or  
23 physical examination under this section shall be reported by  
24 the examining committee to the [~~board or dental hygienists~~  
25 ~~committee~~] licensee's licensing authority and, unless due to

1 circumstances beyond the control of the licensee, shall be  
 2 grounds for the immediate and summary suspension by the [~~board~~  
 3 ~~of the licensee~~] licensing authority to practice dentistry,  
 4 dental therapy-hygiene or dental hygiene in this state until  
 5 further order of the board."

6 SECTION 27. Section 61-5B-6 NMSA 1978 (being Laws 1994,  
 7 Chapter 55, Section 35) is amended to read:

8 "61-5B-6. VOLUNTARY RESTRICTION OF LICENSURE.--

9 A. A licensee may request in writing to the board  
 10 a restriction to practice under [~~his~~] the licensee's existing  
 11 license, and the [~~board and the dental hygienists committee~~]  
 12 licensee's licensing authority shall have authority, if [~~it~~  
 13 ~~deems~~] deemed appropriate, to attach stipulations to the  
 14 licensure of the licensee to practice dentistry, dental  
 15 therapy-hygiene or dental hygiene within specified limitations  
 16 and waive the commencement of [~~any~~] a proceeding. Removal of  
 17 a voluntary restriction on licensure to practice dentistry,  
 18 dental therapy-hygiene or dental hygiene shall be subject to  
 19 the procedure for reinstatement of license. As a condition  
 20 for accepting such voluntary limitation of practice, the  
 21 [~~board~~] licensing authority may require [~~each~~] the licensee  
 22 to:

23 (1) agree to and accept care, counseling or  
 24 treatment of physicians or other appropriate health care  
 25 providers acceptable to the [~~board~~] licensing authority;

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1 (2) participate in a program of education  
2 prescribed by the [~~board~~] licensing authority; or

3 (3) practice under the direction of a  
4 dentist acceptable to the [~~board~~] licensing authority for a  
5 specified period of time.

6 B. Subject to the provisions of the Impaired  
7 Dentists, Dental Therapist-Hygienists and Dental Hygienists  
8 Act, a violation of any of the conditions of the voluntary  
9 limitation of practice statement by [~~such~~] the licensee shall  
10 be due cause for the refusal of renewal, or the suspension or  
11 revocation, of the license by the [~~board~~] licensee's licensing  
12 authority."

13 SECTION 28. Section 61-5B-7 NMSA 1978 (being Laws 1994,  
14 Chapter 55, Section 36) is amended to read:

15 "61-5B-7. REPORT TO THE BOARD, JOINT COMMITTEE OR  
16 DENTAL HYGIENISTS COMMITTEE--ACTION.--

17 A. The examining committee shall report to the  
18 board, joint committee or the dental hygienists committee its  
19 findings on the examination of the licensee, the determination  
20 of the examining committee as to the fitness of the licensee  
21 to engage in the practice of dentistry, dental therapy-hygiene  
22 or dental hygiene with reasonable skill and safety to  
23 patients, either on a restricted or unrestricted basis, and  
24 any intervention that the examining committee may recommend.  
25 Such recommendation by the examining committee shall be



1 advisory only and shall not be binding on the board.

2 B. The board, joint committee or dental hygienists  
 3 committee may accept or reject the recommendation of the  
 4 examining committee to permit a licensee to continue to  
 5 practice with or without any restriction on [~~his~~] the  
 6 licensee's licensure to practice dentistry, dental therapy-  
 7 hygiene or dental hygiene or may refer the matter back to the  
 8 examining committee for further examination and report  
 9 [~~thereon~~] on it.

10 C. In the absence of a voluntary agreement by a  
 11 licensee for restriction of the licensure of the [~~dentist or~~  
 12 ~~the dental hygienist~~] licensee to practice dentistry, dental  
 13 therapy-hygiene or dental hygiene, [~~any~~] the licensee shall be  
 14 entitled to a hearing before the [~~board~~] licensee's licensing  
 15 authority under and in accordance with the procedure contained  
 16 in the Uniform Licensing Act and a determination on the  
 17 evidence as to whether [~~or not~~] restriction, suspension or  
 18 revocation of licensure shall be imposed."

19 SECTION 29. Section 61-5B-9 NMSA 1978 (being Laws 1994,  
 20 Chapter 55, Section 38) is amended to read:

21 "61-5B-9. REINSTATEMENT OF LICENSE.--

22 A. A licensee whose licensure has been restricted,  
 23 suspended or revoked under the Impaired Dentists, Dental  
 24 Therapist-Hygienists and Dental Hygienists Act, voluntarily or  
 25 by action of the [~~board~~] licensee's licensing authority, shall

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1 have a right at reasonable intervals to petition for  
2 reinstatement of the license and to demonstrate that the  
3 licensee can resume the competent practice of dentistry,  
4 dental therapy-hygiene or dental hygiene with reasonable skill  
5 and safety to patients.

6 B. The petition shall be made in writing. If the  
7 licensee is a dental hygienist, the dental hygienists  
8 committee shall be advised and given all information [~~so that~~  
9 ~~their~~] that the committee requests to inform its decision.

10 The dental hygienists committee shall provide its  
11 recommendation [can be given] to the board for ratification.  
12 If the licensee is a dental therapist-hygienist, the joint  
13 committee shall be advised and given all information that the  
14 joint committee requests to inform its decision.

15 C. Action of the [~~board~~] licensing authority on  
16 the petition shall be initiated by referral to and examination  
17 by [~~the~~] an examining committee.

18 D. [~~The board~~] A licensing authority may, in its  
19 discretion, upon written recommendation of the examining  
20 committee, restore the licensure of the licensee on a general  
21 or limited basis."

22 SECTION 30. Section 61-5B-10 NMSA 1978 (being Laws  
23 1994, Chapter 55, Section 39) is amended to read:

24 "61-5B-10. IMPAIRED DENTISTS, DENTAL THERAPIST-  
25 HYGIENISTS AND DENTAL HYGIENISTS TREATMENT PROGRAM.--

underscored material = new  
[bracketed material] = delete

1           A. The board, the joint committee and the dental  
 2 hygienists committee each has the authority to enter into an  
 3 agreement with a nonprofit corporation to implement an  
 4 impaired dentists, dental therapist-hygienists and dental  
 5 hygienists treatment program.

6           B. For the purposes of this section, "impaired  
 7 dentists, dental therapist-hygienists and dental hygienists  
 8 treatment program" means a program of care and rehabilitation  
 9 services provided by those organizations authorized by [~~the~~  
 10 ~~board~~] a licensing authority to provide for the detention,  
 11 intervention and monitoring of an impaired [~~dentist or dental~~  
 12 ~~hygienist~~] licensee."

13           SECTION 31. Section 61-5B-11 NMSA 1978 (being Laws  
 14 1994, Chapter 55, Section 40) is amended to read:

15           "61-5B-11. IMPAIRED DENTISTS, DENTAL THERAPIST-  
 16 HYGIENISTS AND DENTAL HYGIENISTS FUND CREATED.--

17           A. There is created an "impaired dentists, dental  
 18 therapist-hygienists and dental [~~hygienist~~] hygienists fund".

19           B. The fund shall be initially established by an  
 20 assessment to all licensees as determined by the board, the  
 21 joint committee and the dental hygienists committee.

22           C. All [~~funds~~] money received by the board for an  
 23 impaired assessment, either special or at time of relicensure,  
 24 shall be deposited with the state treasurer. The state  
 25 treasurer shall credit this money to the [~~impaired dentists~~

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1 ~~and dental hygienists~~] fund.

2 D. Payments out of the fund shall be on vouchers  
3 issued and signed by the secretary-treasurer of the board upon  
4 warrants drawn by the department of finance and administration  
5 in accordance with the responsibilities of the board as  
6 approved by that department.

7 E. All amounts paid into the fund are subject to  
8 the order of the board and are to be used only for meeting  
9 necessary expenses incurred in executing the provisions and  
10 duties of the Impaired Dentists, Dental Therapist-Hygienists  
11 and Dental Hygienists Act. All money unused at the end of any  
12 fiscal year shall remain in the fund for use in accordance  
13 with provisions of the Impaired Dentists, Dental Therapist-  
14 Hygienists and Dental Hygienists Act.

15 F. Licensees shall be assessed an impaired fee at  
16 the time of renewal. The amount of the impaired fee shall be  
17 determined by the board, the joint committee and the dental  
18 hygienists committee and shall be established to meet the need  
19 for enforcing the Impaired Dentists, Dental Therapist-  
20 Hygienists and Dental Hygienists Act.

21 G. The fund shall be used for the purpose of  
22 administration, testing, monitoring, hearings and consultation  
23 fees by the board, joint committee or dental hygienists  
24 committee or [~~their~~] its agent, which are necessary to enforce  
25 the Impaired Dentists, Dental Therapist-Hygienists and Dental

1 Hygienists Act. It is not the purpose of the fund to pay for  
2 treatment of impaired dentists, [~~and~~] dental therapist-  
3 hygienists or dental hygienists."

4 SECTION 32. A new section of the Dental Health Care Act  
5 is enacted to read:

6 "[NEW MATERIAL] DENTAL THERAPIST-HYGIENISTS--  
7 LICENSURE.--

8 A. Except as provided pursuant to Subsection C of  
9 this section, an applicant for dental therapist-hygienist  
10 licensure by examination shall be required to:

11 (1) pass a written examination covering the  
12 laws and rules for practice in the state; and

13 (2) submit proof to the joint committee for  
14 its approval and recommendation:

15 (a) of graduation and receipt of a  
16 degree from a dental therapy-hygiene education program that  
17 provides a minimum of three years of dental therapy-hygiene  
18 competency-based curriculum and that is developed in  
19 partnership with an accredited institution of higher  
20 education;

21 (b) of having met the requirements for  
22 licensure as a dental hygienist pursuant to the Dental Health  
23 Care Act;

24 (c) that the applicant: 1) is from the  
25 community or a similarly situated community where the

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1 applicant plans to practice; 2) has received a letter of  
2 recommendation from a person in the community or from the  
3 sponsoring entity as part of the application process for the  
4 dental therapy-hygiene education program; and 3) maintains an  
5 ongoing relationship with the sponsoring entity, including one  
6 community prevention project in the supporting community  
7 during coursework;

8 (d) of passage of a competency-based  
9 examination given by a nationally recognized regional testing  
10 agency if available or, if not available, by an institution of  
11 higher education with a dental therapy-hygiene education  
12 program or passage of competency-based examination that the  
13 applicant has passed following the applicant's completion of a  
14 dental therapy-hygiene educational program; and

15 (e) after graduation from a dental  
16 therapist-hygiene competency-based education program, has  
17 completed a minimum of four hundred additional clinical hours  
18 under the indirect supervision of a dentist.

19 B. Upon notification from the dental therapy-  
20 hygiene education program that the dental therapist-hygienist  
21 applicant has graduated from the education program and passed  
22 the competency-based examination, the joint committee shall  
23 issue a permit for the applicant to practice during the  
24 applicant's requirement to complete four hundred additional  
25 clinical hours pursuant to Subparagraph (d) of Paragraph (2)

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1 of Subsection A of this section.

2 C. The board shall issue a license to practice as  
3 a dental therapist-hygienist without a practical or clinical  
4 examination to an applicant who is a licensed dental  
5 therapist-hygienist by examination under the laws of another  
6 state or territory of the United States; provided that the  
7 license is in good standing for the two previous years in that  
8 jurisdiction and that the applicant meets the requirements of  
9 the Dental Health Care Act, including payment of appropriate  
10 fees and the passing of an examination covering the laws and  
11 rules of dental therapy-hygiene practice in the state.

12 D. Upon receipt of a recommendation from the joint  
13 committee, the board shall issue the applicant a license to  
14 practice as a dental therapist-hygienist.

15 E. The joint committee may simultaneously issue  
16 the following two licenses to an individual who meets the  
17 requirements of Subsection A of this section:

18 (1) a license to practice as a dental  
19 hygienist; and

20 (2) a license to practice as a dental  
21 hygienist-therapist.

22 F. The joint committee may issue a license to  
23 practice as a dental therapist-hygienist to an individual who  
24 already possesses a license in good standing to practice as a  
25 dental hygienist pursuant to the Dental Health Care Act if

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1 that individual:

2 (1) has completed a minimum of one year of  
3 the dental therapy education program in which the dental  
4 therapy competency-based curriculum is developed in an  
5 institution of higher education that is accredited by:

6 (a) the commission on dental  
7 accreditation; or

8 (b) an accrediting body approved by the  
9 joint committee;

10 (2) is from or supported by the community or  
11 a similarly situated community where the dental hygienist  
12 intends to practice as a dental therapist-hygienist;

13 (3) has received a letter of recommendation  
14 from a person in the community or from the sponsoring entity  
15 as part of the application process for the dental therapy-  
16 hygiene education program;

17 (4) maintains an ongoing relationship with  
18 the sponsoring entity, including undertaking one community  
19 dental prevention project in the supporting community or a  
20 similarly situated community during the dental hygienist's  
21 participation in the dental therapy-hygiene education program;

22 (5) after graduation from a dental  
23 therapy-hygiene education program, has completed a minimum of  
24 four hundred hours of dental therapist-hygienist clinical  
25 practice under the indirect supervision of a dentist;

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1                   (6) has passed a competency-based  
2 examination administered by a nationally recognized regional  
3 testing agency or an examination approved by the joint  
4 committee;

5                   (7) has passed an examination covering the  
6 laws and rules for practice in the state; and

7                   (8) once licensed, practices under the  
8 general supervision of a dentist under a written dental  
9 therapist-hygienist management agreement."

underscoring material = new  
~~[bracketed material] = delete~~