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SENATE BILL 212

**54TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2020**

INTRODUCED BY

Gerald Ortiz y Pino

AN ACT

RELATING TO HEALTH CARE; AMENDING A SECTION OF THE DENTAL  
HEALTH CARE ACT TO ESTABLISH THE SITE OF TELEDENTISTRY;  
PROVIDING REQUIREMENTS FOR LICENSURE AND JURISDICTION.

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

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

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

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

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

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1 C. "certified dental assistant" means an individual  
2 certified by the dental assisting national board;

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

6 E. "committee" means the New Mexico dental  
7 hygienists committee;

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

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

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

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

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

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

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

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

24 (1) is licensed as a dental hygienist;

25 (2) has provided, in accordance with board

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1 rules, evidence to the board that the individual has graduated  
2 and received a degree from a dental therapy education program  
3 that is accredited by the commission on dental accreditation;  
4 and

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

7 N. "dental therapy post-graduate clinical  
8 experience" means advanced training in patient management and  
9 technical competency:

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

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

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

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

22 O. "dental therapy practice agreement" means a  
23 contract between a supervising dentist and a dental therapist  
24 that outlines the parameters of care, level of supervision and  
25 protocols to be followed while performing dental therapy

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1 procedures on patients under the supervising dentist's and  
2 dental therapist's care;

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

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

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

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

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

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

24 S. "federally qualified health center" means a  
25 health facility that the United States department of health and

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1 human services has deemed to qualify for federal funds as a  
2 federally qualified health center;

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

7 U. "general supervision" means the authorization by  
8 a dentist of the procedures to be used by a dental therapist,  
9 community dental health coordinator, dental hygienist, dental  
10 assistant or dental student and the execution of the procedures  
11 in accordance with a dentist's diagnosis and treatment plan at  
12 a time the dentist is not physically present and in facilities  
13 as designated by rule of the board;

14 V. "indirect supervision" means that a dentist, or  
15 in certain settings, a dental therapist, dental hygienist or  
16 dental assistant certified in expanded functions, is present in  
17 the treatment facility while authorized treatments are being  
18 performed by a dental therapist, dental hygienist, dental  
19 assistant or dental student;

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

23 X. "non-dentist owner" means an individual not  
24 licensed as a dentist in New Mexico or a corporate entity not  
25 owned by a majority interest of a New Mexico licensed dentist

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1 that employs or contracts with a dentist or dental hygienist to  
2 provide dental or dental hygiene services;

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

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

7 (2) has demonstrated to the taxation and  
8 revenue department that it has been granted exemption from the  
9 federal income tax by the United States commissioner of  
10 internal revenue as an organization described in Section  
11 501(c)(3) of the United States Internal Revenue Code of 1986,  
12 as amended or renumbered;

13 Z. "palliative procedures" means nonsurgical,  
14 reversible procedures that are meant to alleviate pain and  
15 stabilize acute or emergent problems; and

16 AA. "teledentistry" means the practice of dentistry  
17 by a provider who holds an active license pursuant to the  
18 Dental Health Care Act and who is subject to the jurisdiction  
19 of the board regardless of the provider's originating  
20 teledentistry site and:

21 (1) a dentist's use of health information  
22 technology in real time to provide limited diagnostic and  
23 treatment planning services in cooperation with another  
24 dentist, a dental therapist, a dental hygienist, a community  
25 dental health coordinator or a student enrolled in a program of

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1 study to become a dental assistant, dental hygienist, dental  
2 therapist or dentist; or  
3 (2) the practice of dentistry where the  
4 patient and the dentist are not in the same physical location  
5 and the dentist uses electronic information, imaging and  
6 communication technologies, including interactive audio, video  
7 and data communications as well as store-and-forward  
8 technologies, to provide and support dental health care  
9 delivery, diagnosis, consultation, treatment, transfer of  
10 dental data and education, where the originating site of  
11 teledentistry is the location at which the dentist provides the  
12 services."