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HOUSE BILL 481

48TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2007

INTRODUCED BY

Peter Wirth

AN ACT

RELATING TO WATER QUALITY; REQUIRING A DENTAL OFFICE TO REMOVE
DENTAL AMALGAM PRIOR TO DISCHARGE OF ITS WASTEWATER.

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

Section 1. ~~[NEW MATERIAL]~~ SHORT TITLE.--Sections 1
through 6 of this act may be cited as the "Amalgam Removal
Act".

Section 2. ~~[NEW MATERIAL]~~ DEFINITIONS.--As used in the
Amalgam Removal Act:

A. "amalgam" means an alloy of mercury with another
metal, usually silver, used by a dentist to fill a cavity in
teeth; and

B. "amalgam separator" means an item of dental
equipment designed to remove amalgam particles and dissolved
mercury from wastewater of a dental facility, passing through a

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1 vacuum line filter, screen or chair-side trap prior to
2 discharge and using multiple technologies to remove amalgam,
3 including sedimentation, filtration, centrifugation and ion
4 exchange.

5 Section 3. [NEW MATERIAL] INSTALLATION OF AMALGAM
6 SEPARATOR REQUIRED.--By December 31, 2008, a dental office
7 shall install and use an amalgam separator system to remove
8 dental amalgam prior to discharge in a wastewater stream and
9 shall demonstrate proper sizing, installation, operation,
10 maintenance and amalgam waste recycling or disposal in
11 accordance with an amalgam separator manufacturer's
12 recommendations. The water quality control commission may
13 impose penalties pursuant to its authority pursuant to the
14 Water Quality Act. The New Mexico board of dental health care
15 shall consider a violation of the Water Quality Act in deciding
16 whether to grant or renew a dentist's license.

17 Section 4. [NEW MATERIAL] EXEMPTION FOR CERTAIN DENTAL
18 OFFICES.--So long as a dental office can demonstrate that it is
19 only minimally engaged in amalgam placement, removal or
20 modification, an amalgam separator system shall not be required.

21 Section 5. [NEW MATERIAL] REPORTING.--A dental office
22 shall report to the New Mexico board of dental health care the
23 size, installation, operation, maintenance and amalgam waste
24 recycling or disposal for the previous three years and, when
25 required, to its local publicly owned water treatment facility.

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1 The New Mexico board of dental health care shall retain the
2 reported information with the dentist's licensing information
3 and review, update and clarify whether it needs improvement
4 coincident with the board's licensing and relicensing functions.

5 Section 6. [NEW MATERIAL] ENFORCEMENT.--The New Mexico
6 board of dental health care shall not renew a license of a
7 dentist who is in violation of the Amalgam Removal Act as
8 reported by the water quality control commission or who has an
9 unpaid fine for a violation of federal environmental protection
10 law imposed by a municipality pursuant to Paragraph C of Section
11 3-17-1 NMSA 1978.

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

16 "61-5A-10. POWERS AND DUTIES OF THE BOARD AND
17 COMMITTEE.--In addition to any other authority provided by law,
18 the board and the committee, [~~where~~] when designated, shall have
19 the power to:

20 A. enforce and administer the provisions of the
21 Dental Health Care Act;

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

25 (1) regulate the examination and licensure of

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1 dentists and, through the committee, regulate the examination
2 and licensure of dental hygienists;

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

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

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

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

12 C. adopt and use a seal;

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

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

18 F. grant, deny, review, suspend and revoke licenses
19 and certificates to practice dentistry, dental assisting and,
20 through the committee, dental hygiene and censure, reprimand,
21 fine and place on probation and stipulation dentists, dental
22 assistants and, through the committee, dental hygienists, in
23 accordance with the Uniform Licensing Act for any cause stated
24 in the Dental Health Care Act;

25 G. deny a license to practice dentistry or a renewal

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1 of such license in accordance with the Amalgam Removal Act on
2 grounds the dental practice is in violation of water quality
3 standards as reported by the water quality control commission;

4 [G.] H. grant, deny, review, suspend and revoke
5 licenses to own dental practices and censure, reprimand, fine
6 and place on probation and stipulation non-dentist owners, in
7 accordance with the Uniform Licensing Act, for any cause stated
8 in the Dental Health Care Act;

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

18 J. establish ad hoc committees whose members shall
19 be appointed by the [~~chairman~~] chair with the advice and consent
20 of the board or committee and shall include at least one member
21 of the board or committee, as it deems necessary for carrying on
22 its business;

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

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1 L. have the authority to hire or contract with
2 investigators to investigate possible violations of the Dental
3 Health Care Act;

4 M. have the authority to issue investigative
5 subpoenas prior to the issuance of a notice of contemplated
6 action for the purpose of investigating complaints against
7 dentists, dental assistants and, through the committee, dental
8 hygienists licensed under the Dental Health Care Act; and

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

13 Section 8. TEMPORARY PROVISION--RULEMAKING BY THE BOARD
14 OF DENTAL HEALTH CARE.--The New Mexico board of dental health
15 care shall promulgate rules by December 31, 2007 to provide
16 standards of quality for dental equipment that meet at least the
17 standards published by the international organization for
18 standardization for dental equipment and to require that a
19 dental office maintain records of maintenance and inspection for
20 the three previous years for an amalgam separator. A method or
21 technology that is demonstrably equivalent or better than an
22 amalgam separator, if approved by the department of environment
23 and the water quality control commission, is in compliance with
24 the requirements of this section.

25 Section 9. TEMPORARY PROVISION--RULEMAKING BY THE WATER

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1 QUALITY CONTROL COMMISSION.--The water quality control
2 commission shall promulgate rules by July 1, 2008 setting forth
3 a statewide method for monitoring quality enforcement and
4 penalties for wastewater contamination by a dental office.

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