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HOUSE BILL 17

51ST LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2013

INTRODUCED BY

Dennis J. Roch and Carlos R. Cisneros

FOR THE LEGISLATIVE HEALTH AND HUMAN SERVICES COMMITTEE

AN ACT

RELATING TO HEALTH CARE PROVIDERS; AMENDING AND ENACTING
SECTIONS OF THE DENTAL HEALTH CARE ACT TO PROVIDE FOR DENTAL
THERAPIST REGULATION, LICENSURE AND SCOPE OF PRACTICE;
AMENDING SECTIONS OF THE IMPAIRED DENTISTS AND DENTAL
HYGIENISTS ACT; RENAMING THE IMPAIRED DENTISTS AND DENTAL
HYGIENISTS ACT AS THE IMPAIRED DENTISTS, DENTAL THERAPISTS AND
DENTAL HYGIENISTS ACT; AMENDING A SECTION OF THE NEW MEXICO
DRUG, DEVICE AND COSMETIC ACT TO PROVIDE FOR DENTAL THERAPIST
PRESCRIBING; AMENDING A SECTION OF THE INCOME TAX ACT TO MAKE
DENTAL THERAPISTS ELIGIBLE FOR THE RURAL HEALTH CARE
PRACTITIONER TAX CREDIT; AMENDING SECTIONS OF THE ALLIED HEALTH
STUDENT LOAN FOR SERVICE ACT AND THE HEALTH SERVICE CORPS ACT
TO MAKE DENTAL THERAPISTS ELIGIBLE FOR PARTICIPATION; PROVIDING
PENALTIES; RECONCILING MULTIPLE AMENDMENTS TO SECTIONS OF LAW
IN LAWS 2003.

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

SECTION 1. Section 7-2-18.22 NMSA 1978 (being Laws 2007, Chapter 361, Section 2) is amended to read:

"7-2-18.22. ~~[TAX CREDIT]~~ RURAL HEALTH CARE PRACTITIONER TAX CREDIT.--

A. A taxpayer who files an individual New Mexico tax return, who is not a dependent of another individual, who is an eligible health care practitioner and who has provided health care services in New Mexico in a rural health care underserved area in a taxable year may claim a credit against the tax liability imposed by the Income Tax Act. The credit provided in this section may be referred to as the "rural health care practitioner tax credit".

B. The rural health care practitioner tax credit may be claimed and allowed in an amount that shall not exceed five thousand dollars (\$5,000) for all eligible physicians, osteopathic physicians, dentists, clinical psychologists, podiatrists and optometrists who qualify pursuant to the provisions of this section, except the credit shall not exceed three thousand dollars (\$3,000) for all eligible dental hygienists, dental therapists, physician assistants, certified nurse-midwives, certified registered nurse anesthetists, certified nurse practitioners and clinical nurse specialists.

C. To qualify for the rural health care

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1 practitioner tax credit, an eligible health care practitioner
2 shall have provided health care during a taxable year for at
3 least two thousand eighty hours at a practice site located in
4 an approved, rural health care underserved area. An eligible
5 rural health care practitioner who provided health care
6 services for at least one thousand forty hours but less than
7 two thousand eighty hours at a practice site located in an
8 approved rural health care underserved area during a taxable
9 year is eligible for one-half of the credit amount.

10 D. Before an eligible health care practitioner may
11 claim the rural health care practitioner tax credit, the
12 practitioner shall submit an application to the department of
13 health that describes the practitioner's clinical practice and
14 contains additional information that the department of health
15 may require. The department of health shall determine whether
16 an eligible health care practitioner qualifies for the rural
17 health care practitioner tax credit and shall issue a
18 certificate to each qualifying eligible health care
19 practitioner. The department of health shall provide the
20 taxation and revenue department appropriate information for all
21 eligible health care practitioners to whom certificates are
22 issued.

23 E. A taxpayer claiming the credit provided by this
24 section shall submit a copy of the certificate issued by the
25 department of health with the taxpayer's New Mexico income tax

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1 return for the taxable year. If the amount of the credit
2 claimed exceeds a taxpayer's tax liability for the taxable year
3 in which the credit is being claimed, the excess may be carried
4 forward for three consecutive taxable years.

5 F. As used in this section:

6 (1) "eligible health care practitioner" means:

7 (a) a certified nurse-midwife licensed
8 by the board of nursing as a registered nurse and licensed by
9 the public health division of the department of health to
10 practice nurse-midwifery as a certified nurse-midwife;

11 (b) a dentist, dental therapist or
12 dental hygienist licensed pursuant to the Dental Health Care
13 Act;

14 (c) an optometrist licensed pursuant to
15 the provisions of the Optometry Act;

16 (d) an osteopathic physician licensed
17 pursuant to the provisions of Chapter 61, Article 10 NMSA 1978
18 or an osteopathic physician assistant licensed pursuant to the
19 provisions of the Osteopathic Physicians' Assistants Act;

20 (e) a physician or physician assistant
21 licensed pursuant to the provisions of Chapter 61, Article 6
22 NMSA 1978;

23 (f) a podiatrist licensed pursuant to
24 the provisions of the Podiatry Act;

25 (g) a clinical psychologist licensed

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1 pursuant to the provisions of the Professional Psychologist
2 Act; and

3 (h) a registered nurse in advanced
4 practice who has been prepared through additional formal
5 education as provided in Sections 61-3-23.2 through 61-3-23.4
6 NMSA 1978 to function beyond the scope of practice of
7 professional registered nursing, including certified nurse
8 practitioners, certified registered nurse anesthetists and
9 clinical nurse specialists;

10 (2) "health care underserved area" means a
11 geographic area or practice location in which it has been
12 determined by the department of health, through the use of
13 indices and other standards set by the department of health,
14 that sufficient health care services are not being provided;

15 (3) "practice site" means a private practice,
16 public health clinic, hospital, public or private nonprofit
17 primary care clinic or other health care service location in a
18 health care underserved area; and

19 (4) "rural" means an area or location
20 identified by the department of health as falling outside of an
21 urban area."

22 **SECTION 2.** Section 21-22C-3 NMSA 1978 (being Laws 1994,
23 Chapter 57, Section 5, as amended) is amended to read:

24 "21-22C-3. DEFINITIONS.--As used in the Allied Health
25 Student Loan for Service Act:

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1 A. "allied health profession" means physical
2 therapy, occupational therapy, speech-language pathology,
3 audiology, pharmacy, nutrition, respiratory care, laboratory
4 technology, radiologic technology, dental therapy, dental
5 hygiene, mental health services, emergency medical services or
6 a licensed or certified health profession as defined by the
7 department;

8 B. "department" means the higher education
9 department;

10 C. "loan" means a grant of money to defray the
11 costs incidental to an allied health profession education,
12 under a contract between the department and an allied health
13 profession student, requiring repayment with services or
14 repayment of principal and interest; and

15 D. "student" means a resident of New Mexico who is
16 enrolled in an accredited program for one of the allied health
17 professions."

18 **SECTION 3.** Section 24-1D-2 NMSA 1978 (being Laws 1994,
19 Chapter 63, Section 2, as amended) is amended to read:

20 "24-1D-2. DEFINITIONS.--As used in the Health Service
21 Corps Act:

22 A. "corps" means the New Mexico health service
23 corps;

24 B. "department" means the department of health;

25 C. "health professional" means a physician,

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1 physician assistant, nurse practitioner, nurse-midwife,
2 emergency medical technician-paramedic, dentist, dental
3 therapist or dental hygienist;

4 D. "physician" means a medical doctor or doctor of
5 osteopathic medicine;

6 E. "physician assistant" means a physician
7 assistant or osteopathic physician assistant; and

8 F. "practice site" means a public health clinic
9 or public or private nonprofit primary care clinic that is
10 located in a state-designated medically underserved area or
11 that serves a high-needs population and that uses a sliding
12 fee scale approved by the department."

13 SECTION 4. Section 26-1-2 NMSA 1978 (being Laws 1967,
14 Chapter 23, Section 2, as amended) is amended to read:

15 "26-1-2. DEFINITIONS.--As used in the New Mexico Drug,
16 Device and Cosmetic Act:

17 A. "board" means the board of pharmacy or its
18 duly authorized agent;

19 B. "person" includes an individual, partnership,
20 corporation, association, institution or establishment;

21 C. "biological product" means a virus,
22 therapeutic serum, toxin, antitoxin or analogous product
23 applicable to the prevention, treatment or cure of diseases
24 or injuries of humans and domestic animals, and, as used
25 within the meaning of this definition:

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

5 (2) a "therapeutic serum" is a product
6 obtained from blood by removing the clot or clot components
7 and the blood cells;

8 (3) a "toxin" is a product containing a
9 soluble substance poisonous to laboratory animals or humans
10 in doses of one milliliter or less of the product and,
11 following the injection of nonfatal doses into an animal,
12 having the property of or causing to be produced therein
13 another soluble substance that specifically neutralizes the
14 poisonous substance and that is demonstrable in the serum of
15 the animal thus immunized; and

16 (4) an "antitoxin" is a product containing
17 the soluble substance in serum or other body fluid of an
18 immunized animal that specifically neutralizes the toxin
19 against which the animal is immune;

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

23 E. "drug" means articles:

- 24 (1) recognized in an official compendium;
25 (2) intended for use in the diagnosis, cure,

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1 mitigation, treatment or prevention of disease in humans or
2 other animals and includes the domestic animal biological
3 products regulated under the federal Virus-Serum-Toxin Act,
4 37 Stat 832-833, 21 U.S.C. 151-158, and the biological
5 products applicable to humans regulated under Federal 58 Stat
6 690, as amended, 42 U.S.C. 216, Section 351, 58 Stat 702, as
7 amended, and 42 U.S.C. 262;

8 (3) other than food, that affect the
9 structure or any function of the human body or the bodies of
10 other animals; and

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

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

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1 drug if it:

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

6 (2) because of its toxicity or other
7 potential for harmful effect or the method of its use or the
8 collateral measures necessary to its use is not safe for use
9 except under the supervision of a practitioner licensed by
10 law to administer or prescribe the drug;

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

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

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

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

21 G. "counterfeit drug" means a drug that is
22 deliberately and fraudulently mislabeled with respect to its
23 identity, ingredients or sources. Types of such
24 pharmaceutical counterfeits may include:

25 (1) "identical copies", which are

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1 counterfeit made with the same ingredients, formulas and
2 packaging as the originals but not made by the original
3 manufacturer;

4 (2) "look-alikes", which are products that
5 feature high-quality packaging and convincing appearances but
6 contain little or no active ingredients and may contain
7 harmful substances;

8 (3) "rejects", which are drugs that have
9 been rejected by the manufacturer for not meeting quality
10 standards; and

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

15 H. "device", except when used in Subsection P of
16 this section and in Subsection G of Section 26-1-3,
17 Subsection L and Paragraph (4) of Subsection A of Section
18 26-1-11 and Subsection C of Section 26-1-24 NMSA 1978, means
19 an instrument, apparatus, implement, machine, contrivance,
20 implant, in vitro reagent or other similar or related
21 article, including any component, part or accessory, that is:

22 (1) recognized in an official compendium;

23 (2) intended for use in the diagnosis of
24 disease or other conditions or in the cure, mitigation,
25 treatment or prevention of disease in humans or other

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1 animals; or

2 (3) intended to affect the structure or a
3 function of the human body or the bodies of other animals and
4 that does not achieve any of its principal intended purposes
5 through chemical action within or on the human body or the
6 bodies of other animals and that is not dependent on being
7 metabolized for achievement of any of its principal intended
8 purposes;

9 I. "prescription" means an order given
10 individually for the person for whom prescribed, either
11 directly from a licensed practitioner or the practitioner's
12 agent to the pharmacist, including by means of electronic
13 transmission, or indirectly by means of a written order
14 signed by the prescriber, and bearing the name and address of
15 the prescriber, the prescriber's license classification, the
16 name and address of the patient, the name and quantity of the
17 drug prescribed, directions for use and the date of issue;

18 J. "practitioner" means a certified advanced
19 practice chiropractic physician, physician, doctor of
20 oriental medicine, dentist, veterinarian, euthanasia
21 technician, certified nurse practitioner, clinical nurse
22 specialist, pharmacist, pharmacist clinician, certified
23 nurse-midwife, physician assistant, prescribing psychologist,
24 dental therapist, dental hygienist or other person licensed
25 or certified to prescribe and administer drugs that are

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1 subject to the New Mexico Drug, Device and Cosmetic Act;

2 K. "cosmetic" means:

3 (1) articles intended to be rubbed, poured,
4 sprinkled or sprayed on, introduced into or otherwise applied
5 to the human body or any part thereof for cleansing,
6 beautifying, promoting attractiveness or altering the
7 appearance; and

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

11 L. "official compendium" means the official
12 United States pharmacopoeia national formulary or the
13 official homeopathic pharmacopoeia of the United States or
14 any supplement to either of them;

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

24 N. "immediate container" does not include package
25 liners;

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

3 (1) on an article or its containers or
4 wrappers; or

5 (2) accompanying an article;

6 P. "misbranded" means a label to an article that
7 is misleading. In determining whether the label is
8 misleading, there shall be taken into account, among other
9 things, not only representations made or suggested by
10 statement, word, design, device or any combination of the
11 foregoing, but also the extent to which the label fails to
12 reveal facts material in the light of such representations or
13 material with respect to consequences that may result from
14 the use of the article to which the label relates under the
15 conditions of use prescribed in the label or under such
16 conditions of use as are customary or usual;

17 Q. "advertisement" means all representations
18 disseminated in any manner or by any means, other than by
19 labeling, for the purpose of inducing, or that are likely to
20 induce, directly or indirectly, the purchase of drugs,
21 devices or cosmetics;

22 R. "antiseptic", when used in the labeling or
23 advertisement of an antiseptic, shall be considered to be a
24 representation that it is a germicide, except in the case of
25 a drug purporting to be or represented as an antiseptic for

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1 inhibitory use as a wet dressing, ointment, dusting powder or
2 such other use as involves prolonged contact with the body;

3 S. "new drug" means a drug:

4 (1) the composition of which is such that
5 the drug is not generally recognized, among experts qualified
6 by scientific training and experience to evaluate the safety
7 and efficacy of drugs, as safe and effective for use under
8 the conditions prescribed, recommended or suggested in the
9 labeling thereof; or

10 (2) the composition of which is such that
11 the drug, as a result of investigation to determine its
12 safety and efficacy for use under such conditions, has become
13 so recognized, but that has not, otherwise than in such
14 investigations, been used to a material extent or for a
15 material time under such conditions;

16 T. "contaminated with filth" applies to a drug,
17 device or cosmetic not securely protected from dirt, dust
18 and, as far as may be necessary by all reasonable means, from
19 all foreign or injurious contaminations, or a drug, device or
20 cosmetic found to contain dirt, dust, foreign or injurious
21 contamination or infestation;

22 U. "selling of drugs, devices or cosmetics" shall
23 be considered to include the manufacture, production,
24 processing, packing, exposure, offer, possession and holding
25 of any such article for sale and the sale and the supplying

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1 or applying of any such article in the conduct of a drug or
2 cosmetic establishment;

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

4 (1) is a dye, pigment or other substance
5 made by a process of synthesis or similar artifice or
6 extracted, isolated or otherwise derived, with or without
7 intermediate or final change of identity, from a vegetable,
8 mineral, animal or other source; or

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

15 W. "federal act" means the Federal Food, Drug and
16 Cosmetic Act;

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

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1 federal act;

2 Y. "prescription device" means a device that,
3 because of its potential for harm, the method of its use or
4 the collateral measures necessary to its use, is not safe
5 except under the supervision of a practitioner licensed in
6 this state to direct the use of such device and for which
7 "adequate directions for use" cannot be prepared, but that
8 bears the label: "Caution: federal law restricts this
9 device to sale by or on the order of a _____", the blank
10 to be filled with the word "physician", "physician
11 assistant", "certified advanced practice chiropractic
12 physician", "doctor of oriental medicine", "dentist",
13 "veterinarian", "euthanasia technician", "certified nurse
14 practitioner", "clinical nurse specialist", "pharmacist",
15 "pharmacist clinician", "certified nurse-midwife", "dental
16 therapist" or "dental hygienist" or with the descriptive
17 designation of any other practitioner licensed in this state
18 to use or order the use of the device;

19 Z. "valid practitioner-patient relationship"
20 means a professional relationship, as defined by the
21 practitioner's licensing board, between the practitioner and
22 the patient; and

23 AA. "pedigree" means the recorded history of a
24 drug."

25 SECTION 5. Section 61-5A-2 NMSA 1978 (being Laws 1994,

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1 Chapter 55, Section 2, as amended) is amended to read:

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

3 A. In the interest of the public health, safety
4 and welfare and to protect the public from the improper,
5 unprofessional, incompetent and unlawful practice of
6 dentistry, dental therapy and dental hygiene, it is necessary
7 to provide laws and rules controlling the granting and use of
8 the privilege to practice dentistry, dental therapy and
9 dental hygiene and to establish a board of dental health
10 care, a joint committee and a dental hygienists committee to
11 implement and enforce those laws and rules.

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

14 (1) to issue licenses to qualified dentists
15 and owners of dental practices;

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

19 (3) to license dental therapists through the
20 joint committee;

21 [~~3~~] (4) to issue licenses to dental
22 hygienists through the dental hygienists committee;

23 [~~4~~] (5) to discipline incompetent or
24 unprofessional dentists, dental assistants and owners of
25 dental practices [~~and, through the dental hygienists~~

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1 ~~committee, dental hygienists; and];~~

2 (6) through the committee, to discipline
3 incompetent or unprofessional dental hygienists;

4 (7) through the joint committee, to
5 discipline incompetent or unprofessional dental therapists;
6 and

7 [~~5~~] (8) to aid in the rehabilitation of
8 impaired dentists, dental therapists and dental hygienists
9 for the purpose of protecting the public."

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

12 "61-5A-3. DEFINITIONS.--As used in the Dental Health
13 Care Act:

14 A. "assessment" means the review and
15 documentation of the oral condition, and the recognition and
16 documentation of deviations from the healthy condition,
17 without a diagnosis to determine the cause or nature of
18 disease or its treatment;

19 B. "board" means the New Mexico board of dental
20 health care;

21 C. "certified dental assistant" means an
22 individual certified by the dental assisting national board;

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

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1 E. "committee" means the New Mexico dental
2 hygienists committee;

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

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

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

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

25 J. "dental hygienist" means an individual who has

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

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

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

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

20 (1) has graduated and received a degree from
21 a dental therapy educational program that provides a minimum
22 of three thousand hours of dental therapy curriculum that has
23 been developed in partnership with an institution of higher
24 education;

25 (2) is from the community or a similarly

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1 situated community where the dental therapist intends to
2 practice;

3 (3) has been vetted by the community or a
4 similarly situated community as part of the application
5 process for the dental therapy education program;

6 (4) maintains an ongoing relationship with
7 the sponsoring entity, including undertaking one community
8 dental prevention project in the supporting community or a
9 similarly situated community during the individual's
10 participation in the dental therapy educational program;

11 (5) has passed a competency-based
12 examination administered by a nationally recognized regional
13 testing agency, if available. If an examination is not
14 available through a nationally recognized regional testing
15 agency, the individual shall have passed a competency-based
16 examination administered by an institution of higher
17 education with a dental therapy education program, following
18 the individual's completion of a dental therapy educational
19 program;

20 (6) has completed a minimum of four hundred
21 dental therapy clinical hours under the indirect supervision
22 of a dentist;

23 (7) has passed a written examination
24 covering the laws and rules for practice in the state;

25 (8) holds a license to practice dental

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1 therapy in the state; and

2 (9) once licensed, practices under the
3 general supervision of a dentist under a written dental
4 therapy management agreement;

5 N. "dental therapist advocate" means an
6 individual who publicly supports or recommends the practice
7 of dental therapy in the state and who has been nominated by
8 a representative of New Mexico health resources, health
9 action New Mexico, a state or regional dental therapists'
10 association or a state institution of higher education that
11 has a dental therapy education program;

12 O. "dental therapy management agreement" means a
13 written general supervision agreement between a dentist and a
14 dental therapist that conforms to the requirements of
15 Subsection P of Section 7 of this 2013 act;

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

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

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

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

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

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

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

20 [Q-] T. "indirect supervision" means that a
21 dentist, or in certain settings a dental therapist, dental
22 hygienist or dental assistant certified in expanded
23 functions, is present in the treatment facility while
24 authorized treatments are being performed by a dental
25 therapist, dental hygienist, dental assistant or dental

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1 student;

2 U. "joint committee" means a committee that is
3 made up of the New Mexico board of dental health care, two
4 dental therapists or dental therapist advocates, the dental
5 hygienists committee and two public members and that licenses
6 and supervises the practice of dental therapy;

7 V. "licensing authority" means:

8 (1) for dentists, the New Mexico board of
9 dental health care;

10 (2) for dental hygienists, the committee;

11 and

12 (3) for dental therapists, the joint
13 committee;

14 ~~[R.]~~ W. "non-dentist owner" means an individual
15 not licensed as a dentist in New Mexico or a corporate entity
16 not owned by a majority interest of a New Mexico licensed
17 dentist that employs or contracts with a dentist, dental
18 therapist or dental hygienist to provide dental, dental
19 therapy or dental hygiene services;

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

23 ~~[T.]~~ Y. "teledentistry" means a dentist's use of
24 health information technology in real time to provide
25 ~~limited~~ diagnostic and treatment planning services in

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1 cooperation with another dentist, a dental therapist, a
2 dental hygienist, a community dental health coordinator or a
3 student enrolled in a program of study to become a dental
4 assistant, dental therapist, dental hygienist or dentist."

5 SECTION 7. Section 61-5A-4 NMSA 1978 (being Laws 1994,
6 Chapter 55, Section 4, as amended) is amended to read:

7 "61-5A-4. SCOPE OF PRACTICE.--

8 A. As used in the Dental Health Care Act,
9 "practice of dentistry" means:

10 (1) the diagnosis, treatment, correction,
11 change, relief, prevention, prescription of remedy, surgical
12 operation and adjunctive treatment for any disease, pain,
13 deformity, deficiency, injury, defect, lesion or physical
14 condition involving both the functional and aesthetic aspects
15 of the teeth, gingivae, jaws and adjacent hard and soft
16 tissue of the oral and maxillofacial regions, including the
17 prescription or administration of any drug, medicine,
18 biologic, apparatus, brace, anesthetic or other therapeutic
19 or diagnostic substance or technique by an individual or the
20 individual's agent or employee gratuitously or for any fee,
21 reward, emolument or any other form of compensation whether
22 direct or indirect;

23 (2) representation of an ability or
24 willingness to do any act mentioned in Paragraph (1) of this
25 subsection;

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1 (3) the review of dental insurance claims
2 for therapeutic appropriateness of treatment, including but
3 not limited to the interpretation of radiographs,
4 photographs, models, periodontal records and narratives;

5 (4) the offering of advice or authoritative
6 comment regarding the appropriateness of dental therapies,
7 the need for recommended treatment or the efficacy of
8 specific treatment modalities for other than the purpose of
9 consultation to another dentist; or

10 (5) with specific reference to the teeth,
11 gingivae, jaws or adjacent hard or soft tissues of the oral
12 and maxillofacial region in living persons, to propose, agree
13 or attempt to do or make an examination or give an estimate
14 of cost with intent to, or undertaking to:

15 (a) perform a physical evaluation of a
16 patient in an office or in a hospital, clinic or other
17 medical or dental facility prior to, incident to and
18 appropriate to the performance of any dental services or oral
19 or maxillofacial surgery;

20 (b) perform surgery, an extraction or
21 any other operation or to administer an anesthetic in
22 connection therewith;

23 (c) diagnose or treat a condition,
24 disease, pain, deformity, deficiency, injury, lesion or other
25 physical condition;

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- 1 (d) correct a malposition;
2 (e) treat a fracture;
3 (f) remove calcareous deposits;
4 (g) replace missing anatomy with an
5 artificial substitute;
6 (h) construct, make, furnish, supply,
7 reproduce, alter or repair an artificial substitute or
8 restorative or corrective appliance or place an artificial
9 substitute or restorative or corrective appliance in the
10 mouth or attempt to adjust it;
11 (I) give interpretations or readings
12 of dental radiographs;
13 (j) provide limited diagnostic and
14 treatment planning via teledentistry; or
15 (k) do any other remedial, corrective
16 or restorative work.

17 B. As used in the Dental Health Care Act, ~~[the]~~
18 "practice of dental hygiene" means the application of the
19 science of the prevention and treatment of oral disease
20 through the provision of educational, assessment, preventive,
21 clinical and other therapeutic services under the general
22 supervision of a dentist. A dental hygienist in a
23 collaborative practice may perform the procedures listed in
24 this section without general supervision while the hygienist
25 is in a cooperative working relationship with a consulting

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1 dentist, pursuant to rules promulgated by the board and the
2 committee. "The practice of dental hygiene" includes:

3 (1) prophylaxis, which is the removal of
4 plaque, calculus and stains from the tooth structures as a
5 means to control local irritational factors;

6 (2) removing diseased crevicular tissue and
7 related nonsurgical periodontal procedures;

8 (3) except in cases where a tooth exhibits
9 cavitation of the enamel surface, assessing without a
10 dentist's evaluation whether the application of pit and
11 fissure sealants is indicated;

12 (4) except in cases where a tooth exhibits
13 cavitation of the enamel surface, applying pit and fissure
14 sealants without mechanical alteration of the tooth;

15 (5) applying fluorides and other topical
16 therapeutic and preventive agents;

17 (6) exposing and assessing oral radiographs
18 for abnormalities;

19 (7) screening to identify indications of
20 oral abnormalities;

21 (8) performing dental hygiene-focused
22 assessments;

23 (9) assessing periodontal conditions; and

24 (10) such other closely related services as
25 permitted by the rules of the committee and the board.

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1 C. In addition to performing dental hygiene as
2 defined in Subsection B of this section, a dental hygienist
3 may apply preventive topical fluorides and remineralization
4 agents without supervision in public and community medical
5 facilities, schools, hospitals, long-term care facilities and
6 such other settings as the committee may determine by rule
7 ratified by the board, so long as the dental hygienist's
8 license is not restricted pursuant to the Impaired Dentists,
9 Dental Therapists and Dental Hygienists Act.

10 D. In addition to performing dental hygiene as
11 defined in Subsection B of this section, dental hygienists
12 who have met the criteria as the committee [~~shall establish~~]
13 establishes and the board [~~shall ratify~~] ratifies may
14 administer local anesthesia under indirect supervision of a
15 dentist.

16 E. The board may certify a dental hygienist to
17 administer local anesthetic under the general supervision of
18 a dentist if the dental hygienist, in addition to performing
19 dental hygiene as defined in Subsection B of this section:

20 (1) has administered local anesthesia under
21 the indirect supervision of a dentist for at least two years,
22 during which time the dental hygienist has competently
23 administered at least twenty cases of local anesthesia and
24 can document this with a signed affirmation by the
25 supervising dentist;

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1 (2) administers local anesthetic under the
2 written prescription or order of a dentist; and

3 (3) emergency medical services are available
4 in accordance with rules promulgated by the board.

5 F. A dental hygienist:

6 (1) may prescribe, administer and dispense a
7 fluoride supplement, topically applied fluoride or topically
8 applied antimicrobial only when the prescribing,
9 administering or dispensing is performed:

10 (a) under the supervision of a
11 dentist;

12 (b) pursuant to rules the board and
13 the committee have adopted;

14 (c) within the parameters of a drug
15 formulary approved by the board in consultation with the
16 board of pharmacy;

17 (d) within the parameters of
18 guidelines established pursuant to Section 61-5A-10 NMSA
19 1978; and

20 (e) in compliance with state laws
21 concerning prescription packaging, labeling and recordkeeping
22 requirements; and

23 (2) shall not otherwise dispense dangerous
24 drugs or controlled substances.

25 G. A New Mexico licensed dental hygienist may be

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1 certified for collaborative dental hygiene practice in
2 accordance with the educational and experience criteria
3 established collaboratively by the committee and the board.

4 H. An expanded-function dental auxiliary may
5 perform the following procedures under the direct supervision
6 of a dentist:

7 (1) placing and shaping direct restorations;
8 (2) taking final impressions, excluding
9 those for fixed or removable prosthetics involving multiple
10 teeth;

11 (3) cementing indirect and provisional
12 restorations for temporary use;

13 (4) applying pit and fissure sealants
14 without mechanical alteration of the tooth;

15 (5) placing temporary and sedative
16 restorative material in hand-excavated carious lesions and
17 unprepared tooth fractures;

18 (6) removal of orthodontic bracket cement;
19 and

20 (7) fitting and shaping of stainless steel
21 crowns to be cemented by a dentist.

22 I. An expanded-function dental auxiliary may re-
23 cement temporary or permanent crowns with temporary cement
24 under the general supervision of a dentist in a situation
25 that a dentist deems to be an emergency.

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1 J. An expanded-function dental auxiliary may
2 perform other related functions for which the expanded-
3 function dental auxiliary meets the training and educational
4 standards established by the board and that are not expressly
5 prohibited by the board.

6 K. For the purpose of this section,
7 "collaborative dental hygiene practice" means the application
8 of the science of the prevention and treatment of oral
9 disease through the provision of educational, assessment,
10 preventive, clinical and other therapeutic services as
11 specified in Subsection B of this section in a cooperative
12 working relationship with a consulting dentist, but without
13 general supervision as set forth by the rules established and
14 approved by both the board and the committee.

15 L. As used in the Dental Health Care Act,
16 "practice of dental therapy" means the application of the
17 science of the prevention and treatment of oral disease by
18 providing education, prevention, assessment, diagnosis and
19 clinical and other therapeutic services under the general
20 supervision of a dentist. "Practice of dental therapy"
21 includes:

22 (1) prophylaxis, which is the treatment of
23 the human tooth by removing from its supragingival surface
24 calcareous deposits and stain, removing plaque and calcareous
25 deposits by full-mouth debridement, removing accumulated

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- 1 accretions and polishing the surfaces of the tooth;
2 (2) behavioral management, oral health
3 instruction and disease prevention education, including
4 nutritional counseling and dietary analysis;
5 (3) diagnosis of dental disease and the
6 formulation of an individualized treatment plan, including
7 caries risk assessment;
8 (4) preliminary charting of the oral cavity;
9 (5) prescribing, exposing and interpreting
10 radiographs;
11 (6) mechanical polishing of teeth and
12 restorations;
13 (7) application of topical preventive or
14 prophylactic agents, including fluoride varnishes and pit and
15 fissure sealants;
16 (8) pulp vitality testing;
17 (9) application of desensitizing medication
18 or resin;
19 (10) fabrication of athletic mouthguards;
20 (11) placement of temporary restoration;
21 (12) fabrication of occlusal guards;
22 (13) tissue conditioning and soft reline;
23 (14) atraumatic restorative therapy;
24 (15) dressing changes;
25 (16) tooth reimplantation and stabilization

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- 1 of reimplanted teeth;
2 (17) administration of local anesthetic and
3 nitrous oxide;
4 (18) extractions of primary teeth;
5 (19) extractions of permanent teeth that
6 have no eruptions, no impactions and no need of sectioning
7 for removal;
8 (20) emergency palliative treatment of
9 dental pain;
10 (21) placement and removal of space
11 maintainers;
12 (22) cavity preparation;
13 (23) restoration of primary and permanent
14 teeth;
15 (24) placement of temporary crowns;
16 (25) preparation and placement of pre-formed
17 crowns;
18 (26) pulpotomy of primary teeth;
19 (27) indirect and direct pulp capping on
20 primary and permanent teeth;
21 (28) suture removal;
22 (29) brush biopsies;
23 (30) simple repairs and adjustments to
24 removable prosthetic appliances;
25 (31) re-cementing of permanent crowns;

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1 (32) prevention of potential orthodontic
2 problems by early identification and appropriate referral;

3 (33) prevention, identification and
4 management of dental and medical emergencies, and maintenance
5 of current basic life-support certification;

6 (34) prescriptive authority, including
7 prescription, dispensing and administration of analgesics,
8 anti-inflammatory medications and antibiotics only in the
9 following circumstances:

10 (a) within the parameters of a dental
11 therapy management agreement;

12 (b) within the scope of practice of a
13 dental therapist; and

14 (c) with the authorization of the
15 supervising dentist; and

16 (35) other closely related services as
17 permitted by board rules.

18 M. The board shall regulate, license and
19 discipline dental therapists in collaboration with the joint
20 committee. To achieve a quorum at a meeting of the joint
21 committee, a dental therapist or dental therapist advocate
22 member of the joint committee shall be in attendance.

23 N. A dental therapist shall practice under the
24 general supervision of a dentist pursuant to a written
25 supervision agreement between the dentist and the dental

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1 therapist. The joint committee may establish minimum
2 requirements for dental therapy supervision agreements.

3 O. A dental therapist may provide dental therapy
4 services in private and public dental and medical offices,
5 public and community medical facilities, schools, hospitals
6 and long-term care facilities and other settings as
7 determined by board rules.

8 P. To practice under the general supervision of a
9 dentist, a dental therapist shall enter into a dental therapy
10 management agreement with that dentist. The dental therapy
11 management agreement shall set forth the scope of practice
12 and conditions under which the dentist will provide general
13 supervision of the dental therapist. A dental therapy
14 agreement shall not be subject to board, committee or joint
15 committee approval. The dental therapy agreement shall be:

16 (1) submitted annually to the board; and
17 (2) signed and maintained by the dentist and
18 dental therapist.

19 Q. A dentist and a dental therapist shall notify
20 the board upon the dissolution of their dental therapy
21 agreement."

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

24 "61-5A-5. LICENSE REQUIRED--EXEMPTIONS.--

25 A. Unless licensed to practice as a dentist under

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1 the Dental Health Care Act, no person shall:

2 (1) practice dentistry;

3 (2) use the title "dentist", "dental
4 surgeon", "oral surgeon" or any other title, abbreviation,
5 letters, figures, signs or devices that indicate the person
6 is a licensed dentist; or

7 (3) perform any of the acts enumerated under
8 the definition of the practice of dentistry as defined in the
9 Dental Health Care Act.

10 B. The following, under the stipulations
11 described, may practice dentistry or an area of dentistry
12 without a New Mexico dental license:

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

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

21 (3) a dental therapist licensed in the state
22 may provide those dental services that are within the dental
23 therapist's scope of practice that are also within the scope
24 of practice of dentistry;

25 [~~3~~] (4) any dental student duly enrolled

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1 in an accredited school of dentistry recognized by the board,
2 while engaged in educational programs offered by the school
3 in private offices, public clinics or educational
4 institutions within the state of New Mexico under the
5 indirect supervision of a licensed dentist;

6 (5) a dental therapy, dental hygiene or
7 dental assisting student enrolled in an accredited school of
8 dentistry, dental hygiene or dental assisting, or a dental
9 therapy student enrolled in a school of dental therapy, who
10 performs procedures within or outside the respective scope of
11 dental therapy or dental hygiene practice that are part of
12 the curriculum or program in the school setting and under the
13 indirect supervision of a faculty member of the program who
14 is a licensed dentist, dental therapist or dental assistant
15 certified in the procedures being taught;

16 (6) an applicant for licensure in dental
17 therapy who has graduated from a dental therapy education
18 program, passed a competency-based examination in dental
19 therapy and received a permit to practice during fulfillment
20 of the applicant's four-hundred-clinical-hour requirement;

21 [~~4~~] (7) any dental hygiene or dental
22 assisting student duly enrolled in an accredited school of
23 dental hygiene or dental assisting engaged in procedures
24 within or outside the scope of dental hygiene that are part
25 of the curriculum of that program in the school setting and

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1 under the indirect supervision of a faculty member of the
2 accredited program who is a licensed dentist, dental
3 therapist, dental hygienist or dental assistant certified in
4 the procedures being taught;

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

13 [~~(6)~~] (9) commissioned dental officers of
14 the uniformed forces of the United States and dentists
15 providing services to the United States public health
16 service, the United States department of veterans affairs or
17 within federally controlled facilities in the discharge of
18 their official duties, provided that such persons who hold
19 dental licenses in New Mexico shall be subject to the
20 provisions of the Dental Health Care Act; and

21 [~~(7)~~] (10) dental assistants performing
22 adjunctive services to the provision of dental care, under
23 the indirect supervision of a dentist, as determined by rule
24 of the board if such services are not within the practice of
25 dental hygiene as specifically listed in Subsection B of

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1 Section 61-5A-4 NMSA 1978, unless allowed in Subsection E of
2 this section.

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
9 is 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
13 described, may practice dental hygiene, dental therapy or the
14 area of dental hygiene outlined without a New Mexico dental
15 hygiene license or dental therapy license:

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

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

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

25 (b) perform rubber cup coronal

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1 polishing, which is not represented as a prophylaxis, having
2 satisfied the educational requirements as established by
3 rules of the board;

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

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

9 (3) dental assistants certified in expanded
10 functions, working under the indirect supervision of a dental
11 hygienist certified for collaborative practice and under the
12 protocols established in a collaborative practice agreement
13 or dental therapists working under a dental therapy
14 management agreement with a consulting dentist.

15 E. Dental assistants working under the indirect
16 supervision of a dentist and in accordance with the rules and
17 regulations established by the board may:

18 (1) expose dental radiographs;

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

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

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

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

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

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

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

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

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

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

23 G. Unless licensed as a dentist or non-dentist
24 owner, or as otherwise exempt from the licensing requirements
25 of the Dental Health Care Act, no individual or corporate

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1 entity shall:

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

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

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

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

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

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

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

22 (5) a school of dental therapy that provides
23 dental services solely in an educational setting;

24 [~~5~~] (6) dental hygienists licensed in New
25 Mexico or corporate entities with a majority interest owned

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1 by a dental hygienist licensed in New Mexico;

2 (7) dental therapists licensed in New Mexico
3 or corporate entities with a majority interest owned by a
4 dental therapist licensed in New Mexico;

5 [~~6~~] (8) federally qualified health
6 centers, as designated by the United States department of
7 health and human services, providing dental services;

8 [~~7~~] (9) nonprofit community-based entities
9 and organizations that use public funds to provide dental,
10 dental therapy and dental hygiene services for indigent
11 persons; and

12 [~~8~~] (10) hospitals licensed by the
13 department of health.

14 I. Except as provided in Subsection M of Section
15 61-5A-5 NMSA 1978, unless licensed to practice as a dental
16 therapist pursuant to the Dental Health Care Act, a person
17 shall not:

18 (1) practice as a dental therapist;

19 (2) use the title "dental therapist" or any
20 other title, abbreviation, letters, figure, sign or device to
21 indicate that the person is a licensed dental therapist; or

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

24 **SECTION 9.** Section 61-5A-5.1 NMSA 1978 (being Laws
25 2003, Chapter 409, Section 12) is amended to read:

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1 "61-5A-5.1. NON-DENTIST OWNER--EMPLOYING OR CONTRACTING
2 FOR DENTAL SERVICES.--

3 A. A person, corporation or agency that desires
4 to function as a non-dentist owner in New Mexico shall apply
5 to the board for the proper license and shall adhere to the
6 requirements, re-licensure criteria and fees as established
7 by the rules of the board.

8 B. Unless licensed as a dentist or non-dentist
9 owner, or as otherwise exempt from the licensing requirements
10 of the Dental Health Care Act, an individual or corporate
11 entity shall not:

12 (1) employ or contract with a dentist,
13 dental therapist or dental hygienist for the purpose of
14 providing dental, dental therapy or dental hygiene services
15 as defined by their respective scopes of practice; or

16 (2) enter into a managed care or other
17 agreement to provide dental, dental therapy or dental hygiene
18 services in New Mexico."

19 SECTION 10. Section 61-5A-8 NMSA 1978 (being Laws 1994,
20 Chapter 55, Section 8, as amended by Laws 2003, Chapter 408,
21 Section 4 and by Laws 2003, Chapter 409, Section 6) is
22 amended to read:

23 "61-5A-8. BOARD CREATED.--

24 A. There is created the nine-member "New Mexico
25 board of dental health care". The board [~~shall be~~] is

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1 administratively attached to the regulation and licensing
2 department. The board [~~shall consist~~] consists of five
3 dentists, two dental therapists or dental therapist
4 advocates, two dental hygienists and two public members. The
5 dentists shall be actively practicing and shall have been
6 licensed practitioners and residents of New Mexico for a
7 period of five years preceding the date of appointment. The
8 dental therapist or dental therapist advocate members shall
9 be members of the committee. The dental hygienist members
10 shall be members of the committee and shall be elected
11 annually to sit on the board by those sitting on the
12 committee. The appointed public members shall be residents
13 of New Mexico and shall have no financial interest, direct or
14 indirect, in the professions regulated in the Dental Health
15 Care Act.

16 B. The governor may appoint the dentist members
17 from a list of names submitted by the New Mexico dental
18 association. There shall be one member from each district.
19 All board members shall serve until their successors have
20 been appointed. No more than one member may be employed by
21 or receive remuneration from a dental or dental hygiene
22 educational institution.

23 C. Appointments for dentists and public members
24 shall be for terms of five years. Dentists' appointments
25 shall be made so that the term of one dentist member expires

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1 on July 1 of each year. Public members' five-year terms
2 begin at the date of appointment.

3 D. A board member failing to attend three board
4 or committee meetings, either regular or special, during the
5 board member's term shall automatically be removed as a
6 member of the board unless excused from attendance by the
7 board for good cause shown. Members of the board not sitting
8 on the committee shall not be required or allowed to attend
9 committee disciplinary hearings.

10 E. A board member shall not serve more than two
11 full terms on any state-chartered board whose responsibility
12 includes the regulation of practice or licensure of dentistry
13 or dental hygiene in New Mexico. A partial term of three or
14 more years shall be considered a full term.

15 F. In the event of a vacancy, the secretary of
16 the board shall immediately notify the governor, the board
17 and committee members and the New Mexico dental association
18 of the reason for its occurrence and action taken by the
19 board, so as to expedite appointment of a new board member.

20 G. The board shall meet at least four times every
21 year, and no more than two meetings shall be public rules
22 hearings. Regular meetings shall not be more than one
23 hundred twenty days apart. The board may also hold special
24 meetings and emergency meetings in accordance with rules of
25 the board upon written notice to all members of the board and

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1 the committee.

2 H. Members of the board shall be reimbursed as
3 provided in the Per Diem and Mileage Act and shall receive no
4 other compensation, perquisite or allowance; however, the
5 secretary-treasurer may be compensated at the discretion of
6 the board.

7 I. A simple majority of the board members
8 currently serving shall constitute a quorum, provided at
9 least two of that quorum are not dentist members and three
10 are dentist members.

11 J. The board shall elect officers annually as
12 deemed necessary to administer its duties and as provided in
13 its rules."

14 SECTION 11. Section 61-5A-9 NMSA 1978 (being Laws 1994,
15 Chapter 55, Section 9, as amended by Laws 2003, Chapter 408,
16 Section 5 and by Laws 2003, Chapter 409, Section 7) is
17 amended to read:

18 "61-5A-9. COMMITTEE CREATED.--

19 A. There is created the nine-member "New Mexico
20 dental hygienists committee". The committee [~~shall be~~] is
21 administratively attached to the regulation and licensing
22 department. The committee [~~shall consist~~] consists of five
23 dental hygienists, two dentists, [~~and~~] two public members and
24 two dental therapists or dental therapist advocates. The two
25 dental therapists or dental therapist advocates shall be

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1 members of the board. The dental hygienists shall be
2 actively practicing and shall have been licensed
3 practitioners and residents of New Mexico for a period of
4 five years preceding the date of their appointment. The
5 dentists and public members shall be members of the board and
6 shall be elected annually to sit on the committee by those
7 members sitting on the board.

8 B. The governor may appoint the dental hygienists
9 from a list of names submitted by the New Mexico dental
10 hygienists association. There shall be one member from each
11 district. Members shall serve until their successors have
12 been appointed. No more than one member may be employed by
13 or receive remuneration from a dental or dental hygiene
14 educational institution.

15 C. Appointments for dental hygienist members
16 shall be for terms of five years. Appointments shall be made
17 so that the term of one dental hygienist expires on July 1 of
18 each year.

19 D. Within thirty days of the effective date of
20 this 2013 act, the governor shall appoint the dental
21 therapist or dental therapist advocate members from a list of
22 names submitted by New Mexico health resources, health action
23 New Mexico, a state or regional dental therapists'
24 association or a state institution of higher education that
25 has a dental therapy education program.

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1 E. Appointments for dental therapist or dental
2 therapist advocate members shall be for terms of five years.

3 F. Within six months of the appointment of the
4 dental therapist or dental therapist advocate members, the
5 joint committee shall adopt and promulgate rules relating to
6 the practice of dental therapy.

7 ~~[D-]~~ G. A committee member failing to attend
8 three committee or board meetings, either regular or special,
9 during the committee member's term shall automatically be
10 removed as a member of the committee unless excused from
11 attendance by the committee for good cause shown. Members of
12 the committee not sitting on the board shall not be required
13 or allowed to attend board disciplinary hearings.

14 ~~[E-]~~ H. A committee member shall not serve more
15 than two full terms on any state-chartered board whose
16 responsibility includes the regulation of practice or
17 licensure of dentistry or dental hygiene in New Mexico. A
18 partial term of three or more years shall be considered a
19 full term.

20 ~~[F-]~~ I. In the event of a vacancy, the secretary
21 of the committee shall immediately notify the governor, the
22 committee and board members and the New Mexico dental
23 hygienists association of the reason for its occurrence and
24 action taken by the committee, so as to expedite appointment
25 of a new committee member.

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1 ~~[G.]~~ J. The committee shall meet at least four
2 times every year, and no more than two meetings shall be
3 public rules hearings. Regular meetings shall not be more
4 than one hundred twenty days apart. The committee may also
5 hold special meetings and emergency meetings in accordance
6 with the rules of the board and committee, upon written
7 notification to all members of the committee and the board.

8 ~~[H.]~~ K. Members of the committee shall be
9 reimbursed as provided in the Per Diem and Mileage Act and
10 shall receive no other compensation, perquisite or allowance.

11 ~~[I.]~~ L. A simple majority of the committee
12 members currently serving shall constitute a quorum, provided
13 at least two of that quorum are not hygienist members and
14 three are hygienist members.

15 M. A decision that has a potential impact upon,
16 or otherwise relates to, the practice of dental therapy shall
17 be referred to the joint committee.

18 ~~[J.]~~ N. The committee shall elect officers
19 annually as deemed necessary to administer its duties and as
20 provided in rules [~~and regulations~~] of the board and
21 committee."

22 SECTION 12. Section 61-5A-10 NMSA 1978 (being Laws
23 1994, Chapter 55, Section 10, as amended) is amended to read:
24 "61-5A-10. POWERS AND DUTIES OF THE BOARD, [~~AND~~] THE
25 COMMITTEE AND THE JOINT COMMITTEE.--In addition to any other

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1 authority provided by law, the board, [~~and~~] the committee and
2 the joint committee, when designated, shall:

3 A. enforce and administer the provisions of the
4 Dental Health Care Act;

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

8 (1) regulate the examination and licensure
9 of dentists [~~and, through the committee, regulate the~~
10 ~~examination and licensure of dental hygienists~~];

11 (2) through the committee, regulate the
12 examination and licensure of dental hygienists;

13 (3) through the joint committee, regulate
14 the examination and licensure of dental therapists;

15 [~~2~~] (4) provide for the examination and
16 certification of dental assistants by the board;

17 [~~3~~] (5) provide for the regulation of
18 dental technicians by the board;

19 [~~4~~] (6) regulate the practice of dentistry
20 and dental assisting [~~and, through the committee, regulate~~
21 ~~the practice of dental hygiene; and~~];

22 (7) through the committee, regulate the
23 practice of dental hygiene;

24 (8) through the joint committee, regulate
25 the practice of dental therapy; and

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1 [~~(5)~~] (9) provide for the regulation and
2 licensure of non-dentist owners by the board;

3 C. adopt and use a seal;

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

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

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

17 F. in accordance with the Uniform Licensing Act,
18 for any cause stated in the Dental Health Care Act, grant,
19 deny, review, censure, reprimand, fine and place on probation
20 and stipulation, suspend and revoke:

21 (1) licenses to practice dentistry;

22 (2) certificates to practice dental
23 assisting;

24 (3) through the committee, licenses to
25 practice dental hygiene; and

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1 (4) through the joint committee, licenses to
2 practice dental therapy;

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

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

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

19 J. establish ad hoc committees whose members
20 shall be appointed by the chair with the advice and consent
21 of the board or committee and shall include at least one
22 member of the board or committee as it deems necessary for
23 carrying on its business. An ad hoc committee that the board
24 or committee establishes to address issues related to the
25 practice of dental therapy shall include at least one joint

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1 committee member who is a dental therapist or dental
2 therapist advocate;

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

6 L. have the authority to hire or contract with
7 investigators to investigate possible violations of the
8 Dental Health Care Act;

9 M. have the authority to issue investigative
10 subpoenas prior to the issuance of a notice of contemplated
11 action for the purpose of investigating complaints against
12 dentists; dental assistants; ~~and~~ through the joint
13 committee, dental therapists; and through the committee,
14 dental hygienists [~~licensed under the Dental Health Care~~
15 ~~Act~~];

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

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

25 P. establish continuing education or continued

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1 competency requirements for [~~dentists, certified dental~~
2 ~~assistants in expanded functions, dental technicians and,~~
3 ~~through the committee, dental hygienists~~]:

4 (1) dentists;

5 (2) certified dental assistants in expanded
6 functions;

7 (3) dental technicians;

8 (4) through the board and joint committee,
9 dental therapists; and

10 (5) through the committee, dental
11 hygienists."

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

14 "61-5A-14. TEMPORARY LICENSURE.--~~[The board or the~~
15 ~~committee]~~

16 A. A licensing authority may issue a temporary
17 license to practice dentistry, dental therapy or dental
18 hygiene to [~~any~~] an applicant who is licensed to practice
19 dentistry, dental therapy or dental hygiene in another state
20 or territory of the United States and who is otherwise
21 qualified to practice dentistry, dental therapy or dental
22 hygiene in [~~this~~] the state. The following provisions shall
23 apply:

24 [~~A.~~] (1) the applicant shall hold a valid
25 license in good standing in another state or territory of the

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1 United States;

2 [B-] (2) the applicant shall practice
3 dentistry, dental therapy or dental hygiene under the
4 sponsorship of or in association with a licensed New Mexico
5 dentist, dental therapist or dental hygienist;

6 [G-] (3) the temporary license may be issued
7 for those activities as stipulated by the [~~board or~~
8 ~~committee~~] licensing authority in the rules of the board. It
9 may be issued upon written application of the applicant when
10 accompanied by such proof of qualifications as the
11 secretary-treasurer of the board or committee, in [~~his~~] the
12 secretary-treasurer's discretion, may require. Temporary
13 licensees shall engage in only those activities specified on
14 the temporary license for the time designated, and the
15 temporary license shall identify the licensed New Mexico
16 dentist, dental therapist or dental hygienist who will
17 sponsor or associate with the applicant during the time the
18 applicant practices dentistry, dental therapy or dental
19 hygiene in New Mexico;

20 [D-] (4) the sponsoring or associating
21 dentist, dental therapist or dental hygienist shall submit an
22 affidavit attesting to the qualifications of the applicant
23 and the activities the applicant will perform;

24 [E-] (5) the temporary license shall be
25 issued for a period not to exceed twelve months and may be

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1 renewed upon application and payment of required fees;

2 [F-] (6) the application for a temporary
3 license under this section shall be accompanied by a license
4 fee; and

5 [G-] (7) the temporary licensee shall be
6 required to comply with the Dental Health Care Act and all
7 rules promulgated pursuant thereto.

8 B. A licensing authority may grant to a dentist,
9 dental therapist or dental hygienist who meets the
10 requirements of Subsection A of this section and who is
11 licensed to practice dentistry, dental therapy or dental
12 hygiene in another state or territory of the United States
13 temporary licensure to practice and serve as faculty for a
14 dental therapy education program in a state institution, a
15 program approved or maintained by the department of health or
16 a program or clinic that the department of health designates
17 as serving a health care underserved area."

18 SECTION 14. Section 61-5A-15 NMSA 1978 (being Laws
19 1994, Chapter 55, Section 15) is amended to read:

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

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

25 (1) a serial number;

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

10 B. All dental hygienist licenses issued by the
11 board shall bear:

- 12 (1) a serial number;
- 13 (2) the full name of the licensee;
- 14 (3) the date of issue;
- 15 (4) the seal of the board;
- 16 (5) the signatures of a majority of the
- 17 committee members; and
- 18 (6) the attestation of the board president
- 19 and secretary.

20 C. A dental therapist license shall bear:

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

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1 members of the joint committee; and

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

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

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

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

18 **SECTION 15.** Section 61-5A-16 NMSA 1978 (being Laws
19 1994, Chapter 55, Section 16, as amended) is amended to read:

20 "61-5A-16. LICENSE AND CERTIFICATE RENEWALS.--

21 A. Except as provided in Subsection I of this
22 section, all licensees and certificate holders shall ~~[be~~
23 ~~required to]~~ renew their licenses or certificates triennially
24 as established by board rules ~~[of the board]~~.

25 B. All dental assistants certified in expanded

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1 functions, expanded-function dental auxiliaries and community
2 dental health coordinators shall ~~[be required to]~~ renew their
3 certificates triennially as established by board rules ~~[of~~
4 ~~the board]~~.

5 C. ~~[The board or committee may establish a method~~
6 ~~to provide for]~~ Terms of licensure and certification may be
7 in staggered triennial terms. ~~[and may prorate]~~ Triennial
8 renewal fees and impaired dentist, dental therapist and
9 dental hygienist fees may be prorated until staggered
10 triennial renewal is established. The fact that a licensee
11 or certificate holder has not received a renewal form ~~[from~~
12 ~~the board or committee]~~ shall not relieve the licensee or
13 certificate holder of the duty to renew the license or
14 certificate nor ~~[shall such omission on the part of the board~~
15 ~~or committee operate to exempt the]~~ exempt a licensee or
16 certificate holder from the penalties for failure to renew
17 ~~[the licensee's]~~ a license or certificate.

18 D. All licensees and certificate holders shall
19 pay a triennial renewal fee and ~~[an]~~ a fee for impaired
20 ~~[dentist and dental hygienist fee, and]~~ dentists, dental
21 therapists and dental hygienists. All licensees and
22 certificate holders shall return a completed renewal
23 application form that includes proof of continuing education
24 or continued competency.

25 E. Each application for triennial renewal of

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1 license or certificate shall state the licensee's or
2 certificate holder's full name, business address, the date
3 and number of the license or certificate and all other
4 information requested [~~by the board or committee~~].

5 F. A licensee or certificate holder who fails to
6 submit an application for triennial renewal on or before July
7 1 but who submits an application for triennial renewal within
8 thirty days thereafter shall be assessed a late fee.

9 G. A licensee or certificate holder who fails to
10 submit application for triennial renewal between thirty and
11 sixty days of the July 1 deadline may have the licensee's or
12 certificate holder's license or certificate suspended. If
13 the licensee or certificate holder renews by that time, the
14 licensee or certificate holder shall be assessed a cumulative
15 late fee.

16 H. [~~The board or the committee may summarily~~
17 ~~revoke~~] For nonpayment of fees or failure to comply with
18 continuing education or continued competency requirements, a
19 licensing authority may revoke the license or certificate of
20 a licensee or certificate holder who has failed to renew the
21 license or certificate on or before August 31.

22 I. A license for a non-dentist owner shall be
23 renewed triennially as established by rules. An application
24 for renewal of a non-dentist owner license shall state the
25 name, business address, date and number of the license and

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1 all other information as required by board rule [~~of the~~
2 ~~board~~]. If a non-dentist owner fails to submit the
3 application for renewal of the license by July 1, the board
4 may assess a late fee. If the non-dentist owner fails to
5 submit the application for a renewal license within sixty
6 days of the July 1 renewal deadline, the board may suspend
7 the license. The license of a non-dentist owner may be
8 summarily revoked by the board for nonpayment of fees.

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

11 SECTION 16. Section 61-5A-17 NMSA 1978 (being Laws
12 1994, Chapter 55, Section 17, as amended) is amended to read:

13 "61-5A-17. RETIREMENT AND INACTIVE STATUS--
14 REACTIVATION.--

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

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

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

16 C. A licensee whose license has been placed in
17 inactive status may not engage in any of the activities
18 contained within the licensee's respective scope of practice
19 [~~of dentistry or dental hygiene]~~ in New Mexico described in
20 Section 61-5A-4 NMSA 1978.

21 D. [~~Licensees with]~~ A licensee holding an
22 inactive [~~licenses must]~~ license shall renew [~~their licenses]~~
23 the license triennially and comply with all the requirements
24 set by the [~~board and the committee]~~ licensing authority.

25 E. If a licensee with an inactive license wishes

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

11 F. [~~Inactive licenses must~~] An inactive license
12 shall be reactivated or permanently retired within nine years
13 of having been placed in inactive status.

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

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

18 "61-5A-18. PRACTICING WITHOUT A LICENSE--PENALTY.--

19 A. Any person who practices dentistry or who
20 attempts to practice dentistry without first complying with
21 the provisions of the Dental Health Care Act and without
22 being the holder of a license entitling the practitioner to
23 practice dentistry in New Mexico is guilty of a fourth degree
24 felony and upon conviction shall be sentenced pursuant to the
25 provisions of the Criminal Sentencing Act to imprisonment for

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1 a definite period not to exceed eighteen months and, in the
2 discretion of the sentencing court, to a fine not to exceed
3 five thousand dollars (\$5,000), or both. Each occurrence of
4 practicing dentistry or attempting to practice dentistry
5 without complying with the Dental Health Care Act shall be a
6 separate violation.

7 B. Any person who practices as a dental hygienist
8 or who attempts to practice as a dental hygienist without
9 first complying with the provisions of the Dental Health Care
10 Act and without being the holder of a license entitling the
11 [~~practitioner~~] person to practice as a dental hygienist in
12 New Mexico is guilty of a misdemeanor and upon conviction
13 shall be sentenced under the provisions of the Criminal
14 Sentencing Act to imprisonment for a definite period of less
15 than one year and, in the discretion of the sentencing court,
16 to a fine not to exceed one thousand dollars (\$1,000), or
17 both. Each occurrence of practicing as a dental hygienist or
18 attempting to practice as a dental hygienist without
19 complying with the Dental Health Care Act shall be a separate
20 violation.

21 C. A person who practices as a dental therapist
22 or who attempts to practice as a dental therapist without
23 first complying with the provisions of the Dental Health Care
24 Act and without being the holder of a license entitling the
25 person to practice as a dental therapist in the state is

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1 guilty of a misdemeanor and upon conviction shall be
2 sentenced to imprisonment for a definite period of less than
3 one year and, in the discretion of the sentencing court, to a
4 fine not to exceed one thousand dollars (\$1,000), or both.
5 Each occurrence of practicing as a dental therapist or
6 attempting to practice as a dental therapist without
7 complying with the Dental Health Care Act shall be a separate
8 violation.

9 ~~[G-]~~ D. A person that functions or attempts to
10 function as a non-dentist owner or who is an officer of a
11 corporate entity that functions or attempts to function as a
12 non-dentist owner in New Mexico without first complying with
13 the provisions of the Dental Health Care Act is guilty of a
14 misdemeanor and upon conviction shall be sentenced pursuant
15 to the provisions of the Criminal Sentencing Act to
16 imprisonment for a definite period not to exceed one year
17 and, in the discretion of the sentencing court, to a fine not
18 to exceed one thousand dollars (\$1,000), or both. Each
19 occurrence of functioning as a non-dentist owner without
20 complying with the Dental Health Care Act shall be a separate
21 violation.

22 ~~[D-]~~ E. The attorney general or district attorney
23 shall prosecute all violations of the Dental Health Care Act.

24 ~~[E-]~~ F. Upon conviction of any person for
25 violation of any provision of the Dental Health Care Act, the

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1 convicting court may, in addition to the penalty provided in
2 this section, enjoin the person from any further or continued
3 violations of the Dental Health Care Act and enforce the
4 order of contempt proceedings."

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

7 "61-5A-19. REINSTATEMENT OF REVOKED OR SUSPENDED
8 LICENSE.--

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

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

16 C. A licensee who has been suspended for a
17 specific period of time shall be automatically reinstated at
18 the expiration of the period specified in the order of
19 suspension. The suspended [~~dentist or dental hygienist will~~]
20 licensee shall be automatically [~~be~~] reinstated as of the day
21 after the expiration of the period of suspension; provided
22 that prior to the expiration of [~~such time~~] that period, if
23 the administrative prosecutor has filed with the board [~~or~~
24 ~~committee~~] the written objections, the suspended [~~dentist or~~
25 ~~dental hygienist~~] licensee shall not be automatically

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1 reinstated. Should objections be filed, the petition for
2 reinstatement shall be referred to the [~~board or committee~~]
3 licensing authority for hearing [~~under~~] pursuant to
4 provisions of Subsection E of this section.

5 D. [~~Suspended dentists or dental hygienists~~
6 ~~indefinite suspension~~] Procedures for reinstatement of
7 licensees who have been suspended for an indefinite period of
8 time are as follows:

9 (1) at any time after complying with the
10 conditions of reinstatement, a licensee who has been
11 suspended for an indefinite period of time may [~~at any time~~
12 ~~after complying with the conditions of reinstatement~~] file a
13 petition for reinstatement with the board [~~or committee~~];

14 (2) the petition shall be referred to the
15 [~~board or committee~~] applicant's respective licensing
16 authority for hearing [~~under~~] pursuant to provisions of
17 Subsection E of this section; and

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

21 E. [~~Procedure~~] Procedures for reinstatement
22 hearings are as follows:

23 (1) applications for reinstatement shall be
24 referred to the [~~board or committee~~] applicant's respective
25 licensing authority for hearing if the applicant meets the

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1 criteria set forth in this section;

2 (2) the ~~[board or committee]~~ applicant's
3 respective licensing authority shall schedule a hearing as
4 soon as practical at which the applicant shall have the
5 burden of demonstrating that the applicant has the moral
6 qualifications for reinstatement, that the applicant is once
7 again fit to resume the practice of dentistry, dental therapy
8 or dental hygiene and that the resumption of the applicant's
9 practice of dentistry, dental therapy or dental hygiene will
10 not be detrimental to the public interest;

11 (3) the ~~[board or committee]~~ applicant's
12 licensing authority shall file its findings of fact,
13 conclusions of law and decision within ninety days of the
14 hearing; and

15 (4) the ~~[board's or committee's]~~ licensing
16 authority's decision to refuse to reinstate a license shall
17 not be reviewable except for an abuse of discretion."

18 SECTION 19. Section 61-5A-20 NMSA 1978 (being Laws
19 1994, Chapter 55, Section 20, as amended) is amended to read:

20 "61-5A-20. FEES.--The board, ~~[and]~~ the committee and
21 the joint committee shall establish a schedule of reasonable
22 fees not to exceed the following:

23		<u>Dental</u>	<u>Dental</u>
24	<u>Dentists</u>	<u>Therapists</u>	<u>Hygienists</u>

25 A. licensure by

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

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1 function dental
2 auxiliary or
3 community dental
4 health coordinator
5 certificate \$ 100
6 N. application for certification for
7 collaborative practice \$ 150 \$ 150
8 O. annual renewal for
9 collaborative practice \$ 50 \$ 50
10 P. application for inactive
11 status \$ 50 \$ 50 \$ 50
12 Q. triennial renewal of
13 inactive license \$ 90 \$ 90 \$ 90

14 Non-dentist Owners

15 R. non-dentist owners license (initial) \$ 300
16 S. non-dentist owners license triennial renewal \$ 150."

17 **SECTION 20.** Section 61-5A-21 NMSA 1978 (being Laws
18 1994, 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
22 and board rules, [~~of the board, the board and committee~~] a
23 licensing authority may fine and may deny, revoke, suspend,
24 stipulate or otherwise limit any license or certificate,
25 including those of licensed non-dentist owners, held or

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

4 (1) is guilty of fraud or deceit in
5 procuring 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 that a copy of the record of conviction, certified to
9 by 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 hygiene, dental therapy 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
17 to such degree as to render the licensee or certificate holder
18 unfit to practice;

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

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

23 (7) has violated any provisions of the
24 Dental Health Care Act or rule or regulation of the board or
25 the committee;

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

3 (9) is guilty of practicing dentistry, [~~or~~]
4 dental therapy, dental hygiene [~~without a license~~] or dental
5 assisting without the required licensure or certification or
6 aiding or abetting the practice of dentistry, [~~or~~] dental
7 therapy, dental hygiene or dental assisting by a person not
8 licensed or certified as required under the Dental Health Care
9 Act;

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

14 (11) is guilty of patient abandonment;

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

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

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

5 (14) has failed to furnish the [~~board~~]
6 licensing authority, its investigators or its representatives
7 with information requested by the [~~board or the committee~~]
8 licensing authority in the course of an official
9 investigation.

10 B. Disciplinary proceedings may be instituted by
11 sworn complaint by any person, including a board, [~~or~~]
12 committee or joint committee member, and shall conform with
13 the provisions of the Uniform Licensing Act.

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

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

19 E. [~~Licensee whose licenses are~~] A licensee or
20 certificate holder whose license or certificate is in a
21 probationary status shall pay reasonable expenses for
22 maintaining probationary status, including but not limited to
23 laboratory costs when laboratory testing of biological fluids
24 or accounting costs when audits are included as a condition of
25 probation."

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1 SECTION 21. Section 61-5A-24 NMSA 1978 (being Laws
2 1994, Chapter 55, Section 24) is amended to read:

3 "61-5A-24. INJUNCTION TO STOP [~~UNLICENSED~~] UNAUTHORIZED
4 DENTAL, DENTAL THERAPY, [OR] DENTAL HYGIENE OR DENTAL
5 ASSISTING PRACTICE.--

6 A. The attorney general, the district attorney,
7 the board, the committee, the joint committee or any citizen
8 of any county where any person practices dentistry, [~~or~~]
9 dental therapy, dental hygiene or dental assisting without
10 possessing a valid license or certificate to do so may, in
11 accordance with the laws of New Mexico governing injunctions,
12 maintain an action in the name of the state to enjoin such
13 person from practicing dentistry, [~~or~~] dental therapy, dental
14 hygiene or dental assisting until a valid license to practice
15 dentistry, [~~or~~] dental therapy, dental hygiene or dental
16 assisting is secured. [~~and~~] Any person who has been enjoined
17 and who violates the injunction shall be punished for contempt
18 of court; provided that the injunction does not relieve any
19 person practicing dentistry, [~~or~~] dental therapy, dental
20 hygiene or dental assisting without a valid license or
21 certificate from a criminal prosecution [~~therefore~~] as
22 provided by law.

23 B. In charging any person in a complaint for
24 injunction, or in an affidavit, information or indictment with
25 practicing dentistry, [~~or~~] dental therapy, dental hygiene or

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1 dental assisting without a valid license or certificate, it is
2 sufficient to charge that the person did, upon a certain day
3 and in a certain county, engage in the practice of dentistry,
4 [~~or~~] dental therapy, dental hygiene or dental assisting
5 without a valid license or certificate, without averring any
6 further or more particular facts concerning the same."

7 SECTION 22. Section 61-5B-1 NMSA 1978 (being Laws 1994,
8 Chapter 55, Section 30) is amended to read:

9 "61-5B-1. SHORT TITLE.--~~[Sections 31 through 41 of this~~
10 ~~act]~~ Chapter 61, Article 5B NMSA 1978 shall be cited as the
11 "Impaired Dentists, Dental Therapists and Dental Hygienists
12 Act".

13 SECTION 23. Section 61-5B-2 NMSA 1978 (being Laws 1994,
14 Chapter 55, Section 31, as amended) is amended to read:

15 "61-5B-2. DEFINITIONS.--As used in the Impaired
16 Dentists, Dental Therapists and Dental Hygienists Act:

17 A. "board" means the New Mexico board of dental
18 health care;

19 B. "dental hygienists committee" means the New
20 Mexico dental hygienists committee;

21 C. "dentistry or dental hygiene" means the
22 practice of dentistry or dental hygiene; [~~and~~]

23 D. "joint committee" means a committee made up of
24 the New Mexico board of dental health care and the dental
25 hygienists committee that licenses and supervises the practice

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1 of dental therapy;

2 ~~[D-]~~ E. "licensee" means a dentist or dental
3 hygienist licensed by the board; and

4 F. "licensing authority" means:

5 (1) for dentists, the New Mexico board of
6 dental health care;

7 (2) for dental hygienists, the dental
8 hygienists committee; and

9 (3) for dental therapists, the joint
10 committee."

11 SECTION 24. Section 61-5B-3 NMSA 1978 (being Laws 1994,
12 Chapter 55, Section 32) is amended to read:

13 "61-5B-3. GROUNDS FOR RESTRICTION, SUSPENSION,
14 REVOCATION, STIPULATION OR OTHER LIMITATION OF LICENSE OR
15 CERTIFICATE.--The license of any ~~[dentist or dental hygienist]~~
16 licensee to practice dentistry, dental therapy or dental
17 hygiene or the certificate of a dental assistant to practice
18 dental assisting in this state shall be subject to
19 restriction, suspension, revocation or stipulation or may
20 otherwise be limited in case of inability of the licensee or
21 certificate holder to practice with reasonable skill and
22 safety to patients by reason of one or more of the following:

23 A. mental illness;

24 B. physical illness, including but not limited to
25 deterioration through the aging process or loss of motor

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1 skills;

2 C. habitual or excessive use or abuse of drugs, as
3 defined in the Controlled Substances Act; or

4 D. habitual or excessive use or abuse of alcohol."

5 SECTION 25. Section 61-5B-4 NMSA 1978 (being Laws 1994,
6 Chapter 55, Section 33) is amended to read:

7 "61-5B-4. BOARD, ~~[OR]~~ DENTAL HYGIENISTS COMMITTEE OR
8 JOINT COMMITTEE--ADDITIONAL POWERS AND DUTIES AS RELATED TO
9 THE IMPAIRED DENTISTS, DENTAL THERAPISTS AND DENTAL HYGIENISTS
10 ACT.--

11 A. If ~~[the board or dental hygienists committee]~~ a
12 licensing authority has reasonable cause to believe that a
13 ~~[person licensed to practice dentistry or dental hygiene]~~
14 licensee is unable to practice with reasonable skill and
15 safety to patients because of a condition described in the
16 Impaired Dentists, Dental Therapists and Dental Hygienists
17 Act, the ~~[board]~~ licensing authority shall cause an
18 examination of ~~[such]~~ the licensee to be made and shall,
19 following the examination, take appropriate action within the
20 provisions of the Impaired Dentists, Dental Therapists and
21 Dental Hygienists Act.

22 B. Examination of a licensee pursuant to an order
23 of the ~~[board]~~ licensee's respective licensing authority shall
24 be conducted by an examining committee designated by the
25 ~~[board. Each examining committee shall be composed of two duly~~

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1 ~~licensed dentists, or two duly licensed dental hygienists if~~
2 ~~the licensee is a dental hygienist, and two duly licensed~~
3 ~~physicians, one of whom shall be a psychiatrist who is~~
4 ~~knowledgeable and experienced in the field of chemical~~
5 ~~dependency if a question of mental illness or dependency is~~
6 ~~involved. Whenever possible, examining committee members~~
7 ~~shall be selected for their knowledge or experience in the~~
8 ~~areas of alcoholism, chemical dependency, mental health and~~
9 ~~geriatrics and may be rehabilitated impaired dentists, dental~~
10 ~~hygienists or physicians. In designating the members of such~~
11 ~~examining committee, the board may consider nominations from~~
12 ~~the New Mexico dental association for the dentist member, the~~
13 ~~New Mexico dental hygienists' association for dental hygiene~~
14 ~~members thereof and nomination from the New Mexico medical~~
15 ~~society for the physician members thereof. No current members~~
16 ~~of the board, dental hygienists committee or New Mexico board~~
17 ~~of medical examiners shall be designated as a member of an~~
18 ~~examining committee] licensing authority. An examining~~
19 ~~committee shall be composed of two licensed physicians, one of~~
20 ~~whom shall be a psychiatrist who is knowledgeable and~~
21 ~~experienced in the field of chemical dependency if a question~~
22 ~~of mental illness or dependency is involved. An examining~~
23 ~~committee shall also include additional members in the~~
24 ~~following manner:~~

25 (1) if the licensee is a dentist, the

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1 examining committee shall include two licensed dentists;

2 (2) if the licensee is a dental therapist,
3 the examining committee shall include two licensed dental
4 therapists or two dental therapist advocates; and

5 (3) if the licensee is a dental hygienist,
6 the examining committee shall include two licensed dental
7 hygienists.

8 C. Whenever possible, examining committee members
9 shall be selected for their knowledge of or experience in the
10 areas of alcoholism, chemical dependency, mental health and
11 geriatrics. Members of the examining committee may be
12 rehabilitated impaired dentists, dental therapists, dental
13 hygienists or physicians.

14 D. In designating the members of an examining
15 committee, the licensing authority may consider nominations
16 from the New Mexico medical society for physician members and
17 nominations from the following entities:

18 (1) for dentist members, from the New Mexico
19 dental association;

20 (2) for dental therapist members, a state or
21 regional dental therapists' association, if available, or
22 dental therapy education program faculty; and

23 (3) for dental hygienist members, the New
24 Mexico dental hygienists' association.

25 E. A current member of the board, the dental

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1 hygienists committee or the New Mexico board of medical
2 examiners shall not be designated as a member of an examining
3 committee."

4 SECTION 26. Section 61-5B-5 NMSA 1978 (being Laws 1994,
5 Chapter 55, Section 34) is amended to read:

6 "61-5B-5. EXAMINATION BY COMMITTEE.--

7 A. The examining committee assigned to examine a
8 licensee pursuant to referral by the [~~board~~] licensee's
9 licensing authority shall conduct an examination of the
10 licensee for the purpose of determining the fitness of the
11 licensee to practice dentistry, dental therapy or dental
12 hygiene with reasonable skill and safety to patients, either
13 on a restricted or unrestricted basis, and shall report its
14 findings and recommendations to the [~~board~~] licensee's
15 licensing authority. The findings and recommendations shall
16 be based on findings by the examining committee that the
17 licensee examined possesses one or more of the impairments set
18 forth in the Impaired Dentists, Dental Therapists and Dental
19 Hygienists Act and [~~such~~] the impairment does, in fact, affect
20 the ability of the licensee to skillfully and safely practice
21 dentistry, dental therapy or dental hygiene. The examining
22 committee shall order the licensee to appear before it for
23 hearing and give the licensee fifteen days' notice of the time
24 and place of the hearing, together with a statement of the
25 cause for [~~such examination~~] the hearing. The notice shall be

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1 served upon the licensee either personally or by registered or
2 certified mail with return receipt requested.

3 B. If the examining committee, in its discretion,
4 deems a mental or physical examination of the licensee
5 necessary to its determination of the fitness of the licensee
6 to practice, the examining committee shall order the licensee
7 to submit to such examination. Any ~~[person licensed to~~
8 ~~practice dentistry or dental hygiene]~~ licensee in this state
9 shall, by so practicing or by making or filing an annual
10 registration to practice dentistry, dental therapy or dental
11 hygiene in this state, be deemed to have:

12 (1) given consent to submit to mental or
13 physical examination when so directed by the examining
14 committee; and

15 (2) waived all objections to the
16 admissibility of the report of the examining committee to the
17 ~~[board or the dental hygienists committee]~~ licensee's
18 licensing authority on the grounds of privileged
19 communication.

20 C. Any licensee who submits to a diagnostic mental
21 or physical examination as ordered by the examining committee
22 shall have a right to designate an accompanying individual to
23 be present at the examination and make an independent report
24 to the ~~[board]~~ licensee's licensing authority.

25 D. Failure of a licensee to comply with an

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1 examining committee order under Subsection B of this section
2 to appear before it for hearing or to submit to mental or
3 physical examination under this section shall be reported by
4 the examining committee to the [~~board or dental hygienists~~
5 ~~committee~~] licensee's licensing authority and, unless due to
6 circumstances beyond the control of the licensee, shall be
7 grounds for the immediate and summary suspension by the [~~board~~
8 ~~of the licensee~~] licensing authority to practice dentistry,
9 dental therapy or dental hygiene in this state until further
10 order of the board."

11 SECTION 27. Section 61-5B-6 NMSA 1978 (being Laws 1994,
12 Chapter 55, Section 35) is amended to read:

13 "61-5B-6. VOLUNTARY RESTRICTION OF LICENSURE.--

14 A. A licensee may request in writing to the board
15 a restriction to practice under [~~his~~] the licensee's existing
16 license, and the [~~board and the dental hygienists committee~~]
17 licensee's licensing authority shall have authority, if [~~it~~
18 ~~deems~~] deemed appropriate, to attach stipulations to the
19 licensure of the licensee to practice dentistry, dental
20 therapy or dental hygiene within specified limitations and
21 waive the commencement of [~~any~~] a proceeding. Removal of a
22 voluntary restriction on licensure to practice dentistry,
23 dental therapy or dental hygiene shall be subject to the
24 procedure for reinstatement of license. As a condition for
25 accepting such voluntary limitation of practice, the [~~board~~]

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1 licensing authority may require [~~each~~] the licensee to:

2 (1) agree to and accept care, counseling or
3 treatment of physicians or other appropriate health care
4 providers acceptable to the [~~board~~] licensing authority;

5 (2) participate in a program of education
6 prescribed by the [~~board~~] licensing authority; or

7 (3) practice under the direction of a
8 dentist acceptable to the [~~board~~] licensing authority for a
9 specified period of time.

10 B. Subject to the provisions of the Impaired
11 Dentists, Dental Therapists and Dental Hygienists Act, a
12 violation of any of the conditions of the voluntary limitation
13 of practice statement by [~~such~~] the licensee shall be due
14 cause for the refusal of renewal, or the suspension or
15 revocation, of the license by the [~~board~~] licensee's licensing
16 authority."

17 SECTION 28. Section 61-5B-7 NMSA 1978 (being Laws 1994,
18 Chapter 55, Section 36) is amended to read:

19 "61-5B-7. REPORT TO THE BOARD, JOINT COMMITTEE OR
20 DENTAL HYGIENISTS COMMITTEE--ACTION.--

21 A. The examining committee shall report to the
22 board, joint committee or the dental hygienists committee its
23 findings on the examination of the licensee, the determination
24 of the examining committee as to the fitness of the licensee
25 to engage in the practice of dentistry, dental therapy or

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1 dental hygiene with reasonable skill and safety to patients,
2 either on a restricted or unrestricted basis, and any
3 intervention that the examining committee may recommend. Such
4 recommendation by the examining committee shall be advisory
5 only and shall not be binding on the board.

6 B. The board, joint committee or dental hygienists
7 committee may accept or reject the recommendation of the
8 examining committee to permit a licensee to continue to
9 practice with or without any restriction on [~~his~~] the
10 licensee's licensure to practice dentistry, dental therapy or
11 dental hygiene or may refer the matter back to the examining
12 committee for further examination and report [~~thereon~~] on it.

13 C. In the absence of a voluntary agreement by a
14 licensee for restriction of the licensure of the [~~dentist or~~
15 ~~the dental hygienist~~] licensee to practice dentistry, dental
16 therapy or dental hygiene, [~~any~~] the licensee shall be
17 entitled to a hearing before the [~~board~~] licensee's licensing
18 authority under and in accordance with the procedure contained
19 in the Uniform Licensing Act and a determination on the
20 evidence as to whether [~~or not~~] restriction, suspension or
21 revocation of licensure shall be imposed."

22 SECTION 29. Section 61-5B-9 NMSA 1978 (being Laws 1994,
23 Chapter 55, Section 38) is amended to read:

24 "61-5B-9. REINSTATEMENT OF LICENSE.--

25 A. A licensee whose licensure has been restricted,

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1 suspended or revoked under the Impaired Dentists, Dental
2 Therapists and Dental Hygienists Act, voluntarily or by action
3 of the [~~board~~] licensee's licensing authority, shall have a
4 right at reasonable intervals to petition for reinstatement of
5 the license and to demonstrate that the licensee can resume
6 the competent practice of dentistry, dental therapy or dental
7 hygiene with reasonable skill and safety to patients.

8 B. The petition shall be made in writing. If the
9 licensee is a dental hygienist, the [~~dental hygienists~~]
10 committee shall be advised and given all information [~~so that~~
11 ~~their~~] that the committee requests to inform its decision.
12 The committee shall provide its recommendation [~~can be given~~]
13 to the board for ratification. If the licensee is a dental
14 therapist, the joint committee shall be advised and given all
15 information that the joint committee requests to inform its
16 decision.

17 C. Action of the [~~board~~] licensing authority on
18 the petition shall be initiated by referral to and examination
19 by [~~the~~] an examining committee.

20 D. [~~The board~~] A licensing authority may, in its
21 discretion, upon written recommendation of the examining
22 committee, restore the licensure of the licensee on a general
23 or limited basis."

24 SECTION 30. Section 61-5B-10 NMSA 1978 (being Laws
25 1994, Chapter 55, Section 39) is amended to read:

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1 "61-5B-10. IMPAIRED DENTISTS, DENTAL THERAPISTS AND
2 DENTAL HYGIENISTS TREATMENT PROGRAM.--

3 A. The board, the joint committee and the dental
4 hygienists committee each has the authority to enter into an
5 agreement with a nonprofit corporation to implement an
6 impaired dentists, dental therapists and dental hygienists
7 treatment program.

8 B. For the purposes of this section, "impaired
9 dentists, dental therapists and dental hygienists treatment
10 program" means a program of care and rehabilitation services
11 provided by those organizations authorized by [~~the board~~] a
12 licensing authority to provide for the detention, intervention
13 and monitoring of an impaired [~~dentist or dental hygienist~~]
14 licensee."

15 SECTION 31. Section 61-5B-11 NMSA 1978 (being Laws
16 1994, Chapter 55, Section 40) is amended to read:

17 "61-5B-11. IMPAIRED DENTISTS, DENTAL THERAPISTS AND
18 DENTAL HYGIENISTS FUND CREATED.--

19 A. There is created an "impaired dentists, dental
20 therapists and dental [~~hygienist~~] hygienists fund".

21 B. The fund shall be initially established by an
22 assessment to all licensees as determined by the board, the
23 joint committee and the dental hygienists committee.

24 C. All [~~funds~~] money received by the board for an
25 impaired assessment, either special or at time of relicensure,

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1 shall be deposited with the state treasurer. The state
2 treasurer shall credit this money to the [~~impaired dentists~~
3 ~~and dental hygienists~~] fund.

4 D. Payments out of the fund shall be on vouchers
5 issued and signed by the secretary-treasurer of the board upon
6 warrants drawn by the department of finance and administration
7 in accordance with the responsibilities of the board as
8 approved by that department.

9 E. All amounts paid into the fund are subject to
10 the order of the board and are to be used only for meeting
11 necessary expenses incurred in executing the provisions and
12 duties of the Impaired Dentists, Dental Therapists and Dental
13 Hygienists Act. All money unused at the end of any fiscal
14 year shall remain in the fund for use in accordance with
15 provisions of the Impaired Dentists, Dental Therapists and
16 Dental Hygienists Act.

17 F. Licensees shall be assessed an impaired fee at
18 the time of renewal. The amount of the impaired fee shall be
19 determined by the board, the joint committee and the dental
20 hygienists committee and shall be established to meet the need
21 for enforcing the Impaired Dentists, Dental Therapists and
22 Dental Hygienists Act.

23 G. The fund shall be used for the purpose of
24 administration, testing, monitoring, hearings and consultation
25 fees by the board, joint committee or dental hygienists

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1 committee or [~~their~~] its agent, which are necessary to enforce
2 the Impaired Dentists, Dental Therapists and Dental Hygienists
3 Act. It is not the purpose of the fund to pay for treatment
4 of impaired dentists, [~~and~~] dental therapists or dental
5 hygienists."

6 SECTION 32. A new section of the Dental Health Care Act
7 is enacted to read:

8 "[NEW MATERIAL] DENTAL THERAPISTS--LICENSURE.--

9 A. Except as provided pursuant to Subsection C of
10 this section, an applicant for dental therapist licensure by
11 examination shall be required to:

12 (1) pass a written examination covering the
13 laws and rules for practice in the state; and

14 (2) submit proof to the joint committee for
15 its approval and recommendation:

16 (a) of graduation and receipt of a
17 degree from a dental therapy educational program that provides
18 a minimum of three thousand hours of dental therapy curriculum
19 and that is developed in partnership with an institution of
20 higher education;

21 (b) that the applicant: 1) is from the
22 community or a similarly situated community where the
23 applicant plans to practice; 2) has been vetted by the
24 community as part of the application process for the dental
25 therapy education program; and 3) maintains an ongoing

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1 relationship with the sponsoring entity, including one
2 community prevention project in the supporting community
3 during coursework;

4 (c) of passage of a competency-based
5 examination given by a nationally recognized regional testing
6 agency if available or, if not available, by an institution of
7 higher education with a dental therapy education program or
8 passage of competency-based examination that the applicant has
9 passed following the applicant's completion of a dental
10 therapy educational program; and

11 (d) of completion of a minimum of four
12 hundred additional clinical hours under the indirect
13 supervision of a dentist.

14 B. Upon notification from the dental therapy
15 education program that the dental therapist applicant has
16 graduated from the education program and passed the
17 competency-based examination, the joint committee shall issue
18 a permit for the applicant to practice during the applicant's
19 requirement to complete four hundred additional clinical hours
20 pursuant to Subparagraph (d) of Paragraph (2) of Subsection A
21 of this section.

22 C. The board shall issue a license to practice as
23 a dental therapist without a practical or clinical examination
24 to an applicant who is a licensed dental therapist by
25 examination under the laws of another state or territory of

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1 the United States; provided that the license is in good
2 standing for the two previous years in that jurisdiction and
3 that the applicant meets the requirements of the Dental Health
4 Care Act, including payment of appropriate fees and the
5 passing of an examination covering the laws and rules of the
6 practice of dental therapy in the state.

7 D. Upon receipt of a recommendation from the joint
8 committee, the board shall issue the applicant a license to
9 practice as a dental therapist.

10 E. The committee may license as a dental hygienist
11 a dental therapist if the dental therapist has completed a
12 minimum of one year of a dental hygiene education program from
13 an accredited dental hygiene education program, in accordance
14 with rules that the committee has established."