

HOUSE HEALTH AND HUMAN SERVICES COMMITTEE SUBSTITUTE FOR
HOUSE BILL 308

54TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2019

Pursuant to House Rule 24-1, this document incorporates amendments that have been adopted prior to consideration of this measure by the House. It is a tool to show the amendments in context and is not to be used for the purpose of amendments.

AN ACT

RELATING TO DENTAL HEALTH CARE; AMENDING AND ENACTING SECTIONS OF THE DENTAL HEALTH CARE ACT TO ESTABLISH THE PROFESSION OF DENTAL THERAPIST; ENACTING A PROVISION OF THE DEPARTMENT OF HEALTH ACT TO ESTABLISH MINIMUM QUALIFICATIONS FOR THE DIRECTOR OF THE OFFICE OF ORAL HEALTH; ENACTING A SECTION OF THE PUBLIC SCHOOL CODE TO REQUIRE STUDENTS TO OBTAIN OR OPT OUT OF 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 NEW SECTION OF THE PUBLIC HEALTH ACT TO REQUIRE

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REPORTING ON DENTAL HEALTH CARE ACCESS AND THE STATUS OF THE DENTAL THERAPIST LICENSURE PROGRAM; 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.

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

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

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

~~A. In the interest of the public health, safety and welfare and to protect the public from the improper, unprofessional, incompetent and unlawful practice of dentistry, dental therapy and dental hygiene, it is necessary to provide laws and rules controlling the granting and use of the privilege to practice dentistry, dental therapy and dental hygiene and to establish a board of dental health care and a dental hygienists committee to implement and enforce those laws and rules.~~

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

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

~~(2) to certify qualified dental assistants,~~

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~~expanded-function dental auxiliaries and community dental health coordinators;~~
~~(3) to issue licenses to dental hygienists through the New Mexico dental hygienists committee;~~
~~(4) to discipline incompetent or unprofessional dentists, dental therapists, dental assistants, owners of dental practices and, through the dental hygienists committee, dental hygienists; and~~
~~(5) to aid in the rehabilitation of impaired dentists and dental hygienists for the purpose of protecting the public."~~←SJC

SECTION SJC→2. 1.←SJC Section 61-5A-3 NMSA 1978 (being Laws 1994, Chapter 55, Section 3, as amended) is amended to read:

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

- A. "assessment" means the review and documentation of the oral condition, and the recognition and documentation of deviations from the healthy condition, without a diagnosis to determine the cause or nature of disease or its treatment;
- B. "board" means the New Mexico board of dental health care;
- C. "certified dental assistant" means an individual certified by the dental assisting national board;
- D. "collaborative dental hygiene practice" means a New Mexico licensed dental hygienist practicing according to Subsections D through G of Section 61-5A-4 NMSA 1978;
- E. "committee" means the New Mexico dental

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hygienists committee;

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

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

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

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

J. "dental hygienist" means an individual who has graduated and received a degree from a dental hygiene

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educational program that is accredited by the commission on dental accreditation, that provides a minimum of two academic years of dental hygiene curriculum and that is an institution of higher education; and "dental hygienist" means, except as the context otherwise requires, an individual who holds a license to practice dental hygiene in New Mexico;

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

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

M. "dental therapist" means an individual who:

(1) is licensed as a dental hygienist;

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

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

N. "dental therapy post-graduate clinical experience" means advanced training in patient management and

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technical competency:

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

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

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

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

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

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

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

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

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

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

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

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

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

[P.] U. "general supervision" means the authorization by a dentist of the procedures to be used by a dental therapist, community dental health coordinator, dental hygienist, dental assistant or dental student and the execution

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of the procedures in accordance with a dentist's diagnosis and treatment plan at a time the dentist is not physically present and in facilities as designated by rule of the board;

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

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

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

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

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

(2) has demonstrated to the taxation and revenue department that it has been granted exemption from the federal income tax by the United States commissioner of

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internal revenue as an organization described in Section 501(c)(3) of the United States Internal Revenue Code of 1986, as amended or renumbered;

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

[¶.] AA. "teledentistry" means a dentist's use of health information technology in real time to provide limited diagnostic and treatment planning services in cooperation with another dentist, a dental therapist, a dental hygienist, a community dental health coordinator or a student enrolled in a program of study to become a dental assistant, dental hygienist, dental therapist or dentist."

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

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

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

- (1) practice dentistry;
- (2) use the title "dentist", "dental surgeon", "oral surgeon" or any other title, abbreviation, letters, figures, signs or devices that indicate the person is a licensed dentist; or
- (3) perform any of the acts enumerated under the definition of the practice of dentistry as defined in the Dental Health Care Act.

B. The following, under the stipulations described,

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may practice dentistry or an area of dentistry without a New Mexico dental license:

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

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

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

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

(5) unlicensed persons performing for a

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

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

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

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

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(9) a dental therapist who is licensed in New Mexico working under the supervision of a dentist and performing the procedures in accordance with the provisions of Section SJC→10 9←SJC of this 2019 act.

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

(1) practice as a dental therapist;

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

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

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

(1) practice as a dental hygienist;

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

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

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

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

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

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

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

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

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

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

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

(1) expose dental radiographs;

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

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

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

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

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

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

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

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

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

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

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board.

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

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

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

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

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

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

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

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

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

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

(7) nonprofit [~~community-based entities and~~ community dental organizations [~~that use public funds to provide dental and dental hygiene services for indigent persons~~]; and

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

SECTION SJC→4. 3.←SJC Section 61-5A-10 NMSA 1978 (being Laws 1994, Chapter 55, Section 10, as amended) is amended to read:

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

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

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

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

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

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

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

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

C. adopt and use a seal;

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

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

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

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

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Act;

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

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

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

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

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

M. have the authority to issue investigative

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subpoenas prior to the issuance of a notice of contemplated action for the purpose of investigating complaints against dentists, dental therapists, dental assistants and, through the committee, dental hygienists licensed under the Dental Health Care Act and the Dental Amalgam Waste Reduction Act;

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

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

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

SECTION SJC→5. 4.←SJC Section 61-5A-15 NMSA 1978 (being Laws 1994, Chapter 55, Section 15) is amended to read:

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

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

- (1) a serial number;
- (2) the full name of the licensee;
- (3) the date of issue;

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

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

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

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

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

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committee members; and

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

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

- (1) a serial number;
- (2) the full name of the assistant;
- (3) the date of issue;
- (4) the date of expiration;
- (5) the expanded functions certified to perform; and
- (6) the attestation of the board secretary.

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

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

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

A. [~~Any dentist or dental hygienist~~] A licensee who wishes to retire from [the] practice [~~of dentistry or dental hygiene~~] shall meet all requirements for retirement as set by rules of the board, and, if the licensee is a dental hygienist, the committee. The licensee shall notify the board or the committee in writing before the expiration of the licensee's

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current license, and the secretary of the board or the committee shall acknowledge the receipt of notice and record ~~[the same]~~ it. If, within a period of three years from the date of retirement, the ~~[dentist or dental hygienist]~~ licensee wishes to resume practice, the applicant shall ~~[so]~~ notify the board or the committee in writing and give proof of completing all requirements as prescribed by rules of the board and the committee to reactivate the license.

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

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

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

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the committee.

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

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

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

SECTION SJC→7. 6.←SJC Section 61-5A-19 NMSA 1978 (being Laws 1994, Chapter 55, Section 19) is amended to read:

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

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

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

C. A licensee who has been suspended for a specific

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period of time shall be automatically reinstated at the expiration of the period specified in the order of suspension. The suspended [~~dentist or dental hygienist will~~] licensee shall automatically be reinstated as of the day after the expiration of the period of suspension; provided that prior to the expiration of such time if the administrative prosecutor has filed with the board or committee the written objections, the suspended [~~dentist or dental hygienist~~] licensee shall not be automatically reinstated. Should objections be filed, the petition for reinstatement shall be referred to the board or committee for hearing [~~under~~] pursuant to provisions of Subsection E of this section.

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

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

(2) the petition shall be referred to the board or committee for hearing [~~under~~] pursuant to provisions of Subsection E of this section; and

(3) if the motion for reinstatement is denied,

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no further motions for reinstatement will be considered for a period of one year.

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

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

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

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

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

SECTION SJC→~~8.~~ **7.**←SJC Section 61-5A-20 NMSA 1978 (being Laws 1994, Chapter 55, Section 20, as amended) is amended to read:

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

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following:

	Dentists	Dental Hygienists
A. licensure by examination	\$1,500	\$1,000
B. licensure by credential	\$3,000	\$1,500
C. specialty license by examination	\$1,500	
D. specialty license by credential	\$3,000	
E. temporary license		
48 hours	\$ 50	\$ 50
six months	\$ 300	\$ 200
12 months	\$ 450	\$ 300
F. application for certification in local anesthesia		\$ 40
G. examination in local anesthesia		\$ 150
H. triennial license renewal	\$ 600	\$ 450
I. late renewal	\$ 100	\$ 100
J. reinstatement of license	\$ 450	\$ 300
K. administrative fees	\$ 300	\$ 300
L. impaired dentist or dental hygienist	\$ 150	\$ 75

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- M. assistant, expanded-function
dental auxiliary or
community dental health
coordinator certificate \$ 100
 - N. application for certification for
collaborative practice \$ 150
 - O. annual renewal for
collaborative practice \$ 50
 - P. application for inactive
status \$ 50 \$ 50
 - Q. triennial renewal of
inactive license \$ 90 \$ 90
- Non-dentist Owners
- R. non-dentist owners license (initial) \$ 300
 - S. non-dentist owners license triennial renewal \$ 150
- Dental Therapists
- T. dental therapist license (initial) \$1,000
 - U. dental therapist license triennial renewal \$ 300."

SECTION SJC→9. 8.←SJC Section 61-5A-21 NMSA 1978 (being
Laws 1994, Chapter 55, Section 21, as amended) is amended to
read:

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

A. In accordance with the Uniform Licensing Act and
rules of the board, the board and, as relates to dental
hygienist licensure, committee may fine and may deny, revoke,
suspend, stipulate or otherwise limit any license or
certificate, including those of licensed non-dentist owners,

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held or applied for under the Dental Health Care Act, upon findings by the board or the committee that the licensee, certificate holder or applicant:

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

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

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

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

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

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

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

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

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

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

(11) is guilty of patient abandonment;

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

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

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

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investigation.

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

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

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

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

SECTION SJC→10. 9.←SJC A new section of the Dental Health Care Act is enacted to read:

"[NEW MATERIAL] DENTAL THERAPIST LICENSURE-- REQUIREMENTS.--

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

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

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

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

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

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

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

SECTION SJC→~~11.~~ 10.←SJC A new section of the Dental Health Care Act is enacted to read:

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

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

(1) the following activities performed under general supervision:

(a) oral evaluation and assessment of dental disease;

(b) formulation of an individualized

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treatment plan as authorized by a supervising dentist;

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

(d) impressions for single-tooth removable prosthesis;

(e) temporary cementation;

(f) atraumatic restorative therapy;

(g) temporary and sedative restorations;

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

(i) palliative treatments;

(j) fabrication and placement of temporary crowns;

(k) recementation of permanent crowns;

(l) removal and nonsurgical placement of space maintainers;

(m) repairs and adjustments to prostheses;

(n) tissue conditioning;

(o) administration of analgesics, anti-inflammatory substances and antibiotics that a supervising dentist orders; and

(p) other closely related procedures that the board authorizes through rules it has adopted and

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promulgated; and

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

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

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

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

HSEIC → ~~SECTION 12. A new section of the Dental Health Care Act is enacted to read:~~

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

~~A. a nonprofit community dental organization;~~

~~B. a health facility operated by the federal Indian health service;~~

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

~~D. a federally qualified health center;~~

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

~~F. a private residence or a facility in which an~~

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~~individual receives long-term community-based services under the state's medicaid program;~~

~~G. a long-term care facility;~~

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

~~I. an educational institution engaged in the training of dental therapists accredited by the commission on dental accreditation."~~←HSEIC

HSEIC→SECTION SJC→12. 11.←SJC A new section of the Dental Health Care Act is enacted to read:

"[NEW MATERIAL] DENTAL THERAPY--PRACTICE ENVIRONMENTS.--

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

(1) a nonprofit community dental organization;

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

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

(4) a federally qualified health center;

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

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

(7) a long-term care facility;

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

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

B. The provisions of this section shall not be construed to prohibit, restrict or impose state licensure or regulatory requirements or obligations on the practice of dental therapy:

(1) on tribal lands; or

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

SECTION SJC→13. 12.←SJC A new section of the Public Health Act is enacted to read:

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

A. by October 1, 2020 and by each October 1

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thereafter, a report relating to access to dental health care. The department shall compile for the report at least the following information with analysis and recommendations for legislative action relating to this information:

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

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

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

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

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

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

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

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and

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

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

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

(2) number of students enrolled in each dental therapy educational program, per educational institution;

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

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

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

(6) number of graduates practicing under general supervision;

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

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

SECTION SJC→14. 13.←SJC A new section of the Department of Health Act is enacted to read:

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

SECTION SJC→15. 14.←SJC A new section of the Public School Code is enacted to read:

"[NEW MATERIAL] DENTAL EXAMINATION REQUIREMENT--OPTING OUT--EDUCATION--OUTREACH.--

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

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

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

B. Department rules shall specify that students shall obtain dental examinations required pursuant to Subsection A of this section at their own expense or at the

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expense of any dental health coverage they have.

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

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

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

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

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

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

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

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

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

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

SECTION SJC→17. 16.←SJC Section 59A-47-28.4 NMSA 1978 (being Laws 2003, Chapter 343, Section 4) is amended to read:

"59A-47-28.4. COVERAGE FOR COLLABORATIVE PRACTICE--
DENTAL THERAPISTS--DENTAL HYGIENISTS.--An individual or group subscriber contract delivered or issued for delivery in New Mexico that, on a prepaid, service or indemnity basis, provides for treatment of persons for the prevention, cure or correction of any illness or physical or mental condition shall include

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coverage for the services of a dental therapist and a dental hygienist in a collaborative practice pursuant to the Dental Health Care Act."

SECTION SJC→~~18.~~ 17.←SJC TEMPORARY PROVISION--OUTCOME REPORT.--The department of health shall conduct an outcome report on the first five years of dental therapy practice in the state pursuant to this 2019 act. At a date five years following the date of the first issuance of a license to practice dental therapy in the state, the department of health shall consult with the New Mexico board of dental health care, the New Mexico dental hygienists' association and the New Mexico dental association to compile and issue a report to the legislative health and human services committee of the department's findings and recommendations regarding dental therapy, including:

- A. its efficacy, effectiveness and cost;
- B. its impact on access to dental health care;
- C. the distribution of dental therapists statewide;
- D. demographic representation among dental therapists;
- E. issues related to supervision of dental therapists and their scope of practice;
- F. evaluation of services delivered under indirect supervision for recommendation to general supervision; and
- G. evaluation of services delivered under general supervision for recommendation to indirect supervision.

Sf1→SECTION 18. REPEAL.--Section 61-5A-2 NMSA 1978 (being Laws 1994, Chapter 55, Section 2, as amended) is repealed.←Sf1

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SECTION 19. EFFECTIVE DATE.--

A. The effective date of the provisions of Sections 1 through SJC→13 and 15 through 18←SJC Sf1→SJC→12 and 14 through 17←SJC←Sf1 Sf1→13 and 15 12 and 14 through 18←Sf1 of this act is June 14, 2019.

B. The effective date of the provisions of Section SJC→14 13←SJC of this act is June 14, 2020.

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