

HOUSE BILL 264

53RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2017

INTRODUCED BY

Dennis J. Roch and Daniel A. Ivey-Soto

AN ACT

RELATING TO DENTAL HEALTH CARE; AMENDING AND ENACTING SECTIONS OF THE DENTAL HEALTH CARE ACT TO ESTABLISH THE PROFESSION OF DENTAL THERAPIST; AMENDING THE NEW MEXICO DRUG, DEVICE AND COSMETIC ACT TO PROVIDE FOR DENTAL THERAPIST PRESCRIBING POWERS; ENACTING SECTIONS OF THE PUBLIC HEALTH ACT TO REQUIRE REPORTING AND TO ESTABLISH AN OFFICE OF STATE DENTAL DIRECTOR; ENACTING A SECTION OF THE PUBLIC SCHOOL CODE TO REQUIRE SCHOOLS TO EMPHASIZE THE IMPORTANCE OF STUDENTS OBTAINING DENTAL EXAMINATIONS PRIOR TO ANNUAL SCHOOL ENROLLMENT; AMENDING SECTIONS OF THE PUBLIC ASSISTANCE ACT AND THE NONPROFIT HEALTH CARE PLAN LAW TO PROVIDE FOR REIMBURSEMENT OF DENTAL THERAPY; ENACTING A TEMPORARY PROVISION TO REQUIRE THE DEPARTMENT OF HEALTH TO CONDUCT AND REPORT ON A STUDY OF THE FIRST FIVE YEARS OF DENTAL THERAPY PRACTICE IN THE STATE.

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

2 SECTION 1. 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 and
6 welfare and to protect the public from the improper,
7 unprofessional, incompetent and unlawful practice of dentistry,
8 dental therapy and dental hygiene, it is necessary to provide
9 laws and rules controlling the granting and use of the
10 privilege to practice dentistry, dental therapy and dental
11 hygiene and to establish a board of dental health care and a
12 dental hygienists committee to implement and enforce those laws
13 and rules.

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

16 (1) to issue licenses to qualified dentists,
17 dental therapists and owners of dental practices;

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

21 (3) to issue licenses to dental hygienists
22 through the New Mexico dental hygienists committee;

23 (4) to discipline incompetent or
24 unprofessional dentists, dental therapists, dental assistants,
25 owners of dental practices and, through the dental hygienists

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1 committee, dental hygienists; and

2 (5) to aid in the rehabilitation of impaired
3 dentists and dental hygienists for the purpose of protecting
4 the public."

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

7 "61-5A-3. DEFINITIONS.--As used in the Dental Health Care
8 Act:

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

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

15 C. "certified dental assistant" means an individual
16 certified by the dental assisting national board;

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

20 E. "collaborative dental therapy agreement" means a
21 contract between a supervising dentist and a dental therapist
22 that outlines the parameters of care, level of supervision and
23 protocols to be followed while performing dental therapy
24 procedures on patients under their care;

25 F. "commercial dental service organization" means a

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1 for-profit entity that administers dental practices and employs
2 or contracts with dentists, dental hygienists or other dental
3 personnel, but otherwise does not hold a professional license
4 to provide dental services;

5 ~~[E.]~~ G. "committee" means the New Mexico dental
6 hygienists committee;

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

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

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

25 ~~[I.]~~ K. "dental assistant certified in expanded

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

3 ~~[J-]~~ L. "dental hygienist" means an individual who
4 has 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-]~~ M. "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-]~~ N. "dental technician" means an individual,
17 other than a licensed dentist, who fabricates, alters, repairs
18 or 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 a
21 dentist;

22 O. "dental therapist" means an individual who:
23 (1) is licensed as a dental hygienist;
24 (2) has provided, in accordance with board
25 rules, evidence to the board that the individual has graduated

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1 and received a degree from a school of dental therapy that is
2 accredited by the commission on dental accreditation; and

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

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

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

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

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

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

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

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

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

9 [P-] U. "general supervision" means the
10 authorization by a dentist of the procedures to be used by a
11 dental therapist, community dental health coordinator, dental
12 hygienist, dental assistant or dental student and the execution
13 of the procedures in accordance with a dentist's diagnosis and
14 treatment plan at a time the dentist is not physically present
15 and in facilities as designated by rule of the board;

16 [Q-] V. "indirect supervision" means that a
17 dentist, or in certain settings, a dental therapist, dental
18 hygienist or dental assistant certified in expanded functions,
19 is present in the treatment facility while authorized
20 treatments are being performed by a dental therapist, dental
21 hygienist, dental assistant or dental student;

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

25 [R-] X. "non-dentist owner" means an individual not

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1 licensed as a dentist in New Mexico or a corporate entity not
2 owned by a majority interest of a New Mexico licensed dentist
3 that employs or contracts with a dentist or dental hygienist to
4 provide dental or dental hygiene services;

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

8 ~~[T.]~~ Z. "teledentistry" means a dentist's use of
9 health information technology in real time to provide limited
10 diagnostic and treatment planning services in cooperation with
11 another dentist, a dental therapist, a dental hygienist, a
12 community dental health coordinator or a student enrolled in a
13 program of study to become a dental assistant, dental
14 hygienist, dental therapist or dentist."

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

17 "61-5A-5. LICENSE REQUIRED--EXEMPTIONS.--

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

- 20 (1) practice dentistry;
21 (2) use the title "dentist", "dental surgeon",
22 "oral surgeon" or any other title, abbreviation, letters,
23 figures, signs or devices that indicate the person is a
24 licensed dentist; or

25 (3) perform any of the acts enumerated under

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1 the definition of the practice of dentistry as defined in the
2 Dental Health Care Act.

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

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

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

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

19 (4) any dental hygiene or dental assisting
20 student duly enrolled in an accredited school of dental hygiene
21 or dental assisting engaged in procedures within or outside the
22 scope of dental hygiene that are part of the curriculum of that
23 program in the school setting and under the indirect
24 supervision of a faculty member of the accredited program who
25 is a licensed dentist, dental hygienist or dental assistant

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1 certified in the procedures being taught;

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

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

18 (7) dental assistants performing adjunctive
19 services to the provision of dental care, under the indirect
20 supervision of a dentist, as determined by rule of the board if
21 such services are not within the practice of dental hygiene as
22 specifically listed in Subsection B of Section 61-5A-4 NMSA
23 1978, unless allowed in Subsection E of this section;

24 (8) any dental therapy student enrolled in an
25 accredited school of dental therapy recognized by the board,

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1 while engaged in educational programs offered by the dental
2 therapy school in private offices, public clinics or
3 educational institutions within the state of New Mexico under
4 the indirect supervision of a licensed dentist; and

5 (9) a dental therapist who is licensed in New
6 Mexico working under the supervision of a dentist and
7 performing the procedures in accordance with the provisions of
8 Section 10 of this 2017 act.

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

11 (1) practice as a dental hygienist;

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

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

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

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

25 (2) dental assistants and community dental

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1 health coordinators working under general supervision who:

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

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

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

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

13 (3) dental assistants certified in expanded
14 functions, working under the indirect supervision of a dental
15 hygienist certified for collaborative practice and under the
16 protocols established in a collaborative practice agreement
17 with a consulting dentist.

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

21 (1) expose dental radiographs;

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

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

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

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

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

9 (1) place temporary and sedative restorative
10 material in unexcavated carious lesions and unprepared tooth
11 fractures;

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

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

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

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

24 G. Unless licensed as a dentist or non-dentist
25 owner, or as otherwise exempt from the licensing requirements

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1 of the Dental Health Care Act, no individual or corporate
2 entity shall:

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

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

10 H. The following, under stipulations described, may
11 function as a non-dentist owner without a New Mexico license:

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

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

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

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

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

25 (6) federally qualified health centers, as

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1 designated by the United States department of health and human
2 services, providing dental services;

3 (7) nonprofit community-based entities and
4 organizations that use public funds to provide dental and
5 dental hygiene services for indigent persons; and

6 (8) hospitals licensed by the department of
7 health."

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

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

13 A. enforce and administer the provisions of the
14 Dental Health Care Act and the Dental Amalgam Waste Reduction
15 Act;

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

19 (1) regulate the examination and licensure of
20 dentists and dental therapists and, through the committee,
21 regulate the examination and licensure of dental hygienists;

22 (2) provide for the examination and
23 certification of dental assistants by the board;

24 (3) provide for the regulation of dental
25 technicians by the board;

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1 (4) regulate the practice of dentistry, dental
2 therapy and dental assisting and, through the committee,
3 regulate the practice of dental hygiene; and

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

6 C. adopt and use a seal;

7 D. administer oaths to all applicants, witnesses
8 and others appearing before the board or the committee, as
9 appropriate;

10 E. keep an accurate record of all meetings,
11 receipts and disbursements;

12 F. grant, deny, review, suspend and revoke licenses
13 and certificates to practice dentistry, dental therapy, dental
14 assisting and, through the committee, dental hygiene and
15 censure, reprimand, fine and place on probation and stipulation
16 dentists, dental therapists, dental assistants and, through the
17 committee, dental hygienists, in accordance with the Uniform
18 Licensing Act for any cause stated in the Dental Health Care
19 Act and the Dental Amalgam Waste Reduction Act;

20 G. grant, deny, review, suspend and revoke licenses
21 to own dental practices and censure, reprimand, fine and place
22 on probation and stipulation non-dentist owners, in accordance
23 with the Uniform Licensing Act, for any cause stated in the
24 Dental Health Care Act and the Dental Amalgam Waste Reduction
25 Act;

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

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

12 J. establish ad hoc committees whose members shall
13 be appointed by the chair with the advice and consent of the
14 board or committee and shall include at least one member of the
15 board or committee as it deems necessary for carrying on its
16 business;

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

20 L. have the authority to hire or contract with
21 investigators to investigate possible violations of the Dental
22 Health Care Act and the Dental Amalgam Waste Reduction Act;

23 M. have the authority to issue investigative
24 subpoenas prior to the issuance of a notice of contemplated
25 action for the purpose of investigating complaints against

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1 dentists, dental therapists, dental assistants and, through the
2 committee, dental hygienists licensed under the Dental Health
3 Care Act and the Dental Amalgam Waste Reduction 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 or dental hygienist may
11 prescribe, administer or dispense in accordance with rules the
12 board has promulgated; and

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

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

19 "61-5A-15. CONTENT OF [~~LICENSE~~] LICENSES AND
20 CERTIFICATES--DISPLAY OF [~~LICENSE--RENEWALS--RETIRE LICENSE~~]
21 LICENSES AND CERTIFICATES.--

22 A. All dental licenses issued by the board shall
23 bear:

24 (1) a serial number;

25 (2) the full name of the licensee;

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- 1 (3) the date of issue;
- 2 (4) the seal of the board;
- 3 (5) if the license is a specialty license, the
- 4 specialty to which practice is limited;
- 5 (6) the signatures of a majority of the board
- 6 members; and
- 7 (7) the attestation of the board president and
- 8 secretary.

9 B. All dental therapy licenses issued by the board
10 shall 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 board
- 16 members; and
- 17 (6) the attestation of the board president and
- 18 secretary.

19 [~~B.~~] C. All dental hygienist licenses issued by the
20 board shall bear:

- 21 (1) a serial number;
- 22 (2) the full name of the licensee;
- 23 (3) the date of issue;
- 24 (4) the seal of the board;
- 25 (5) the signatures of a majority of the

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1 committee members; and

2 (6) the attestation of the board president and
3 secretary.

4 ~~[G.]~~ D. Certificates issued to dental assistants
5 shall bear:

6 (1) a serial number;
7 (2) the full name of the assistant;
8 (3) the date of issue;
9 (4) the date of expiration;
10 (5) the expanded functions certified to
11 perform; and

12 (6) the attestation of the board secretary.

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

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

20 "61-5A-17. RETIREMENT AND INACTIVE STATUS--
21 REACTIVATION.--

22 A. ~~[Any dentist or dental hygienist]~~ A licensee who
23 wishes to retire from ~~[the]~~ practice ~~[of dentistry or dental~~
24 ~~hygiene]~~ shall meet all requirements for retirement as set by
25 rules of the board, and, if the licensee is a dental hygienist,

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1 the committee. The licensee shall notify the board or the
2 committee in writing before the expiration of the licensee's
3 current license, and the secretary of the board or the
4 committee shall acknowledge the receipt of notice and record
5 ~~[the same]~~ it. If, within a period of three years from the
6 date of retirement, the ~~[dentist or dental hygienist]~~ licensee
7 wishes to resume practice, the applicant shall ~~[so]~~ notify the
8 board or the committee in writing and give proof of completing
9 all requirements as prescribed by rules of the board and the
10 committee to reactivate the license.

11 B. At any time during the three-year period
12 following retirement, a ~~[dentist or dental hygienist]~~ licensee
13 with a retired New Mexico license may request in writing to the
14 board or the committee that ~~[his]~~ the licensee's license be
15 placed in inactive status. Upon the receipt of the application
16 and fees as determined by the board or the committee and with
17 the approval of the board or the committee, the license may be
18 placed in inactive status.

19 C. A licensee whose license has been placed in
20 inactive status may not engage in any of the activities
21 contained within the scope of practice of dentistry, dental
22 therapy or dental hygiene in New Mexico described in ~~[Section~~
23 ~~61-5A-4 NMSA 1978]~~ the Dental Health Care Act.

24 D. Licensees with inactive licenses must renew
25 their licenses triennially and comply with all the requirements

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1 set by the board and, if the licensee is a dental hygienist, by
2 the committee.

3 E. If a licensee with an inactive license wishes to
4 resume ~~[the]~~ active practice ~~[of dentistry or dental hygiene]~~,
5 the licensee must notify the board or, if the licensee is a
6 dental hygienist, the committee, in writing and provide proof
7 of completion of all requirements to reactivate the license as
8 prescribed by rule of the board or the committee. Upon payment
9 of all fees due, the board may reactivate the license and the
10 licensee may resume ~~[the]~~ practice ~~[of dentistry or dental~~
11 ~~hygiene]~~ subject to any stipulations of the board or the
12 committee.

13 F. Inactive licenses must be reactivated or
14 permanently retired within nine years of having been placed in
15 inactive status.

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

18 SECTION 7. Section 61-5A-19 NMSA 1978 (being Laws 1994,
19 Chapter 55, Section 19) is amended to read:

20 "61-5A-19. REINSTATEMENT OF REVOKED OR SUSPENDED
21 LICENSE.--

22 A. Unless otherwise stated in the order of
23 revocation, a motion for reinstatement of a revoked license may
24 not be filed for a period of at least three years from the
25 effective date of the revocation.

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

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

17 D. [~~Suspended dentists or dental hygienists~~
18 ~~indefinite suspension~~] Procedure for reinstatement of licensees
19 who have been suspended for an indefinite period of time is as
20 follows:

21 (1) a licensee who has been suspended for an
22 indefinite period of time may, at any time after complying with
23 the conditions of reinstatement, file a petition for
24 reinstatement with the board or committee;

25 (2) the petition shall be referred to the

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1 board or committee for hearing [~~under~~] pursuant to provisions
2 of Subsection E of this section; and

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

6 E. Procedure for reinstatement hearings [~~are~~] is as
7 follows:

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

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

21 (3) the board or committee shall file its
22 findings of fact, conclusions of law and decision within ninety
23 days of the hearing; and

24 (4) the board's or committee's decision to
25 refuse to reinstate a license shall not be reviewable except

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1 for an abuse of discretion."

2 SECTION 8. Section 61-5A-20 NMSA 1978 (being Laws 1994,
3 Chapter 55, Section 20, as amended) is amended to read:

4 "61-5A-20. FEES.--The board and the committee shall
5 establish a schedule of reasonable fees not to exceed the
6 following:

	<u>Dentists</u>	<u>Dental Hygienists</u>
7		
8 A. licensure by examination	\$1,500	\$1,000
9 B. licensure by credential	\$3,000	\$1,500
10 C. specialty license by		
11 examination	\$1,500	
12 D. specialty license by		
13 credential	\$3,000	
14 E. temporary license		
15 48 hours	\$ 50	\$ 50
16 six months	\$ 300	\$ 200
17 12 months	\$ 450	\$ 300
18 F. application for		
19 certification in local		
20 anesthesia		\$ 40
21 G. examination in local		
22 anesthesia		\$ 150
23 H. triennial license renewal	\$ 600	\$ 450
24 I. late renewal	\$ 100	\$ 100
25 J. reinstatement of license	\$ 450	\$ 300

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

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

24 "61-5A-21. DISCIPLINARY PROCEEDINGS--APPLICATION OF
25 UNIFORM LICENSING ACT.--

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

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

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

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

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

23 (5) is guilty of unprofessional conduct as
24 defined by rule;

25 (6) is guilty of any violation of the

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1 Controlled Substances Act;

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

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

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

11 (10) is guilty of obtaining or attempting to
12 obtain any fee by fraud or misrepresentation or has otherwise
13 acted in a manner or by conduct likely to deceive, defraud or
14 harm the public;

15 (11) is guilty of patient abandonment;

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

21 (13) has had a license, certificate or
22 registration to practice as a dentist, dental therapist or
23 dental hygienist revoked, suspended, denied, stipulated or
24 otherwise limited in any jurisdiction, territory or possession
25 of the United States or another country for actions of the

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1 licensee similar to acts described in this subsection. A
2 certified copy of the decision of the jurisdiction taking such
3 disciplinary action will be conclusive evidence; or

4 (14) has failed to furnish the board, its
5 investigators or its representatives with information
6 requested by the board or the committee in the course of an
7 official investigation.

8 B. Disciplinary proceedings may be instituted by
9 sworn complaint by any person, including a board or committee
10 member, and shall conform with the provisions of the Uniform
11 Licensing Act.

12 C. Licensees and certificate holders shall bear
13 the costs of disciplinary proceedings unless exonerated.

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

17 E. Licensees whose licenses are in a probationary
18 status shall pay reasonable expenses for maintaining
19 probationary status, including but not limited to laboratory
20 costs when laboratory testing of biological fluids or
21 accounting costs when audits are included as a condition of
22 probation."

23 SECTION 10. A new section of the Dental Health Care Act
24 is enacted to read:

25 "[NEW MATERIAL] DENTAL THERAPIST LICENSURE--

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1 REQUIREMENTS.--The board shall license as a dental therapist
2 any individual who, in accordance with board rules:

3 A. provides evidence of licensure as a dental
4 hygienist;

5 B. provides evidence of having graduated and
6 received a degree from a dental therapy school accredited by
7 the commission on dental accreditation;

8 C. has passed a written examination covering the
9 statutes and rules relating to the practice of dental therapy
10 in the state within a time frame established in board rules;

11 D. has passed a practical or clinical examination
12 on the practice of dental therapy administered by the board or
13 its agent that reasonably tests the individual's skill in
14 practicing dental therapy; and

15 E. has paid any requisite fees and complied with
16 any other reasonable requirements for licensure as a dental
17 therapist that the board has established by rule."

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

20 "[NEW MATERIAL] DENTAL THERAPY--SCOPE OF PRACTICE--
21 SUPERVISION.--

22 A. A dental therapist shall provide care under the
23 supervision of a dentist in accordance with a collaborative
24 dental therapy agreement that meets the requirements
25 established in Subsection B of this section and in board

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1 rules.

2 B. The practice of dental therapy is limited to:

3 (1) the following activities performed under
4 general supervision:

5 (a) oral evaluation and assessment of
6 dental disease;

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

9 (c) place and shape direct restorations
10 without mechanical preparation;

11 (d) impressions for single-tooth
12 removable prosthesis;

13 (e) temporary cementation;

14 (f) atraumatic restorative therapy;

15 (g) temporary and sedative
16 restorations;

17 (h) extraction of primary teeth without
18 radiological evidence of roots;

19 (i) palliative treatments;

20 (j) fabrication and placement of
21 temporary crowns;

22 (k) recementation of permanent crowns;

23 (l) removal and nonsurgical placement
24 of space maintainers;

25 (m) repairs and adjustments to

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1 prostheses;

2 (n) tissue conditioning;

3 (o) dispensing and administration of
4 analgesics, anti-inflammatory substances and antibiotics that
5 a supervising dentist prescribes; and

6 (p) other closely related procedures
7 that the board authorizes through rules it has adopted and
8 promulgated; and

9 (2) the following activities performed under
10 indirect supervision:

11 (a) preparation and direct restoration
12 of prepared cavities in primary and permanent teeth; and

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

15 C. No dentist shall supervise more than three
16 dental therapists at any time."

17 SECTION 12. A new section of the Dental Health Care Act
18 is enacted to read:

19 "[NEW MATERIAL] DENTAL THERAPY--PRACTICE ENVIRONMENTS.--
20 A dental therapist shall practice only in the following
21 environments:

22 A. a class B or class C county, excluding a group
23 practice that is owned or operated by a commercial dental
24 service organization;

25 B. a health facility operated by the federal

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1 Indian health service;

2 C. a health facility that a tribe operates under
3 Section 638 of the federal Indian Self-Determination and
4 Education Assistance Act;

5 D. a federally qualified health center;

6 E. a facility certified by the federal centers for
7 medicare and medicaid services as a "federally qualified
8 health center look-alike" facility;

9 F. a private residence or a facility in which an
10 individual receives long-term community-based services under
11 the state's medicaid program;

12 G. a long-term care facility;

13 H. a private residence, when exclusively to treat
14 an individual who, due to disease, disability or condition, is
15 unable to receive care in a dental facility; or

16 I. an educational institution engaged in the
17 training of dental therapists accredited by the commission on
18 dental accreditation."

19 SECTION 13. A new section of the Public Health Act is
20 enacted to read:

21 "[NEW MATERIAL] DEPARTMENT OF HEALTH--ANNUAL REPORT.--
22 The department of health shall investigate and recommend
23 legislative actions related to access to dental health care
24 statewide. At a minimum, the department shall make
25 recommendations in a written report by October 1, 2018 and

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1 each October 1 thereafter to the legislative health and human
2 services committee and the legislative finance committee on
3 the following:

4 A. the status of dental health care professional
5 education loan-for-service programming;

6 B. the feasibility of establishing a program
7 allowing bachelor of arts degree recipients to matriculate
8 directly to dental school for a doctor of dental science or
9 doctor of dental surgery degree;

10 C. the status of the state's medicaid program,
11 including:

12 (1) simplification of administrative
13 procedures regarding the provision of dental health care to
14 medicaid recipients; and

15 (2) changes to reimbursement levels that
16 would encourage dental health care professionals to accept
17 more medicaid recipients as patients; and

18 D. the number of dental health care professionals
19 taking advantage of the rural health care practitioner tax
20 credit."

21 SECTION 14. A new section of the Public Health Act is
22 enacted to read:

23 "[NEW MATERIAL] STATE DENTAL DIRECTOR.--The "office of
24 the state dental director" is created in the department of
25 health. The secretary shall appoint a "state dental

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1 director", who shall be a dental health care professional
2 licensed pursuant to the Dental Health Care Act, to lead
3 public health efforts related to oral disease."

4 SECTION 15. A new section of the Public School Code is
5 enacted to read:

6 "[NEW MATERIAL] DENTAL EXAMINATION EDUCATION--
7 OUTREACH.--

8 A. As of July 1, 2020, schools shall emphasize to
9 parents the importance of each student obtaining a dental
10 examination that meets standards established pursuant to
11 department rules prior to initial enrollment. The rules shall
12 specify that students shall obtain dental examinations at
13 their own expense or at the expense of any dental health
14 coverage they have.

15 B. By July 1, 2019, the secretary shall:

16 (1) adopt and promulgate rules to prescribe
17 the requirements for dental examination pursuant to this
18 section; and

19 (2) provide extensive education statewide
20 for parents and guardians explaining the requirements for
21 dental examination and providing information regarding where
22 they may receive referrals to dental health care professionals
23 statewide who are authorized to perform dental examinations in
24 accordance with those rules.

25 C. Beginning July 1, 2020, the department shall

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1 collect data regarding student compliance with the provisions
2 of Subsection A of this section and make an annual written
3 report of that data to the legislative finance committee and
4 the legislative health and human services committee."

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

7 "26-1-2. DEFINITIONS.--As used in the New Mexico Drug,
8 Device and Cosmetic Act:

9 A. "board" means the board of pharmacy or its duly
10 authorized agent;

11 B. "person" includes an individual, partnership,
12 corporation, association, institution or establishment;

13 C. "biological product" means a virus, therapeutic
14 serum, toxin, antitoxin or analogous product applicable to the
15 prevention, treatment or cure of diseases or injuries of
16 humans and domestic animals, and, as used within the meaning
17 of this definition:

18 (1) a "virus" is interpreted to be a product
19 containing the minute living cause of an infectious disease
20 and includes filterable viruses, bacteria, rickettsia, fungi
21 and protozoa;

22 (2) a "therapeutic serum" is a product
23 obtained from blood by removing the clot or clot components
24 and the blood cells;

25 (3) a "toxin" is a product containing a

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1 soluble substance poisonous to laboratory animals or humans in
2 doses of one milliliter or less of the product and, following
3 the injection of nonfatal doses into an animal, having the
4 property of or causing to be produced therein another soluble
5 substance that specifically neutralizes the poisonous
6 substance and that is demonstrable in the serum of the animal
7 thus immunized; and

8 (4) an "antitoxin" is a product containing
9 the soluble substance in serum or other body fluid of an
10 immunized animal that specifically neutralizes the toxin
11 against which the animal is immune;

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

15 E. "drug" means articles:

16 (1) recognized in an official compendium;

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

25 (3) other than food, that affect the

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1 structure or any function of the human body or the bodies of
2 other animals; and

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

6 F. "dangerous drug" means a drug, other than a
7 controlled substance enumerated in Schedule I of the
8 Controlled Substances Act, that because of a potentiality for
9 harmful effect or the method of its use or the collateral
10 measures necessary to its use is not safe except under the
11 supervision of a practitioner licensed by law to direct the
12 use of such drug and hence for which adequate directions for
13 use cannot be prepared. "Adequate directions for use" means
14 directions under which the layperson can use a drug or device
15 safely and for the purposes for which it is intended. A drug
16 shall be dispensed only upon the prescription or drug order of
17 a practitioner licensed by law to administer or prescribe the
18 drug if it:

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

23 (2) because of its toxicity or other
24 potential for harmful effect or the method of its use or the
25 collateral measures necessary to its use is not safe for use

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1 except under the supervision of a practitioner licensed by law
2 to administer or prescribe the drug;

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

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

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

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

13 G. "counterfeit drug" means a drug that is
14 deliberately and fraudulently mislabeled with respect to its
15 identity, ingredients or sources. Types of such
16 pharmaceutical counterfeits may include:

17 (1) "identical copies", which are
18 counterfeits made with the same ingredients, formulas and
19 packaging as the originals but not made by the original
20 manufacturer;

21 (2) "look-alikes", which are products that
22 feature high-quality packaging and convincing appearances but
23 contain little or no active ingredients and may contain
24 harmful substances;

25 (3) "rejects", which are drugs that have

1 been rejected by the manufacturer for not meeting quality
2 standards; and

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

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

14 (1) recognized in an official compendium;

15 (2) intended for use in the diagnosis of
16 disease or other conditions or in the cure, mitigation,
17 treatment or prevention of disease in humans or other animals;
18 or

19 (3) intended to affect the structure or a
20 function of the human body or the bodies of other animals and
21 that does not achieve any of its principal intended purposes
22 through chemical action within or on the human body or the
23 bodies of other animals and that is not dependent on being
24 metabolized for achievement of any of its principal intended
25 purposes;

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1 I. "prescription" means an order given
2 individually for the person for whom prescribed, either
3 directly from a licensed practitioner or the practitioner's
4 agent to the pharmacist, including by means of electronic
5 transmission, or indirectly by means of a written order signed
6 by the prescriber, and bearing the name and address of the
7 prescriber, the prescriber's license classification, the name
8 and address of the patient, the name and quantity of the drug
9 prescribed, directions for use and the date of issue;

10 J. "practitioner" means a certified advanced
11 practice chiropractic physician, physician, doctor of oriental
12 medicine, dentist, dental therapist, dental hygienist,
13 veterinarian, euthanasia technician, certified nurse
14 practitioner, clinical nurse specialist, pharmacist,
15 pharmacist clinician, certified nurse-midwife, physician
16 assistant, prescribing psychologist, [~~dental hygienist~~]
17 optometrist or other person licensed or certified to prescribe
18 and administer drugs that are subject to the New Mexico Drug,
19 Device and Cosmetic Act;

20 K. "cosmetic" means:
21 (1) articles intended to be rubbed, poured,
22 sprinkled or sprayed on, introduced into or otherwise applied
23 to the human body or any part thereof for cleansing,
24 beautifying, promoting attractiveness or altering the
25 appearance; and

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

4 L. "official compendium" means the official United
5 States pharmacopoeia national formulary or the official
6 homeopathic pharmacopoeia of the United States or any
7 supplement to either of them;

8 M. "label" means a display of written, printed or
9 graphic matter upon the immediate container of an article. A
10 requirement made by or under the authority of the New Mexico
11 Drug, Device and Cosmetic Act that any word, statement or
12 other information appear on the label shall not be considered
13 to be complied with unless the word, statement or other
14 information also appears on the outside container or wrapper,
15 if any, of the retail package of the article or is easily
16 legible through the outside container or wrapper;

17 N. "immediate container" does not include package
18 liners;

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

21 (1) on an article or its containers or
22 wrappers; or

23 (2) accompanying an article;

24 P. "misbranded" means a label to an article that
25 is misleading. In determining whether the label is

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1 misleading, there shall be taken into account, among other
2 things, not only representations made or suggested by
3 statement, word, design, device or any combination of the
4 foregoing, but also the extent to which the label fails to
5 reveal facts material in the light of such representations or
6 material with respect to consequences that may result from the
7 use of the article to which the label relates under the
8 conditions of use prescribed in the label or under such
9 conditions of use as are customary or usual;

10 Q. "advertisement" means all representations
11 disseminated in any manner or by any means, other than by
12 labeling, for the purpose of inducing, or that are likely to
13 induce, directly or indirectly, the purchase of drugs, devices
14 or cosmetics;

15 R. "antiseptic", when used in the labeling or
16 advertisement of an antiseptic, shall be considered to be a
17 representation that it is a germicide, except in the case of a
18 drug purporting to be or represented as an antiseptic for
19 inhibitory use as a wet dressing, ointment, dusting powder or
20 such other use as involves prolonged contact with the body;

21 S. "new drug" means a drug:

22 (1) the composition of which is such that
23 the drug is not generally recognized, among experts qualified
24 by scientific training and experience to evaluate the safety
25 and efficacy of drugs, as safe and effective for use under the

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1 conditions prescribed, recommended or suggested in the
2 labeling thereof; or

3 (2) the composition of which is such that
4 the drug, as a result of investigation to determine its safety
5 and efficacy for use under such conditions, has become so
6 recognized, but that has not, otherwise than in such
7 investigations, been used to a material extent or for a
8 material time under such conditions;

9 T. "contaminated with filth" applies to a drug,
10 device or cosmetic not securely protected from dirt, dust and,
11 as far as may be necessary by all reasonable means, from all
12 foreign or injurious contaminations, or a drug, device or
13 cosmetic found to contain dirt, dust, foreign or injurious
14 contamination or infestation;

15 U. "selling of drugs, devices or cosmetics" shall
16 be considered to include the manufacture, production,
17 processing, packing, exposure, offer, possession and holding
18 of any such article for sale and the sale and the supplying or
19 applying of any such article in the conduct of a drug or
20 cosmetic establishment;

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

22 (1) is a dye, pigment or other substance
23 made by a process of synthesis or similar artifice or
24 extracted, isolated or otherwise derived, with or without
25 intermediate or final change of identity, from a vegetable,

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1 mineral, animal or other source; or

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

8 W. "federal act" means the Federal Food, Drug, and
9 Cosmetic Act;

10 X. "restricted device" means a device for which
11 the sale, distribution or use is lawful only upon the written
12 or oral authorization of a practitioner licensed by law to
13 administer, prescribe or use the device and for which the
14 federal food and drug administration requires special training
15 or skills of the practitioner to use or prescribe. This
16 definition does not include custom devices defined in the
17 federal act and exempt from performance standards or premarket
18 approval requirements under Section 520(b) of the federal act;

19 Y. "prescription device" means a device that,
20 because of its potential for harm, the method of its use or
21 the collateral measures necessary to its use, is not safe
22 except under the supervision of a practitioner licensed in
23 this state to direct the use of such device and for which
24 "adequate directions for use" cannot be prepared, but that
25 bears the label: "Caution: federal law restricts this device

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1 to sale by or on the order of a _____", the blank to be
2 filled with the word "physician", "physician assistant",
3 "certified advanced practice chiropractic physician", "doctor
4 of oriental medicine", "dentist", "dental therapist", "dental
5 hygienist", "veterinarian", "euthanasia technician",
6 "certified nurse practitioner", "clinical nurse specialist",
7 "pharmacist", "pharmacist clinician", "certified nurse-
8 midwife", [~~or "dental hygienist"~~] "optometrist" or with the
9 descriptive designation of any other practitioner licensed in
10 this state to use or order the use of the device;

11 Z. "valid practitioner-patient relationship" means
12 a professional relationship, as defined by the practitioner's
13 licensing board, between the practitioner and the patient;

14 AA. "pedigree" means the recorded history of a
15 drug; and

16 BB. "drug order" means an order either directly
17 from a licensed practitioner or the practitioner's agent to
18 the pharmacist, including by means of electronic transmission
19 or indirectly by means of a written order signed by the
20 licensed practitioner or the practitioner's agent, and bearing
21 the name and address of the practitioner and the
22 practitioner's license classification and the name and
23 quantity of the drug or device ordered for use at an inpatient
24 or outpatient facility."

25 SECTION 17. Section 27-2-12 NMSA 1978 (being Laws 1973,

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1 Chapter 376, Section 16, as amended) is amended to read:

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

3 A. Consistent with the federal act and subject to
4 the appropriation and availability of federal and state funds,
5 the medical assistance division of the department may by rule
6 provide medical assistance, including the services of licensed
7 doctors of oriental medicine, licensed chiropractic
8 physicians, licensed dental therapists and licensed dental
9 hygienists in collaborating practice, to persons eligible for
10 public assistance programs under the federal act.

11 B. Subject to appropriation and availability of
12 federal, state or other funds received by the state from
13 public or private grants or donations, the medical assistance
14 division of the department may by rule provide medical
15 assistance, including assistance in the payment of premiums
16 for medical or long-term care insurance, to children up to the
17 age of twelve if not part of a sibling group; children up to
18 the age of eighteen if part of a sibling group that includes a
19 child up to the age of twelve; and pregnant women who are
20 residents of the state of New Mexico and who are ineligible
21 for public assistance under the federal act. The department,
22 in implementing the provisions of this subsection, shall:

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

25 (2) not provide a benefit package that

.205090.3

underscored material = new
[bracketed material] = delete

1 exceeds the benefit package provided to state employees."

2 SECTION 18. Section 59A-47-28.4 NMSA 1978 (being Laws
3 2003, Chapter 343, Section 4) is amended to read:

4 "59A-47-28.4. COVERAGE FOR COLLABORATIVE PRACTICE--
5 DENTAL THERAPISTS--DENTAL HYGIENISTS.--An individual or group
6 subscriber contract delivered or issued for delivery in New
7 Mexico that, on a prepaid, service or indemnity basis,
8 provides for treatment of persons for the prevention, cure or
9 correction of any illness or physical or mental condition
10 shall include coverage for the services of a dental therapist
11 and a dental hygienist in a collaborative practice pursuant to
12 the Dental Health Care Act."

13 SECTION 19. TEMPORARY PROVISION--OUTCOME REPORT.--The
14 department of health shall conduct an outcome report on the
15 first five years of dental therapy practice in the state
16 pursuant to this act. At a date five years following the date
17 of the first issuance of a license to practice dental therapy
18 in the state, the department of health shall consult with the
19 New Mexico board of dental health care, the New Mexico dental
20 hygienists' association and the New Mexico dental association
21 to compile and issue a report to the legislative health and
22 human services committee of the department's findings and
23 recommendations regarding dental therapy, including:

- 24 A. its efficacy, effectiveness and cost;
- 25 B. its impact on access to dental health care;

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

- 1 C. the distribution of dental therapists
- 2 statewide;
- 3 D. demographic representation among dental
- 4 therapists;
- 5 E. issues related to supervision of dental
- 6 therapists and their scope of practice;
- 7 F. evaluation of services delivered under indirect
- 8 supervision for recommendation to general supervision; and
- 9 G. evaluation of services delivered under general
- 10 supervision for recommendation to indirect supervision.

11 SECTION 20. EFFECTIVE DATE.--

- 12 A. The effective date of the provisions of
- 13 Sections 1 through 13 and 15 through 19 of this act is June
- 14 16, 2017.
- 15 B. The effective date of the provisions of Section
- 16 14 of this act is June 16, 2019.