

1 HOUSE BILL 308

2 **54TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2019**

3 INTRODUCED BY

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10 AN ACT

11 RELATING TO DENTAL HEALTH CARE; AMENDING AND ENACTING SECTIONS  
12 OF THE DENTAL HEALTH CARE ACT TO ESTABLISH THE PROFESSION OF  
13 DENTAL THERAPIST; ENACTING A PROVISION OF THE DEPARTMENT OF  
14 HEALTH ACT TO ESTABLISH MINIMUM QUALIFICATIONS FOR THE DIRECTOR  
15 OF THE OFFICE OF ORAL HEALTH; ENACTING A SECTION OF THE PUBLIC  
16 SCHOOL CODE TO REQUIRE STUDENTS TO OBTAIN OR OPT OUT OF DENTAL  
17 EXAMINATIONS PRIOR TO ANNUAL SCHOOL ENROLLMENT; AMENDING  
18 SECTIONS OF THE PUBLIC ASSISTANCE ACT AND THE NONPROFIT HEALTH  
19 CARE PLAN LAW TO PROVIDE FOR REIMBURSEMENT OF DENTAL THERAPY;  
20 ENACTING A NEW SECTION OF THE PUBLIC HEALTH ACT TO REQUIRE  
21 ANNUAL REPORTING ON DENTAL HEALTH CARE ACCESS; ENACTING A  
22 TEMPORARY PROVISION TO REQUIRE THE DEPARTMENT OF HEALTH TO  
23 CONDUCT AND REPORT ON A STUDY OF THE FIRST FIVE YEARS OF DENTAL  
24 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. "committee" means the New Mexico dental  
21 hygienists committee;

22 F. "community dental health coordinator" means a  
23 dental assistant, a dental hygienist or other trained personnel  
24 certified by the board as a community dental health coordinator  
25 to provide educational, preventive and limited palliative care

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1 and assessment services working collaboratively under the  
2 general supervision of a licensed dentist in settings other  
3 than traditional dental offices and clinics;

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

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

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

18 J. "dental hygienist" means an individual who has  
19 graduated and received a degree from a dental hygiene  
20 educational program that is accredited by the commission on  
21 dental accreditation, that provides a minimum of two academic  
22 years of dental hygiene curriculum and that is an institution  
23 of higher education; and "dental hygienist" means, except as  
24 the context otherwise requires, an individual who holds a  
25 license to practice dental hygiene in New Mexico;

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

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

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

13                   (1) is licensed as a dental hygienist;

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

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

21           N. "dental therapy education residency" means a  
22 post-graduate clinical experience of not less than twelve  
23 months providing advanced training in patient management and  
24 technical competency and that is:

25                   (1) approved by the board, based on

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1 educational and supervisory criteria developed by the board and  
2 established by board rule; and

3 (2) sanctioned by a regionally accredited  
4 educational institution with a program accredited by the  
5 commission on dental accreditation;

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

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

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

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

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

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

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

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

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

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

23           [Q-] V. "indirect supervision" means that a  
24 dentist, or in certain settings, a dental therapist, dental  
25 hygienist or dental assistant certified in expanded functions,

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1 is present in the treatment facility while authorized  
2 treatments are being performed by a dental therapist, dental  
3 hygienist, dental assistant or dental student;

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

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

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

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

16 (2) has demonstrated to the taxation and  
17 revenue department that it has been granted exemption from the  
18 federal income tax by the United States commissioner of  
19 internal revenue as an organization described in Section  
20 501(c)(3) of the United States Internal Revenue Code of 1986,  
21 as amended or renumbered;

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

25 [~~F.~~] AA. "teledentistry" means a dentist's use of



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1 health information technology in real time to provide limited  
2 diagnostic and treatment planning services in cooperation with  
3 another dentist, a dental therapist, a dental hygienist, a  
4 community dental health coordinator or a student enrolled in a  
5 program of study to become a dental assistant, dental  
6 hygienist, dental therapist or dentist."

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

9 "61-5A-5. LICENSE REQUIRED--EXEMPTIONS.--

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

12 (1) practice dentistry;

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

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

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

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

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

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

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

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

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1 that dentist;

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

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

16 (8) a dental therapy student or dental therapy  
17 resident, respectively, enrolled in an accredited dental  
18 therapy education program or residency recognized by the board,  
19 while engaged in educational programs offered by the dental  
20 therapy educational program or residency in private offices,  
21 public clinics or educational institutions within the state of  
22 New Mexico under the indirect supervision of a licensed  
23 dentist; and

24 (9) a dental therapist who is licensed in New  
25 Mexico working under the supervision of a dentist and

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1 performing the procedures in accordance with the provisions of  
2 Section 10 of this 2019 act.

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

- 5 (1) practice as a dental hygienist;
- 6 (2) use the title "dental hygienist" or  
7 abbreviation "R.D.H." or any other title, abbreviation,  
8 letters, figures, signs or devices that indicate the person is  
9 a licensed dental hygienist; or
- 10 (3) perform any of the acts defined as the  
11 practice of dental hygiene in the Dental Health Care Act.

12 D. The following, under the stipulations described,  
13 may practice dental hygiene or the area of dental hygiene  
14 outlined without a New Mexico dental hygiene license:

- 15 (1) students enrolled in an accredited dental  
16 hygiene program engaged in procedures that are part of the  
17 curriculum of that program and under the indirect supervision  
18 of a licensed faculty member of the accredited program;
- 19 (2) dental assistants and community dental  
20 health coordinators working under general supervision who:
  - 21 (a) expose dental radiographs after  
22 being certified in expanded functions by the board;
  - 23 (b) perform rubber cup coronal  
24 polishing, which is not represented as a prophylaxis, having  
25 satisfied the educational requirements as established by rules

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1 of the board;

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

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

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

12 E. Dental assistants working under the indirect  
13 supervision of a dentist and in accordance with the rules and  
14 regulations established by the board may:

15 (1) expose dental radiographs;

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

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

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

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

25 F. A community dental health coordinator working

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1 under the general supervision of a dentist and in accordance  
2 with the rules established by the board may:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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1 C. adopt and use a seal;

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

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

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

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

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

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

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

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

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

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

18 M. have the authority to issue investigative  
19 subpoenas prior to the issuance of a notice of contemplated  
20 action for the purpose of investigating complaints against  
21 dentists, dental therapists, dental assistants and, through the  
22 committee, dental hygienists licensed under the Dental Health  
23 Care Act and the Dental Amalgam Waste Reduction Act;

24 N. have the authority to sue or be sued and to  
25 retain the services of an attorney at law for counsel and

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1 representation regarding the carrying out of the board's  
2 duties;

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

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

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

14 "61-5A-15. CONTENT OF [~~LICENSE~~] LICENSES AND  
15 CERTIFICATES--DISPLAY OF [~~LICENSE--RENEWALS--RETIRE LICENSE~~]  
16 LICENSES AND CERTIFICATES.--

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

- 19 (1) a serial number;  
20 (2) the full name of the licensee;  
21 (3) the date of issue;  
22 (4) the seal of the board;  
23 (5) if the license is a specialty license, the  
24 specialty to which practice is limited;  
25 (6) the signatures of a majority of the board

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1 members; and

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

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

6 (1) a serial number;

7 (2) the full name of the licensee;

8 (3) the date of issue;

9 (4) the seal of the board;

10 (5) the signatures of a majority of the board

11 members; and

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

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

16 (1) a serial number;

17 (2) the full name of the licensee;

18 (3) the date of issue;

19 (4) the seal of the board;

20 (5) the signatures of a majority of the

21 committee members; and

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

24 [~~C.~~] D. Certificates issued to dental assistants  
25 shall bear:

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

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

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

15 "61-5A-17. RETIREMENT AND INACTIVE STATUS--  
16 REACTIVATION.--

17 A. ~~[Any dentist or dental hygienist]~~ A licensee who  
18 wishes to retire from ~~[the]~~ practice ~~[of dentistry or dental~~  
19 ~~hygiene]~~ shall meet all requirements for retirement as set by  
20 rules of the board, and, if the licensee is a dental hygienist,  
21 the committee. The licensee shall notify the board or the  
22 committee in writing before the expiration of the licensee's  
23 current license, and the secretary of the board or the  
24 committee shall acknowledge the receipt of notice and record  
25 ~~[the same]~~ it. If, within a period of three years from the

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1 date of retirement, the [~~dentist or dental hygienist~~] licensee  
2 wishes to resume practice, the applicant shall [~~so~~] notify the  
3 board or the committee in writing and give proof of completing  
4 all requirements as prescribed by rules of the board and the  
5 committee to reactivate the license.

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

14 C. A licensee whose license has been placed in  
15 inactive status may not engage in any of the activities  
16 contained within the scope of practice of dentistry, dental  
17 therapy or dental hygiene in New Mexico described in [~~Section~~  
18 ~~61-5A-4 NMSA 1978~~] the Dental Health Care Act.

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

23 E. If a licensee with an inactive license wishes to  
24 resume [~~the~~] active practice [~~of dentistry or dental hygiene~~],  
25 the licensee must notify the board or, if the licensee is a

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1 dental hygienist, the committee, in writing and provide proof  
2 of completion of all requirements to reactivate the license as  
3 prescribed by rule of the board or the committee. Upon payment  
4 of all fees due, the board may reactivate the license and the  
5 licensee may resume [the] practice [~~of dentistry or dental~~  
6 ~~hygiene~~] subject to any stipulations of the board or the  
7 committee.

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

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

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

15 "61-5A-19. REINSTATEMENT OF REVOKED OR SUSPENDED  
16 LICENSE.--

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

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

24 C. A licensee who has been suspended for a specific  
25 period of time shall be automatically reinstated at the

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

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

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

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

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

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

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

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

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

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

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

24                   "61-5A-20. FEES.--The board and the committee shall  
25 establish a schedule of reasonable fees not to exceed the

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1 following:

2		Dentists	Dental Hygienists
3	A. licensure by examination	\$1,500	\$1,000
4	B. licensure by credential	\$3,000	\$1,500
5	C. specialty license by		
6	examination	\$1,500	
7	D. specialty license by		
8	credential	\$3,000	
9	E. temporary license		
10	48 hours	\$ 50	\$ 50
11	six months	\$ 300	\$ 200
12	12 months	\$ 450	\$ 300
13	F. application for		
14	certification in local		
15	anesthesia		\$ 40
16	G. examination in local		
17	anesthesia		\$ 150
18	H. triennial license renewal	\$ 600	\$ 450
19	I. late renewal	\$ 100	\$ 100
20	J. reinstatement of license	\$ 450	\$ 300
21	K. administrative fees	\$ 300	\$ 300
22	L. impaired dentist or		
23	dental hygienist	\$ 150	\$ 75
24	M. assistant, expanded-function		
25	dental auxiliary or		

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1	community dental health		
2	coordinator certificate	\$	100
3	N. application for certification for		
4	collaborative practice	\$	150
5	O. annual renewal for		
6	collaborative practice	\$	50
7	P. application for inactive		
8	status	\$	50
9	Q. triennial renewal of		
10	inactive license	\$	90
11			Non-dentist Owners
12	R. non-dentist owners license (initial)	\$	300
13	S. non-dentist owners license triennial renewal	\$	150
14			<u>Dental Therapists</u>
15	<u>T. dental therapist license (initial)</u>	<u>\$1,000</u>	
16	<u>U. dental therapist license triennial renewal</u>	<u>\$ 300.</u> "	

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

19 "61-5A-21. DISCIPLINARY PROCEEDINGS--APPLICATION OF  
20 UNIFORM LICENSING ACT.--

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

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

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

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

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

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

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

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

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

25 (8) is guilty of willfully or negligently

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1 practicing beyond the scope of licensure;

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

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

11 (11) is guilty of patient abandonment;

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

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

25 (14) has failed to furnish the board, its

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1 investigators or its representatives with information requested  
2 by the board or the committee in the course of an official  
3 investigation.

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

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

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

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

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

21 "[NEW MATERIAL] DENTAL THERAPIST LICENSURE--  
22 REQUIREMENTS.--The board shall license as a dental therapist  
23 any individual who, in accordance with board rules:

24 A. provides evidence of licensure as a dental  
25 hygienist;

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1           B. provides evidence of having graduated and  
2 received a degree from a dental therapy education program  
3 accredited by the commission on dental accreditation;

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

7           D. has passed a practical or clinical examination  
8 on the practice of dental therapy administered by the board or  
9 its agent that reasonably tests the individual's skill in  
10 practicing dental therapy; and

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

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

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

18           A. A dental therapist shall provide care under the  
19 supervision of a dentist in accordance with a dental therapy  
20 practice agreement that meets the requirements established in  
21 Subsection B of this section and in board rules.

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

23                   (1) the following activities performed under  
24 general supervision:

25                           (a) oral evaluation and assessment of

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1 dental disease;

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

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

6 (d) impressions for single-tooth  
7 removable prosthesis;

8 (e) temporary cementation;

9 (f) atraumatic restorative therapy;

10 (g) temporary and sedative restorations;

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

13 (i) palliative treatments;

14 (j) fabrication and placement of  
15 temporary crowns;

16 (k) recementation of permanent crowns;

17 (l) removal and nonsurgical placement of  
18 space maintainers;

19 (m) repairs and adjustments to  
20 prostheses;

21 (n) tissue conditioning;

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

25 (p) other closely related procedures

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1 that the board authorizes through rules it has adopted and  
2 promulgated; and

3 (2) the following activities performed under  
4 indirect supervision or having completed a dental therapy  
5 education residency, under general supervision:

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

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

10 C. No dentist shall supervise more than three  
11 dental therapists at any time."

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

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

17 A. a nonprofit community dental organization;

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

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

23 D. a federally qualified health center;

24 E. a facility certified by the federal centers for  
25 medicare and medicaid services as a "federally qualified health

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1 center look-alike" facility;

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

5 G. a long-term care facility;

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

9 I. an educational institution engaged in the  
10 training of dental therapists accredited by the commission on  
11 dental accreditation."

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

14 "[NEW MATERIAL] DEPARTMENT OF HEALTH--NEW MEXICO BOARD OF  
15 DENTAL HEALTH CARE--ANNUAL REPORT.--By October 1, 2020 and each  
16 October 1 thereafter, the department of health shall  
17 collaborate with the New Mexico board of dental health care and  
18 provide to the legislative health and human services committee  
19 and the legislative finance committee a report relating to  
20 access to dental health care. The department shall compile for  
21 the report at least the following information with analysis and  
22 recommendations for legislative action relating to this  
23 information:

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

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1           B. the feasibility of establishing a program  
2 allowing bachelor of arts degree recipients to matriculate  
3 directly to dental school for a doctor of dental medicine or  
4 doctor of dental surgery degree;

5           C. the status of the state's medicaid program,  
6 including:

7                   (1) simplification of administrative  
8 procedures regarding the provision of dental health care to  
9 medicaid recipients; and

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

13           D. the number of dental health care professionals  
14 taking advantage of the rural health care practitioner tax  
15 credit; and

16           E. other timely issues as determined by the New  
17 Mexico board of dental health care to have an impact on access  
18 to or the delivery of dental health care in New Mexico."

19           **SECTION 14.** A new section of the Department of Health Act  
20 is enacted to read:

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

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

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

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

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

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

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

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

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

25                         (2) provide extensive education statewide for

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1 parents and guardians explaining the requirements for dental  
2 examination and providing information regarding where they may  
3 receive referrals to dental health care professionals statewide  
4 who are authorized to perform dental examinations in accordance  
5 with those rules.

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

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

13 "27-2-12. MEDICAL ASSISTANCE PROGRAMS.--

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

22 B. Subject to appropriation and availability of  
23 federal, state or other funds received by the state from public  
24 or private grants or donations, the medical assistance division  
25 of the department may by rule provide medical assistance,

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

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

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

13 SECTION 17. Section 59A-47-28.4 NMSA 1978 (being Laws  
14 2003, Chapter 343, Section 4) is amended to read:

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

24 SECTION 18. TEMPORARY PROVISION--OUTCOME REPORT.--The  
25 department of health shall conduct an outcome report on the

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

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

22 **SECTION 19. EFFECTIVE DATE.--**

23 A. The effective date of the provisions of Sections  
24 1 through 13 and 15 through 18 of this act is June 14, 2019.

25 B. The effective date of the provisions of Section

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1 14 of this act is June 14, 2020.

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