

HOUSE HEALTH AND GOVERNMENT AFFAIRS COMMITTEE SUBSTITUTE FOR
HOUSE BILL 481

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

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 "Dental Amalgam Waste
Reduction Act".

Section 2. [NEW MATERIAL] DEFINITIONS.--As used in the
Dental Amalgam Waste Reduction Act:

A. "amalgam" means a dental restorative material
typically composed of mercury, silver, tin and copper, along
with other metallic elements, that is used by a dentist to
restore a cavity in teeth; and

B. "amalgam separator" means a device that removes
dental amalgam from the waste stream prior to discharge into

1 either the local public wastewater system or a private septic
2 system and that meets a minimum removal efficiency in
3 accordance with international standards contained in *ISO 11143*,
4 *Dental Equipment-Amalgam Separators*, published by the
5 international organization for standardization.

6 Section 3. [NEW MATERIAL] INSTALLATION OF AMALGAM
7 SEPARATOR REQUIRED.--By December 31, 2008, a dental office
8 shall install an appropriately sized amalgam separator system
9 and shall demonstrate proper installation, operation,
10 maintenance and amalgam waste recycling or disposal in
11 accordance with an amalgam separator manufacturer's
12 recommendations. The New Mexico board of dental health care
13 shall consider noncompliance with the Dental Amalgam Waste
14 Reduction Act as unprofessional conduct subject to the
15 penalties and discipline of the board.

16 Section 4. [NEW MATERIAL] EXEMPTION FOR CERTAIN DENTAL
17 OFFICES.--An amalgam separator system shall not be required for
18 the offices or clinical site of:

- 19 A. a dental office that can demonstrate that it is
20 not engaged in amalgam placement, removal or modification;
- 21 B. an orthodontist;
- 22 C. a periodontist;
- 23 D. an oral maxillofacial surgeon;
- 24 E. an oral maxillofacial radiologist;
- 25 F. an oral pathologist;

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1 G. a specialist in dental public health;

2 H. a dentist who will no longer operate a dental
3 office after December 31, 2008;

4 I. a nonprofit organization that owns and operates
5 a site where dentists provide dental care only on a voluntary
6 basis; or

7 J. a portable dental office without a fixed
8 connection for wastewater discharge.

9 Section 5. [NEW MATERIAL] REPORTING.--A dental office
10 shall report the model and size of its amalgam separator system
11 within ninety days of installation to its local publicly owned
12 water treatment facility. A dental office shall report its
13 compliance and maintain records of the operation, maintenance
14 and recycling or disposal of amalgam waste for the previous
15 three years. The New Mexico board of dental health care shall
16 obtain from each local publicly owned water treatment facility
17 the reported information and shall retain the reported
18 information with the dentist's licensing information and shall
19 review, update and clarify whether it needs improvement
20 coincident with the board's licensing and relicensing
21 functions.

22 Section 6. [NEW MATERIAL] ENFORCEMENT.--The New Mexico
23 board of dental health care shall initiate disciplinary
24 proceedings for willful and persistent noncompliance with the
25 provisions of the Dental Amalgam Waste Reduction Act.

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1 Section 7. Section 61-5A-10 NMSA 1978 (being Laws 1994,
2 Chapter 55, Section 10, as amended by Laws 2003, Chapter 408,
3 Section 6 and by Laws 2003, Chapter 409, Section 8) is amended
4 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, [~~where~~] when designated, shall
8 have the power to:

9 A. enforce and administer the provisions of the
10 Dental Health Care 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, through the committee, regulate the examination
16 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 assisting and, through the committee, regulate the practice of
23 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 assisting and,
9 through the committee, dental hygiene and censure, reprimand,
10 fine and place on probation and stipulation dentists, dental
11 assistants and, through the committee, dental hygienists, in
12 accordance with the Uniform Licensing Act for any cause stated
13 in the Dental Health Care Act;

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

19 H. maintain records of the name, address, license
20 number and such other demographic data as may serve the needs
21 of the board of licensees, together with a record of license
22 renewals, suspensions, revocations, probations, stipulations,
23 censures, reprimands and fines. The board shall make available
24 composite reports of demographic data, but shall limit public
25 access to information regarding individuals to their names,

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1 addresses, license numbers and license actions or as required
2 by statute;

3 ~~[J.]~~ I. establish ad hoc committees whose members
4 shall be appointed by the ~~[chairman]~~ chair with the advice and
5 consent of the board or committee and shall include at least
6 one member of the board or committee, as it deems necessary for
7 carrying on its business;

8 ~~[K.]~~ J. have the authority to pay per diem and
9 mileage to individuals who are appointed by the board or the
10 committee to serve on ad hoc committees;

11 ~~[L.]~~ K. have the authority to hire or contract with
12 investigators to investigate possible violations of the Dental
13 Health Care Act;

14 ~~[M.]~~ L. have the authority to issue investigative
15 subpoenas prior to the issuance of a notice of contemplated
16 action for the purpose of investigating complaints against
17 dentists, dental assistants and, through the committee, dental
18 hygienists licensed under the Dental Health Care Act; and

19 ~~[N.]~~ M. establish continuing education or continued
20 competency requirements for dentists, certified dental
21 assistants in expanded functions, dental technicians and,
22 through the committee, dental hygienists."

23 Section 8. TEMPORARY PROVISION--RULEMAKING BY THE BOARD
24 OF DENTAL HEALTH CARE.--The New Mexico board of dental health
25 care shall promulgate rules by December 31, 2007 to require

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1 that a dental office maintain records of maintenance and
2 inspection for the three previous years for an amalgam
3 separator. Utilization of a method or technology that is
4 approved by the department of environment, the water quality
5 control commission or the New Mexico board of dental health
6 care is in compliance with the requirements of this section.

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underscoring material = new
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