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HOUSE BILL 495

50TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2011

INTRODUCED BY

Dennis J. Roch

AN ACT

RELATING TO HEALTH CARE; AMENDING A SECTION OF THE NEW MEXICO
DRUG, DEVICE AND COSMETIC ACT AND AMENDING AND ENACTING
SECTIONS OF THE DENTAL HEALTH CARE ACT TO PROVIDE FOR DENTAL
THERAPISTS, EXPANDED-FUNCTION DENTAL AUXILIARIES AND COMMUNITY
DENTAL HEALTH COORDINATORS, TO PROVIDE FOR DENTAL HYGIENIST
LICENSURE IN DENTAL THERAPY AND TO PROVIDE FOR DENTAL THERAPIST
LICENSURE IN DENTAL HYGIENE; PROVIDING PENALTIES; RECONCILING
MULTIPLE AMENDMENTS TO THE SAME SECTION OF LAW IN LAWS 2003.

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

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

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

A. "board" means the board of pharmacy or its duly

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1 authorized agent;

2 B. "person" includes an individual, partnership,
3 corporation, association, institution or establishment;

4 C. "biological product" means a virus, therapeutic
5 serum, toxin, antitoxin or analogous product applicable to the
6 prevention, treatment or cure of diseases or injuries of humans
7 and domestic animals, and, as used within the meaning of this
8 definition:

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

13 (2) a "therapeutic serum" is a product
14 obtained from blood by removing the clot or clot components and
15 the blood cells;

16 (3) a "toxin" is a product containing a
17 soluble substance poisonous to laboratory animals or humans in
18 doses of one milliliter or less of the product and [~~having the~~
19 ~~property~~], following the injection of nonfatal doses into an
20 animal, having the property of or causing to be produced
21 therein another soluble substance that specifically neutralizes
22 the poisonous substance and that is demonstrable in the serum
23 of the animal thus immunized; and

24 (4) an "antitoxin" is a product containing the
25 soluble substance in serum or other body fluid of an immunized

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1 animal that specifically neutralizes the toxin against which
2 the animal is immune;

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

6 E. "drug" means articles:

7 (1) recognized in an official compendium;

8 (2) intended for use in the diagnosis, cure,
9 mitigation, treatment or prevention of disease in humans or
10 other animals and includes the domestic animal biological
11 products regulated under the federal Virus-Serum-Toxin Act,
12 37 Stat 832-833, 21 U.S.C. 151-158, and the biological products
13 applicable to humans regulated under Federal 58 Stat 690, as
14 amended, 42 U.S.C. 216, Section 351, 58 Stat 702, as amended,
15 and 42 U.S.C. 262;

16 (3) other than food, that affect the structure
17 or any function of the human body or the bodies of other
18 animals; and

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

22 F. "dangerous drug" means a drug, other than a
23 controlled substance enumerated in Schedule I of the Controlled
24 Substances Act, that because of a potentiality for harmful
25 effect or the method of its use or the collateral measures

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1 necessary to its use is not safe except under the supervision
2 of a practitioner licensed by law to direct the use of such
3 drug and hence for which adequate directions for use cannot be
4 prepared. "Adequate directions for use" means directions under
5 which the layperson can use a drug or device safely and for the
6 purposes for which it is intended. A drug shall be dispensed
7 only upon the prescription of a practitioner licensed by law to
8 administer or prescribe the drug if it:

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

13 (2) because of its toxicity or other potential
14 for harmful effect or the method of its use or the collateral
15 measures necessary to its use is not safe for use except under
16 the supervision of a practitioner licensed by law to administer
17 or prescribe the drug;

18 (3) is limited by an approved application by
19 Section 505 of the federal act to the use under the
20 professional supervision of a practitioner licensed by law to
21 administer or prescribe the drug;

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

24 (5) bears the legend: "Caution: federal law
25 restricts this drug to use by or on the order of a licensed

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1 veterinarian."; or

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

3 G. "counterfeit drug" means a drug that is
4 deliberately and fraudulently mislabeled with respect to its
5 identity, ingredients or sources. Types of such pharmaceutical
6 counterfeits may include:

7 (1) "identical copies", which are counterfeits
8 made with the same ingredients, formulas and packaging as the
9 originals but not made by the original manufacturer;

10 (2) "look-alikes", which are products that
11 feature high-quality packaging and convincing appearances but
12 contain little or no active ingredients and may contain harmful
13 substances;

14 (3) "rejects", which are drugs that have been
15 rejected by the manufacturer for not meeting quality standards;
16 and

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

21 H. "device", except when used in Subsection P of
22 this section and in Subsection G of Section 26-1-3, Subsection
23 L and Paragraph (4) of Subsection A of Section 26-1-11 and
24 Subsection C of Section 26-1-24 NMSA 1978, means an instrument,
25 apparatus, implement, machine, contrivance, implant, in vitro

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1 reagent or other similar or related article, including any
2 component, part or accessory, that is:

3 (1) recognized in an official compendium;

4 (2) intended for use in the diagnosis of
5 disease or other conditions or in the cure, mitigation,
6 treatment or prevention of disease in humans or other animals;
7 or

8 (3) intended to affect the structure or a
9 function of the human body or the bodies of other animals and
10 that does not achieve any of its principal intended purposes
11 through chemical action within or on the human body or the
12 bodies of other animals and that is not dependent on being
13 metabolized for achievement of any of its principal intended
14 purposes;

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

24 J. "practitioner" means a certified advanced
25 practice chiropractic physician, physician, doctor of oriental

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1 medicine, dentist, veterinarian, euthanasia technician,
2 certified nurse practitioner, clinical nurse specialist,
3 pharmacist, pharmacist clinician, certified nurse-midwife,
4 physician assistant, prescribing psychologist, dental
5 hygienist, dental therapist or other person licensed or
6 certified to prescribe and administer drugs that are subject to
7 the New Mexico Drug, Device and Cosmetic Act;

8 K. "cosmetic" means:

9 (1) articles intended to be rubbed, poured,
10 sprinkled or sprayed on, introduced into or otherwise applied
11 to the human body or any part thereof for cleansing,
12 beautifying, promoting attractiveness or altering the
13 appearance; and

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

17 L. "official compendium" means the official United
18 States pharmacopoeia national formulary or the official
19 homeopathic pharmacopoeia of the United States or any
20 supplement to either of them;

21 M. "label" means a display of written, printed or
22 graphic matter upon the immediate container of an article. A
23 requirement made by or under the authority of the New Mexico
24 Drug, Device and Cosmetic Act that any word, statement or other
25 information appear on the label shall not be considered to be

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1 complied with unless the word, statement or other information
2 also appears on the outside container or wrapper, if any, of
3 the retail package of the article or is easily legible through
4 the outside container or wrapper;

5 N. "immediate container" does not include package
6 liners;

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

9 (1) on an article or its containers or
10 wrappers; or

11 (2) accompanying an article;

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

23 Q. "advertisement" means all representations
24 disseminated in any manner or by any means, other than by
25 labeling, for the purpose of inducing, or that are likely to

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1 induce, directly or indirectly, the purchase of drugs, devices
2 or cosmetics;

3 R. "antiseptic", when used in the labeling or
4 advertisement of an antiseptic, shall be considered to be a
5 representation that it is a germicide, except in the case of a
6 drug purporting to be or represented as an antiseptic for
7 inhibitory use as a wet dressing, ointment, dusting powder or
8 such other use as involves prolonged contact with the body;

9 S. "new drug" means a drug:

10 (1) the composition of which is such that the
11 drug is not generally recognized, among experts qualified by
12 scientific training and experience to evaluate the safety and
13 efficacy of drugs, as safe and effective for use under the
14 conditions prescribed, recommended or suggested in the labeling
15 thereof; or

16 (2) the composition of which is such that the
17 drug, as a result of investigation to determine its safety and
18 efficacy for use under such conditions, has become so
19 recognized, but that has not, otherwise than in such
20 investigations, been used to a material extent or for a
21 material time under such conditions;

22 T. "contaminated with filth" applies to a drug,
23 device or cosmetic not securely protected from dirt, dust and,
24 as far as may be necessary by all reasonable means, from all
25 foreign or injurious contaminations, or a drug, device or

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1 cosmetic found to contain dirt, dust, foreign or injurious
2 contamination or infestation;

3 U. "selling of drugs, devices or cosmetics" shall
4 be considered to include the manufacture, production,
5 processing, packing, exposure, offer, possession and holding of
6 any such article for sale and the sale and the supplying or
7 applying of any such article in the conduct of a drug or
8 cosmetic establishment;

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

10 (1) is a dye, pigment or other substance made
11 by a process of synthesis or similar artifice or extracted,
12 isolated or otherwise derived, with or without intermediate or
13 final change of identity, from a vegetable, mineral, animal or
14 other source; or

15 (2) when added or applied to a drug or
16 cosmetic or to the human body or a part thereof, is capable,
17 alone or through reaction with other substances, of imparting
18 color thereto; except that such term does not include any
19 material that has been or hereafter is exempted under the
20 federal act;

21 W. "federal act" means the Federal Food, Drug and
22 Cosmetic Act;

23 X. "restricted device" means a device for which the
24 sale, distribution or use is lawful only upon the written or
25 oral authorization of a practitioner licensed by law to

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1 administer, prescribe or use the device and for which the
2 federal food and drug administration requires special training
3 or skills of the practitioner to use or prescribe. This
4 definition does not include custom devices defined in the
5 federal act and exempt from performance standards or premarket
6 approval requirements under Section 520(b) of the federal act;

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

23 Z. "valid practitioner-patient relationship" means
24 a professional relationship, as defined by the practitioner's
25 licensing board, between the practitioner and the patient; and

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1 AA. "pedigree" means the recorded history of a
2 drug."

3 SECTION 2. Section 59A-47-28.4 NMSA 1978 (being Laws
4 2003, Chapter 343, Section 4) is amended to read:

5 "59A-47-28.4. COVERAGE FOR DENTAL THERAPISTS--COVERAGE
6 FOR COLLABORATIVE PRACTICE DENTAL HYGIENISTS.--An individual or
7 group subscriber contract delivered or issued for delivery in
8 New Mexico that, on a prepaid, service or indemnity basis,
9 provides for treatment of persons for the prevention, cure or
10 correction of any illness or physical or mental condition shall
11 include coverage for the services of a dental hygienist in a
12 collaborative practice pursuant to the Dental Health Care Act
13 or a dental therapist."

14 SECTION 3. Section 61-5A-2 NMSA 1978 (being Laws 1994,
15 Chapter 55, Section 2, as amended) is amended to read:

16 "61-5A-2. PURPOSE.--

17 A. In the interest of the public health, safety and
18 welfare and to protect the public from the improper,
19 unprofessional, incompetent and unlawful practice of dentistry,
20 [~~and~~] dental hygiene and dental therapy, it is necessary to
21 provide laws and rules controlling the granting and use of the
22 privilege to practice dentistry, [~~and~~] dental hygiene and
23 dental therapy and to establish a board of dental health care,
24 [~~and~~] a dental hygienists committee and a dental therapists
25 committee to implement and enforce those laws and rules.

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1 B. The primary duties of the New Mexico board of
2 dental health care are:

3 (1) to issue licenses to qualified dentists
4 and owners of dental practices;

5 (2) to certify qualified dental assistants,
6 expanded-function dental auxiliaries and community dental
7 health coordinators;

8 (3) to issue licenses to dental hygienists
9 through the dental hygienists committee;

10 (4) to issue licenses to dental therapists
11 through the dental therapists committee;

12 ~~[(4)]~~ (5) to discipline incompetent or
13 unprofessional dentists, dental assistants, owners of dental
14 practices and, through ~~[the dental hygienists committee]~~ their
15 respective committees, dental hygienists and dental therapists;
16 and

17 (6) to aid in the rehabilitation of impaired
18 dentists, ~~[and]~~ dental hygienists and dental therapists for the
19 purpose of protecting the public."

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

22 "61-5A-3. DEFINITIONS.--As used in the Dental Health Care
23 Act:

24 A. "assessment" means the review and documentation
25 of the oral condition, and the recognition and documentation of

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1 deviations from the healthy condition, without a diagnosis to
2 determine the cause or nature of disease or its treatment;

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

5 C. "certified dental assistant" means an individual
6 certified by the dental ~~[assistant]~~ assisting national board;

7 D. "collaborative dental hygiene practice" means a
8 New Mexico licensed dental hygienist practicing according to
9 Subsections ~~[D and E]~~ B through G of Section 61-5A-4 NMSA 1978;

10 E. ~~["committee" means the New Mexico dental~~
11 ~~hygienists committee]~~ "community dental health coordinator"
12 means a dental assistant, a dental hygienist, dental therapist
13 or other trained personnel certified by the board as a
14 community dental health coordinator to provide educational,
15 preventive and limited palliative care and assessment services
16 working collaboratively under the general supervision of a
17 licensed dentist in settings other than traditional dental
18 offices and clinics;

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

25 G. "dental assistant certified in expanded

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1 functions" means a dental assistant who meets specific
2 qualifications set forth by rule of the board;

3 H. "dental hygiene-focused assessment" means the
4 documentation of existing oral and relevant system conditions
5 and the identification of potential oral disease to develop,
6 communicate, implement and evaluate a plan of oral hygiene care
7 and treatment;

8 [~~H.~~] I. "dental hygienist" means an individual who
9 has graduated and received a degree from a dental hygiene
10 educational program that is accredited by the [~~joint~~]
11 commission on dental accreditation, [~~which~~] that provides a
12 minimum of two academic years of dental hygiene curriculum and
13 that is an institution of higher education; and "dental
14 hygienist" means, except as the context otherwise requires, an
15 individual who holds a license to practice dental hygiene in
16 New Mexico;

17 J. "dental hygienists committee" means the New
18 Mexico dental hygienists committee established pursuant to the
19 Dental Health Care Act;

20 [~~H.~~] K. "dental laboratory" means any place where
21 dental restorative, prosthetic, cosmetic and therapeutic
22 devices or orthodontic appliances are fabricated, altered or
23 repaired by one or more persons under the orders and
24 authorization of a dentist;

25 [~~J.~~] L. "dental technician" means an individual,

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1 other than a licensed dentist, who fabricates, alters, repairs
2 or assists in the fabrication, alteration or repair of dental
3 restorative, prosthetic, cosmetic and therapeutic devices or
4 orthodontic appliances under the orders and authorization of a
5 dentist;

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

7 (1) has graduated and received a degree from a
8 dental therapy educational program that provides a minimum of
9 two academic years of dental therapy curriculum and that is an
10 institution of higher education; and

11 (2) holds a license to practice dental therapy
12 in the state;

13 N. "dental therapists committee" means the dental
14 therapists committee established pursuant to the Dental Health
15 Care Act;

16 O. "dental therapy management agreement" means a
17 written agreement between a dentist and a dental therapist that
18 sets out the scope of practice and conditions under which the
19 dentist will provide general supervision of the dental
20 therapist;

21 ~~[K-]~~ P. "dentist" means an individual who has
22 graduated and received a degree from a school of dentistry that
23 is accredited by the [~~joint~~] commission on dental accreditation
24 and, except as the context otherwise requires, who holds a
25 license to practice dentistry in New Mexico;

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

4 (1) is physically present throughout the
5 performance of the act;

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

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

10 R. "expanded-function dental auxiliary" means a
11 dental assistant, dental hygienist, dental therapist or other
12 dental practitioner that has received education beyond that
13 required for licensure or certification in that individual's
14 scope of practice and that has been certified by the board as
15 an expanded-function dental auxiliary who works under the
16 direct supervision of a dentist;

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

24 ~~[M-]~~ T. "indirect supervision" means that a
25 dentist, or in certain settings a dental hygienist, dental

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1 therapist or dental assistant certified in expanded functions,
2 is present in the treatment facility while authorized
3 treatments are being performed by a dental hygienist, dental
4 therapist, dental assistant or dental student; [~~and~~

5 ~~N.] U. "non-dentist owner" means an individual not~~

6 licensed as a dentist in New Mexico or a corporate entity not

7 owned by a majority interest of a New Mexico licensed dentist

8 that employs or contracts with a dentist or dental hygienist to

9 provide dental or dental hygiene services;

10 V. "palliative procedures" means nonsurgical,
11 reversible procedures that are meant to alleviate pain and
12 stabilize acute or emergent problems; and

13 W. "teledentistry" means a dentist's use of health
14 information technology in real time to provide limited
15 diagnostic and treatment planning services in cooperation with
16 another dentist, a dental hygienist, a dental therapist, a
17 community dental health coordinator or a student enrolled in a
18 program of study to become a dental assistant, dental
19 hygienist, dental therapist or dentist."

20 SECTION 5. A new section of the Dental Health Care Act is
21 enacted to read:

22 "[NEW MATERIAL] EXPANDED-FUNCTION DENTAL AUXILIARY--
23 CERTIFICATION.--

24 A. The board shall establish academic standards and
25 criteria for certifying dental assistants, dental hygienists,

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1 dental therapists or other dental personnel to practice as
2 expanded-function dental auxiliaries. Those standards and
3 criteria shall include a formal curriculum and a certifying
4 examination.

5 B. The board shall promulgate rules relating to the
6 certification of expanded-function dental auxiliaries pursuant
7 to the State Rules Act."

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

10 "61-5A-4. SCOPE OF PRACTICE.--

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

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

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

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

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

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

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

23 (b) perform surgery, an extraction or
24 any other operation or to administer an anesthetic in
25 connection therewith;

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1 (c) diagnose or treat a condition,
2 disease, pain, deformity, deficiency, injury, lesion or other
3 physical condition;

4 (d) correct a malposition;

5 (e) treat a fracture;

6 (f) remove calcareous deposits;

7 (g) replace missing anatomy with an
8 artificial substitute;

9 (h) construct, make, furnish, supply,
10 reproduce, alter or repair an artificial substitute or
11 restorative or corrective appliance or place an artificial
12 substitute or restorative or corrective appliance in the mouth
13 or attempt to adjust it;

14 (i) give interpretations or readings of
15 dental radiographs; [~~or~~]

16 (j) provide diagnostic and treatment
17 planning via teledentistry; or

18 [~~(j)~~] (k) do any other remedial,
19 corrective or restorative work.

20 B. As used in the Dental Health Care Act, "the
21 practice of dental hygiene" means the application of the
22 science of the prevention and treatment of oral disease through
23 the provision of educational, assessment, preventive, clinical
24 and other therapeutic services under the general supervision of
25 a dentist. A dental hygienist in a collaborative practice may

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1 perform the procedures listed in this subsection without
2 general supervision while the hygienist is in a cooperative
3 working relationship with a consulting dentist, pursuant to
4 rules of the board and the dental hygienists committee. "The
5 practice of dental hygiene" includes:

6 (1) prophylaxis, which is the [~~treatment of~~
7 ~~human teeth by removing from their surface calcareous deposits~~
8 ~~and stain, removing accumulated accretions and polishing the~~
9 ~~surfaces of the teeth] removal of plaque, calculus and stains
10 from the tooth structures as a means to control local
11 irritational factors;~~

12 (2) removing diseased crevicular tissue and
13 related nonsurgical periodontal procedures;

14 (3) except in cases where a tooth exhibits
15 cavitation of the enamel surface, assessing without a dentist's
16 evaluation whether the application of pit and fissure sealants
17 is indicated;

18 [~~(3) the application of~~] (4) except in cases
19 where a tooth exhibits cavitation of the enamel surface,
20 applying pit and fissure sealants without mechanical alteration
21 of the tooth [fluorides and other topical therapeutic and
22 preventive agents];

23 (5) applying fluorides and other topical
24 therapeutic and preventive agents;

25 [~~(4)~~] (6) exposing and [~~referring to~~]

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1 assessing oral radiographs for abnormalities;

2 [~~(5)~~] (7) screening to identify indications of
3 oral abnormalities;

4 (8) performing dental hygiene-focused
5 assessments;

6 [~~(6) —assessment of~~] (9) assessing periodontal
7 conditions; and

8 [~~(7)~~] (10) such other closely related services
9 as permitted by the rules of the dental hygienists committee
10 and the board.

11 C. In addition to performing dental hygiene as
12 defined in Subsection B of this section, a dental hygienist may
13 apply preventive topical fluorides and remineralization agents
14 without supervision in public and community medical facilities,
15 schools, hospitals, long-term care facilities and such other
16 settings as the dental hygienists committee may determine by
17 rule ratified by the board, so long as the dental hygienist's
18 license is not restricted pursuant to the Impaired Dentists and
19 Dental Hygienists Act.

20 D. In addition to performing dental hygiene as
21 defined in Subsection B of this section, dental hygienists who
22 have met the criteria as the dental hygienists committee shall
23 establish and the board shall ratify may administer local
24 anesthesia under indirect supervision of a dentist.

25 E. The board may certify a dental hygienist to

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1 administer local anesthetic under the general supervision of a
2 dentist if the dental hygienist, in addition to performing
3 dental hygiene as defined in Subsection B of this section:

4 (1) has administered local anesthesia under
5 the indirect supervision of a dentist for at least two years,
6 during which time the dental hygienist has competently
7 administered at least twenty cases of local anesthesia and can
8 document this with a signed affirmation by the supervising
9 dentist;

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

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

14 F. A dental hygienist:

15 (1) may prescribe, administer and dispense a
16 fluoride supplement, topically applied fluoride or topically
17 applied antimicrobial only when the prescribing, administering
18 or dispensing is performed:

19 (a) under the supervision of a dentist;

20 (b) pursuant to rules the board and the
21 dental hygienists committee have adopted;

22 (c) within the parameters of a drug
23 formulary approved by the board in consultation with the board
24 of pharmacy;

25 (d) within the parameters of guidelines

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1 established pursuant to Section 61-5A-10 NMSA 1978; and

2 (e) in compliance with state laws
3 concerning prescription packaging, labeling and recordkeeping
4 requirements; and

5 (2) shall not otherwise dispense dangerous
6 drugs or controlled substances.

7 ~~[E.]~~ G. A New Mexico licensed dental hygienist may
8 be certified for collaborative dental hygiene practice in
9 accordance with the educational and experience criteria
10 established collaboratively by the dental hygienists committee
11 and the board.

12 H. An expanded-function dental auxiliary may
13 perform the following procedures under the direct supervision
14 of a dentist:

15 (1) placing and shaping direct restorations;

16 (2) taking final impressions, excluding those
17 for fixed or removable prosthetics involving multiple teeth;

18 (3) cementing indirect and provisional
19 restorations for temporary use;

20 (4) applying pit and fissure sealants without
21 mechanical alteration of the tooth;

22 (5) placing temporary and sedative restorative
23 material in hand-excavated carious lesions and unprepared tooth
24 fractures;

25 (6) removal of orthodontic bracket cement; and

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

3 I. An expanded-function dental auxiliary may re-
4 cement temporary or permanent crowns with temporary cement
5 under the general supervision of a dentist in a situation that
6 a dentist deems to be an emergency.

7 J. An expanded-function dental auxiliary may
8 perform other related functions for which the expanded-function
9 dental auxiliary meets the training and educational standards
10 established by the board and that are not expressly prohibited
11 by the board.

12 ~~[F-]~~ K. For the purpose of this section,
13 "collaborative dental hygiene practice" means the application
14 of the science of the prevention and treatment of oral disease
15 through the provision of educational, assessment, preventive,
16 clinical and other therapeutic services as specified in
17 Subsection B of this section in a cooperative working
18 relationship with a consulting dentist, but without general
19 supervision as set forth by the rules established and approved
20 by both the board and the dental hygienists committee.

21 L. As used in the Dental Health Care Act, "practice
22 of dental therapy" means the application of the science of the
23 prevention and treatment of oral disease by providing
24 education, prevention, assessment, diagnosis, clinical and
25 other therapeutic services under the general supervision of a

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1 dentist. "Practice of dental therapy" includes:

2 (1) prophylaxis, which is the treatment of the
3 human tooth by removing from its surface calcareous deposits
4 and stain, removing plaque and calcareous deposits by full-
5 mouth debridement, removing accumulated accretions and
6 polishing the surfaces of the tooth;

7 (2) behavioral management, oral health
8 instruction and disease prevention education, including
9 nutritional counseling and dietary analysis;

10 (3) diagnosis of dental disease and the
11 formulation of an individualized treatment plan, including
12 caries risk assessment;

13 (4) preliminary charting of the oral cavity;

14 (5) making radiographs;

15 (6) mechanical polishing of teeth and
16 restorations;

17 (7) application of topical preventive or
18 prophylactic agents, including fluoride varnishes and pit and
19 fissure sealants;

20 (8) pulp vitality testing;

21 (9) application of desensitizing medication or
22 resin;

23 (10) fabrication of athletic mouthguards;

24 (11) placement of temporary restoration;

25 (12) fabrication of occlusal guards;

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- 1 (13) tissue conditioning and soft reline;
2 (14) atraumatic restorative therapy;
3 (15) dressing changes;
4 (16) tooth reimplantation;
5 (17) administration of local anesthetic and
6 nitrous oxide;
7 (18) extractions of primary teeth;
8 (19) extractions of permanent teeth that have
9 no eruptions, no impactions and no need of sectioning for
10 removal;
11 (20) emergency palliative treatment of dental
12 pain;
13 (21) the placement and removal of space
14 maintainers;
15 (22) cavity preparation;
16 (23) restoration of primary and permanent
17 teeth;
18 (24) placement of temporary crowns;
19 (25) preparation and placement of pre-formed
20 crowns;
21 (26) pulpotomy of primary teeth;
22 (27) indirect and direct pulp capping on
23 primary and permanent teeth;
24 (28) stabilization of reimplanted teeth;
25 (29) suture removal;

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- 1 (30) brush biopsies;
2 (31) repair of defective prosthetic devices;
3 and
4 (32) re-cementing of permanent crowns.

5 M. Before obtaining a license as a dental
6 therapist, an applicant shall complete at least five hundred
7 clinical hours of dental therapy under indirect supervision.

8 N. A dental therapist may prescribe, dispense and
9 administer analgesics, anti-inflammatories and antibiotics only
10 in the following circumstances:

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

13 (2) within the scope of practice of a dental
14 therapist; and

15 (3) with the authorization of the supervising
16 dentist.

17 O. A dental therapist shall practice under the
18 general supervision of a dentist pursuant to a written
19 supervision agreement between the dentist and the dental
20 therapist. The dental therapists committee may establish
21 minimum requirements for dental therapy supervision
22 agreements."

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

25 "61-5A-5. LICENSE REQUIRED--EXEMPTIONS.--

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

3 (1) practice dentistry;

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

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

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

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

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

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

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

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

6 [~~(4)~~] (5) any dental hygiene, dental therapy
7 or dental assisting student duly enrolled in an accredited
8 school of dentistry, dental hygiene or dental assisting, or any
9 dental therapy student duly enrolled in a school of dental
10 therapy, engaged in procedures within or outside the scope of
11 dental hygiene that are part of the curriculum of that program
12 in the school setting and under the indirect supervision of a
13 faculty member of the accredited program who is a licensed
14 dentist, dental hygienist, dental therapist or dental assistant
15 certified in the procedures being taught;

16 [~~(5)~~] (6) unlicensed persons performing for a
17 licensed dentist merely mechanical work upon inert matter in
18 the construction, making, alteration or repairing of any
19 artificial dental substitute, dental restorative or corrective
20 appliance, when the casts or impressions for the work have been
21 furnished by a licensed dentist and where the work is
22 prescribed by a dentist pursuant to a written authorization by
23 that dentist;

24 [~~(6)~~] (7) commissioned dental officers of the
25 uniformed forces of the United States and dentists providing

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1 services to the United States public health service, the
2 [~~veterans' administration of the~~] United States department of
3 veterans affairs or within federally controlled facilities in
4 the discharge of their official duties, provided that such
5 persons who hold dental licenses in New Mexico shall be subject
6 to the provisions of the Dental Health Care Act; and

7 [~~(7)~~] (8) dental assistants performing
8 adjunctive services to the provision of dental care, under the
9 indirect supervision of a dentist, as determined by rule of the
10 board if such services are not within the practice of dental
11 hygiene as specifically listed in Subsection B of Section
12 61-5A-4 NMSA 1978, unless allowed in Subsection E of this
13 section.

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

16 (1) practice as a dental hygienist;
17 (2) use the title "dental hygienist" or
18 abbreviation "R.D.H." or any other title, abbreviation,
19 letters, figures, signs or devices that indicate the person is
20 a licensed dental hygienist; or

21 (3) notwithstanding any other provision of
22 law, perform any of the acts defined as the practice of dental
23 hygiene in the Dental Health Care Act.

24 D. The following, under the stipulations described,
25 may practice dental hygiene or the area of dental hygiene or

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1 dental therapy or the area of dental therapy outlined without a
2 New Mexico dental hygiene license or dental therapy license:

3 (1) students enrolled in a dental therapy
4 program or an accredited dental hygiene program engaged in
5 procedures that are part of the curriculum of that program and
6 under the indirect supervision of a licensed faculty member of
7 the [~~accredited~~] program;

8 (2) dental assistants and community dental
9 health coordinators working under general supervision who:

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

12 (b) perform rubber cup coronal
13 polishing, which is not represented as a prophylaxis, having
14 satisfied the educational requirements as established by rules
15 of the board;

16 (c) apply fluorides as established by
17 rules of the board; and

18 (d) notwithstanding any other provision
19 of law, perform those other dental hygienist functions as
20 recommended to the board by the dental hygienists committee and
21 set forth by rule of the board; [~~and~~]

22 (3) dental assistants certified in expanded
23 functions, working under the indirect supervision of a dental
24 hygienist certified for collaborative practice and under the
25 protocols established in a collaborative practice agreement or

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1 a dental therapist under a supervision agreement with a
2 consulting dentist; and

3 (4) a dental therapist working under general
4 supervision.

5 E. Dental assistants working under the indirect
6 supervision of a dentist and in accordance with the rules and
7 regulations established by the board may:

8 (1) expose dental radiographs;

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

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

13 (4) perform those other dental hygienist
14 functions as recommended to the board by the committee and set
15 forth by rule of the board; and

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

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

21 (1) place temporary and sedative restorative
22 material in unexcavated carious lesions and unprepared tooth
23 fractures;

24 (2) collect and transmit diagnostic data and
25 images via telemetric connection;

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1 (3) dispense and apply medications on the
2 specific order of a dentist;

3 (4) provide limited palliative procedures for
4 dental emergencies in consultation with a supervising dentist
5 as allowed by the rules of the board; and

6 (5) perform other related functions for which
7 the community dental health coordinator meets training and
8 educational standards established by the board and that are not
9 expressly prohibited by statute or rules promulgated by the
10 board.

11 [~~F~~] G. Unless licensed as a dentist or non-dentist
12 owner, or as otherwise exempt from the licensing requirements
13 of the Dental Health Care Act, no individual or corporate
14 entity shall:

15 (1) employ or contract with a dentist, [~~or~~]
16 dental hygienist or dental therapist for the purpose of
17 providing dental, [~~or~~] dental hygiene or dental therapy
18 services as defined by their respective scopes of practice; or

19 (2) enter into a managed care or other
20 agreement to provide dental, [~~or~~] dental hygiene or dental
21 therapy services in New Mexico.

22 [~~G~~] H. The following, under stipulations
23 described, may function as a non-dentist owner without a New
24 Mexico license:

25 (1) government agencies providing dental

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1 services within affiliated facilities;

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

4 (3) spouses of deceased licensed dentists,
5 [~~or~~] dental hygienists or dental therapists for a period of one
6 year following the death of the licensee;

7 (4) accredited schools of dentistry, dental
8 hygiene and dental assisting providing dental services solely
9 in an educational setting;

10 (5) schools of dental therapy providing dental
11 services solely in an educational setting;

12 [~~(5)~~] (6) dental hygienists licensed in New
13 Mexico or corporate entities with a majority interest owned by
14 a dental hygienist licensed in New Mexico;

15 [~~(6)~~] (7) federally qualified health centers,
16 as designated by the United States department of health and
17 human services, providing dental services;

18 [~~(7)~~] (8) nonprofit community-based entities
19 and organizations that use public funds to provide dental,
20 [~~and~~] dental hygiene and dental therapy services for indigent
21 persons; and

22 [~~(8)~~] (9) hospitals licensed by the department
23 of health.

24 I. Unless licensed to practice as a dental
25 therapist pursuant to the Dental Health Care Act, except as

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1 provided in Subsection M of Section 61-5A-4 NMSA 1978, no
2 person shall:

- 3 (1) practice as a dental therapist;
- 4 (2) use the title "dental therapist" or any
5 other title, abbreviation, letters, figure, sign or device to
6 indicate that the person is a licensed dental therapist; or
- 7 (3) perform any of the acts defined as the
8 practice of dental therapy in the Dental Health Care Act."

9 SECTION 8. Section 61-5A-5.1 NMSA 1978 (being Laws 2003,
10 Chapter 409, Section 12) is amended to read:

11 "61-5A-5.1. NON-DENTIST OWNER--EMPLOYING OR CONTRACTING
12 FOR DENTAL SERVICES.--

13 A. A person, corporation or agency that desires to
14 function as a non-dentist owner in New Mexico shall apply to
15 the board for the proper license and shall adhere to the
16 requirements, re-licensure criteria and fees as established by
17 the rules of the board.

18 B. Unless licensed as a dentist or non-dentist
19 owner, or as otherwise exempt from the licensing requirements
20 of the Dental Health Care Act, an individual or corporate
21 entity shall not:

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

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1 (2) enter into a managed care or other
2 agreement to provide dental, ~~[or]~~ dental hygiene or dental
3 therapy services in New Mexico."

4 SECTION 9. Section 61-5A-6 NMSA 1978 (being Laws 1994,
5 Chapter 55, Section 6) is amended to read:

6 "61-5A-6. CERTIFICATION OF DENTAL ASSISTANTS, EXPANDED-
7 FUNCTION DENTAL AUXILIARIES AND COMMUNITY DENTAL HEALTH
8 COORDINATORS.--

9 A. A certified dental assistant, an expanded-
10 function dental auxiliary, a community dental health
11 coordinator or a dental assistant certified in expanded
12 functions shall be required to adhere to the educational
13 requirements, examinations, recertification criteria and fees
14 as established by rules ~~[and regulation]~~ of the board. The fee
15 shall be the same for one or more expanded functions.

16 B. Certificates granted by the board may be
17 revoked, suspended, stipulated or otherwise limited, and a
18 ~~[dental assistant]~~ certificate holder may be fined or placed on
19 probation if found guilty of violation of the Dental Health
20 Care Act.

21 C. No individual shall use the title "C.D.A."
22 unless granted certification by the dental assistant national
23 board.

24 D. Unless certified to practice as a dental
25 assistant certified in expanded functions or an expanded-

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1 function dental auxiliary, no person shall:

2 (1) practice as a dental assistant certified
3 in expanded functions or an expanded-function dental auxiliary
4 as defined by ~~[rule]~~ rules of the board; or

5 (2) use the title or represent oneself as an
6 assistant certified in expanded functions or an expanded-
7 function dental auxiliary or use any title, abbreviation,
8 letters, figures, signs or devices that indicate the person is
9 a dental assistant certified in expanded functions or an
10 expanded-function dental auxiliary."

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

15 "61-5A-10. POWERS AND DUTIES OF THE BOARD, ~~[AND]~~ THE
16 DENTAL HYGIENISTS COMMITTEE AND THE DENTAL THERAPISTS
17 COMMITTEE.--In addition to any other authority provided by law,
18 the board, ~~[and the]~~ dental hygienists committee and dental
19 therapists committee, ~~[where]~~ when designated, shall ~~[have the~~
20 ~~power to]~~:

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

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

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1 (1) regulate the examination and licensure of
2 dentists and, through [~~the committee~~] their respective
3 committees, regulate the examination and licensure of dental
4 hygienists and dental therapists;

5 (2) provide for the examination and
6 certification of dental assistants by the board;

7 (3) provide for the regulation of dental
8 technicians by the board;

9 (4) regulate the practice of dentistry and
10 dental assisting and, through [~~the committee~~] their respective
11 committees, regulate the practice of dental hygiene and dental
12 therapy; and

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

15 C. adopt and use a seal;

16 D. administer oaths to all applicants, witnesses
17 and others appearing before the board or the committee, as
18 appropriate;

19 E. keep an accurate record of all meetings,
20 receipts and disbursements;

21 F. grant, deny, review, suspend and revoke licenses
22 and certificates to practice dentistry, dental assisting and,
23 through [~~the committee~~] their respective committees, dental
24 hygiene and dental therapy and censure, reprimand, fine and
25 place on probation and stipulation dentists, dental assistants

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1 and, through [~~the committee~~] their respective committees,
2 dental hygienists and dental therapists in accordance with the
3 Uniform Licensing Act for any cause stated in the Dental Health
4 Care Act;

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

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

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

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

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1 ~~[J.]~~ K. have the authority to pay per diem and
2 mileage to individuals who are appointed by the board, ~~[or the]~~
3 dental hygienists committee or dental therapists committee to
4 serve on ad hoc committees;

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

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

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

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

23 ~~[M.]~~ P. establish continuing education or continued
24 competency requirements for dentists, certified dental
25 assistants in expanded functions, dental technicians and,

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1 through ~~[the committee]~~ their respective committees, dental
2 hygienists and dental therapists."

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

5 "61-5A-11. RATIFICATION OF COMMITTEE RECOMMENDATIONS.--

6 A. The board shall ratify the recommendations of
7 the dental hygienists committee and the dental therapists
8 committee unless the board makes a specific finding that a
9 recommendation is:

10 (1) beyond the jurisdiction of ~~[the]~~ that
11 committee;

12 (2) an undue financial impact upon the board;
13 or

14 (3) not supported by the record.

15 B. The board shall provide the necessary
16 expenditures incurred by the dental hygienists committee, the
17 dental therapists committee and the board in implementing and
18 executing the ratified recommendations."

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

21 "61-5A-12. DENTISTS--REQUIREMENTS FOR LICENSURE--
22 SPECIALTY LICENSE.--

23 A. All applicants for licensure as a dentist shall
24 have graduated and received a degree from a school of dentistry
25 that is accredited by the ~~[joint]~~ commission on dental

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1 accreditation and shall have passed the written portion of the
2 dental examination administered by the joint commission on
3 national dental examinations of the American dental association
4 or, if the test is not available, another written examination
5 determined by the board.

6 B. Applicants for a general license to practice
7 dentistry by examination shall be required, in addition to the
8 requirements set forth in Subsection A of this section, to pass
9 a test covering the laws and rules for the practice of
10 dentistry in New Mexico. Written examinations shall be
11 supplemented by the board or its agents by administering to
12 each applicant a practical or clinical examination that
13 reasonably tests the applicant's qualifications to practice
14 general dentistry. These examinations shall include
15 examinations offered by the central regional dental testing
16 service, northeast regional board of dental examiners, southern
17 regional testing agency or western regional examining board or
18 any other comparable practical clinical examination the board
19 approves; provided, however, that the board may disapprove any
20 examination after it considers compelling evidence to support
21 disapproval. Upon an applicant passing the written and
22 clinical examinations and payment in advance of the necessary
23 fees, the board shall issue a license to practice dentistry.

24 C. The board may issue a general license to
25 practice dentistry, by credentials, without a practical or

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1 clinical examination to an applicant who is duly licensed by a
2 clinical examination as a dentist under the laws of another
3 state or territory of the United States; provided that license
4 is active and that all dental licenses that individual
5 possesses have been in good standing for five years prior to
6 application. The credentials must show that no dental board
7 actions have been taken during the five years prior to
8 application; that no proceedings are pending in any states in
9 which the applicant has had a license in the five years prior
10 to application; and that a review of public records, the
11 national [~~practitioners~~] practitioner data bank or other
12 nationally recognized data resources that record actions
13 against a dentist in the United States does not reveal any
14 activities or unacquitted civil or criminal charges that could
15 reasonably be construed to constitute evidence of danger to
16 patients, including acts of moral turpitude.

17 D. The board may issue a general license to
18 practice dentistry by credentials to an applicant who meets the
19 requirements, including payment of appropriate fees and the
20 passing of an examination covering the laws and rules of the
21 practice of dentistry in New Mexico, of the Dental Health Care
22 Act and rules promulgated pursuant to that act, and who:

23 (1) has maintained a uniform service practice
24 in the United States military or public health service for
25 three years immediately preceding the application; or

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1 (2) is duly licensed by examination as a
2 dentist pursuant to the laws of another state or territory of
3 the United States.

4 E. The board may issue a specialty license by
5 examination to an applicant who has passed a clinical and
6 written examination given by the board or its examining agents
7 that covers the applicant's specialty. The applicant shall
8 have a postgraduate degree or certificate from an accredited
9 dental college, school of dentistry of a university or other
10 residency program that is accredited by the ~~[joint]~~ commission
11 on dental accreditation in one of the specialty areas of
12 dentistry recognized by the American dental association. The
13 applicant shall also meet all other requirements as established
14 by rules of the board, which shall include an examination
15 covering the laws and rules of the practice of dentistry in New
16 Mexico. A specialty license limits the licensee to practice
17 only in that specialty area.

18 F. The board may issue a specialty license, by
19 credentials, without a practical or clinical examination to an
20 applicant who is duly licensed by a clinical examination as a
21 dentist under the laws of another state or territory of the
22 United States and who has a postgraduate degree or certificate
23 from an accredited dental college, school of dentistry of a
24 university or other residency program that is accredited by the
25 ~~[joint]~~ commission on dental accreditation in one of the

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1 specialty areas of dentistry recognized by the American dental
2 association; provided that license is active and that all
3 dental licenses that individual possesses have been in good
4 standing for five years prior to application. The credentials
5 must show that no dental board actions have been taken during
6 the five years prior to application; that no proceedings are
7 pending in any states in which the applicant has had a license
8 in the five years prior to application; and that a review of
9 public records, the national [~~practitioners~~] practitioner data
10 bank or other nationally recognized data resources that record
11 actions against a dentist in the United States does not reveal
12 any activities or unacquitted civil or criminal charges that
13 could reasonably be construed to constitute evidence of danger
14 to patients, including acts of moral turpitude. The applicant
15 shall also meet all other qualifications as deemed necessary by
16 rules of the board, which shall include an examination covering
17 the laws and rules of the practice of dentistry in New Mexico.
18 A specialty license limits the licensee to practice only in
19 that specialty area."

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

22 "61-5A-13. DENTAL HYGIENIST LICENSURE.--

23 A. Applicants for licensure shall have graduated
24 and received a degree from an accredited dental hygiene
25 educational program that provides a minimum of two academic

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1 years of dental hygiene curriculum and is a post-secondary
2 educational institution accredited by the joint commission on
3 dental accreditation and shall have passed the written portion
4 of the dental hygiene examination administered by the joint
5 commission on national dental examinations of the American
6 dental association or, if this test is not available, another
7 written examination determined by the committee.

8 B. Applicants for licensure by examination shall be
9 required, in addition to the requirements set forth in
10 Subsection A of this section, to pass a written examination
11 covering the laws and rules for practice in New Mexico. Each
12 written examination shall be supplemented by a practical or
13 clinical examination administered by the committee or its
14 agents that reasonably tests the applicant's qualifications to
15 practice as a dental hygienist. Upon an applicant passing the
16 written and clinical examinations, the board, upon
17 recommendation of the committee, shall issue a license to
18 practice as a dental hygienist.

19 C. The board, upon the committee's recommendation,
20 shall issue a license to practice as a dental hygienist by
21 credentials without examination, including practical or
22 clinical examination, to an applicant who is a duly licensed
23 dental hygienist by examination under the laws of another state
24 or territory of the United States and whose license is in good
25 standing for the two previous years in that jurisdiction and if

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1 the applicant otherwise meets all other requirements of the
2 Dental Health Care Act, including payment of appropriate fees
3 and passing an examination covering the laws and rules
4 pertaining to practice as a dental hygienist in New Mexico.

5 D. A dental therapist licensed pursuant to the
6 Dental Health Care Act may become eligible for licensure as a
7 dental hygienist if, in addition to completing a qualified
8 dental therapy education program, the dental therapist has
9 completed one year of a dental hygiene program from an
10 accredited dental hygiene education program, as the dental
11 hygienists committee determines."

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

14 "61-5A-14. TEMPORARY LICENSURE.--The board, [~~or the~~]
15 dental hygienists committee or dental therapists committee may
16 issue a temporary license to practice dentistry, [~~or~~] dental
17 hygiene or dental therapy to [~~any~~] an applicant who is licensed
18 to practice dentistry, [~~or~~] dental hygiene or dental therapy in
19 another state or territory of the United States and who is
20 otherwise qualified to practice dentistry, [~~or~~] dental hygiene
21 or dental therapy in this state. The following provisions
22 shall apply:

23 A. the applicant shall hold a valid license in good
24 standing in another state or territory of the United States;

25 B. the applicant shall practice dentistry, [~~or~~]

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1 dental hygiene or dental therapy under the sponsorship of or in
2 association with a licensed New Mexico dentist, [~~or~~] dental
3 hygienist or dental therapist;

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

18 D. the sponsoring or associating dentist, [~~or~~]
19 dental hygienist or dental therapist shall submit an affidavit
20 attesting to the qualifications of the applicant and the
21 activities the applicant will perform;

22 E. the temporary license shall be issued for a
23 period not to exceed twelve months and may be renewed upon
24 application and payment of required fees;

25 F. the application for a temporary license under

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1 this section shall be accompanied by a license fee; and

2 G. the temporary licensee shall be required to
3 comply with the Dental Health Care Act and all rules
4 promulgated pursuant thereto."

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

7 "61-5A-15. CONTENT OF [~~LICENSE~~] LICENSES AND
8 CERTIFICATES--DISPLAY OF [~~LICENSE--RENEWALS--RETIRE LICENSE~~]
9 LICENSES AND CERTIFICATES.--

10 A. All dental licenses issued by the board shall
11 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) if the license is a specialty license, the
17 specialty to which practice is limited;
- 18 (6) the signatures of a majority of the board
19 members; and
- 20 (7) the attestation of the board president and
21 secretary.

22 B. All dental hygienist licenses issued by the
23 board shall bear:

- 24 (1) a serial number;
- 25 (2) the full name of the licensee;

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- 1 (3) the date of issue;
- 2 (4) the seal of the board;
- 3 (5) the signatures of a majority of the dental
- 4 hygienists committee members; and
- 5 (6) the attestation of the board president and
- 6 secretary.

7 C. All dental therapist licenses issued by the

8 board shall bear:

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

17 [~~G.~~] D. Certificates issued to dental assistants

18 shall bear:

- 19 (1) a serial number;
- 20 (2) the full name of the assistant;
- 21 (3) the date of issue;
- 22 (4) the date of expiration;
- 23 (5) the expanded functions certified to
- 24 perform; and
- 25 (6) the attestation of the board secretary.

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1 ~~[D-]~~ E. All licenses and certificates shall be
2 displayed in a conspicuous place in the office where the holder
3 practices. The license or certificate shall, upon request, be
4 exhibited to any of the members of the board, ~~[the]~~ dental
5 hygienists committee or dental therapists committee or ~~[its]~~ an
6 authorized agent of the board or committee."

7 **SECTION 16.** A new section of the Dental Health Care Act
8 is enacted to read:

9 "[NEW MATERIAL] PUBLIC-SERVICE LICENSURE.--The board,
10 dental hygienists committee or dental therapists committee may
11 issue a temporary public-service license to practice dentistry,
12 dental hygiene or dental therapy to an applicant who is
13 licensed to practice dentistry, dental hygiene or dental
14 therapy in another state or territory of the United States or
15 who is enrolled as a dental resident in a residency program in
16 this state and the commission on dental accreditation has
17 accredited that program. That applicant shall be otherwise
18 qualified to practice dentistry, dental hygiene or dental
19 therapy in this state. The following provisions shall apply:

20 A. the applicant for public-service licensure shall
21 hold a valid license in good standing in another state or
22 territory of the United States or be enrolled as a dental
23 resident in a residency program in the state that the
24 commission on dental accreditation has accredited;

25 B. a temporary public-service license issued to a

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1 dental residency student who has not taken and passed a
2 clinical examination accepted by the board shall not be renewed
3 after the student has completed the residency program;

4 C. the applicant shall practice dentistry, dental
5 hygiene or dental therapy under the sponsorship of or in
6 association with a licensed New Mexico dentist, dental
7 hygienist or dental therapist;

8 D. the public-service license may be issued for
9 those activities as stipulated by the board, dental hygienists
10 committee or dental therapists committee in the rules of the
11 board. It may be issued upon written application of the
12 applicant when accompanied by such proof of qualifications as
13 the secretary-treasurer of the board or appropriate committee,
14 in the secretary-treasurer's discretion, may require. Public-
15 service licensees shall engage in only those activities
16 specified on the public-service license for the time
17 designated, and the public-service license shall identify the
18 licensed New Mexico dentist, dental hygienist or dental
19 therapist who will sponsor or associate with the applicant
20 during the time the applicant practices dentistry, dental
21 hygiene or dental therapy in New Mexico;

22 E. the sponsoring or associating dentist, dental
23 hygienist or dental therapist shall submit an affidavit
24 attesting to the qualifications of the applicant and the
25 activities the applicant will perform;

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1 F. the public-service license shall be issued for a
2 period not to exceed twelve months and may be renewed upon
3 application and payment of required fees;

4 G. the application for a public-service license
5 under this section shall be accompanied by a license fee;

6 H. the public-service licensee shall be required to
7 comply with the Dental Health Care Act and all rules
8 promulgated pursuant to that act; and

9 I. a dentist, dental hygienist or dental therapist
10 providing dental care services to a charitable dental care
11 project may provide dental care pursuant to a presumptive
12 temporary public-service license valid for a period of no
13 longer than three days. The dentist, dental hygienist or
14 dental therapist shall be otherwise subject to the provisions
15 of this section and board rules governing public-service
16 licensure. This presumptive temporary public-service license
17 is only valid when:

18 (1) the dentist, dental hygienist or dental
19 therapist receives no compensation;

20 (2) the project is sponsored by an entity that
21 meets the board's definition of "entity" and that the board has
22 approved to undertake the charitable project;

23 (3) the dental care is performed within the
24 limits of the license that the dentist, dental hygienist or
25 dental therapist holds in another jurisdiction;

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1 (4) upon request, the out-of-state dentist,
2 dental hygienist or dental therapist produces any document
3 necessary to verify the dentist's, dental hygienist's or dental
4 therapist's credentials; and

5 (5) the out-of-state dentist, dental hygienist
6 or dental therapist works under the indirect supervision of a
7 dentist, dental hygienist or dental therapist licensed in this
8 state."

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

11 "61-5A-16. LICENSE AND CERTIFICATE RENEWALS.--

12 A. Except as provided in Subsection I of this
13 section, all licensees shall be required to renew their
14 licenses triennially as established [~~in~~] by rules of the board.

15 B. All dental assistants certified in expanded
16 functions, expanded-function dental auxiliaries and community
17 dental health coordinators shall be required to renew their
18 certificates triennially as established [~~in~~] by rules of the
19 board.

20 C. The board, [~~or~~] dental hygienists committee or
21 dental therapists committee may establish a method to provide
22 for staggered triennial terms and may prorate triennial renewal
23 fees and impaired dentist, [~~and~~] dental hygienist and dental
24 therapist fees until staggered triennial renewal is
25 established. The fact that a licensee has not received a

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1 renewal form from the board, [~~or~~] dental hygienists committee
2 or dental therapists committee shall not relieve the licensee
3 of the duty to renew the license or certificate nor shall such
4 omission on the part of the board, [~~or~~] dental hygienists
5 committee or dental therapists committee operate to exempt the
6 licensee from the penalties for failure to renew the licensee's
7 license or certificate.

8 D. All licensees shall pay a triennial renewal fee
9 and an impaired dentist, [~~and~~] dental hygienist and dental
10 therapist fee, and all licensees shall return a completed
11 renewal application form that includes proof of continuing
12 education or continued competency.

13 E. Each application for triennial renewal of
14 license shall state the licensee's full name, business address,
15 the date and number of the license and all other information
16 requested by the board, [~~or~~] dental hygienists committee or
17 dental therapists committee.

18 F. [~~Any~~] A licensee who fails to submit an
19 application for triennial renewal on or before July 1 but who
20 submits an application for triennial renewal within thirty days
21 thereafter shall be assessed a late fee.

22 G. [~~Any~~] A licensee who fails to submit application
23 for triennial renewal between thirty and sixty days of the July
24 1 deadline may have [~~his~~] the licensee's license or certificate
25 suspended. If the licensee renews by that time, the licensee

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1 shall be assessed a cumulative late fee.

2 H. The board, [~~or the~~] dental hygienists committee
3 or dental therapists committee may summarily revoke, for
4 nonpayment of fees or failure to comply with continuing
5 education or continued competency requirements, the license or
6 certificate of [~~any~~] a licensee or certificate holder who has
7 failed to renew [~~his~~] the license or certificate on or before
8 August 31.

9 I. A license for a non-dentist owner shall be
10 renewed triennially as established by rules. An application
11 for renewal of a non-dentist owner license shall state the
12 name, business address, date and number of the license and all
13 other information as required by rule of the board. If a non-
14 dentist owner fails to submit the application for renewal of
15 the license by July 1, the board may assess a late fee. If the
16 non-dentist owner fails to submit the application for a renewal
17 license within sixty days of the July 1 renewal deadline, the
18 board may suspend the license. The license of a non-dentist
19 owner may be summarily revoked by the board for nonpayment of
20 fees.

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

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

25 "61-5A-17. RETIREMENT AND INACTIVE STATUS--

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1 REACTIVATION.--

2 A. ~~[Any]~~ A dentist, ~~[or]~~ dental hygienist or dental
3 therapist who wishes to retire from the practice of dentistry,
4 ~~[or]~~ dental hygiene or dental therapy shall meet all
5 requirements for retirement as set by rules of the board, ~~[and]~~
6 dental hygienists committee and dental therapists committee.

7 The licensee shall notify the board, ~~[or the]~~ dental hygienists
8 committee or dental therapists committee in writing before the
9 expiration of the licensee's current license, and the secretary
10 of the board, ~~[or the]~~ dental hygienists committee or dental
11 therapists committee shall acknowledge the receipt of notice
12 and record ~~[the same]~~ it. If, within a period of three years
13 from the date of retirement, the dentist, ~~[or]~~ dental hygienist
14 or dental therapist wishes to resume practice, the applicant
15 shall ~~[so]~~ notify the board, ~~[or the]~~ dental hygienists
16 committee or dental therapists committee in writing and give
17 proof of completing all requirements as prescribed by rules of
18 the board, dental hygienists committee and ~~[the]~~ dental
19 therapists committee to reactivate the license.

20 B. At any time during the three-year period
21 following retirement, a dentist, ~~[or]~~ dental hygienist or
22 dental therapist with a retired New Mexico license may request
23 in writing to the board or ~~[the]~~ a committee that ~~[his]~~ the
24 dentist's, dental hygienist's or dental therapist's license be
25 placed in inactive status. Upon the receipt of the application

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1 and fees as determined by the board, dental hygienists
2 committee or [~~the~~] dental therapists committee and with the
3 approval of the board or [~~the~~] committee, the license may be
4 placed in inactive status.

5 C. A licensee whose license has been placed in
6 inactive status may not engage in any of the activities
7 contained within the scope of practice of dentistry, [~~or~~]
8 dental hygiene or dental therapy in New Mexico described in
9 Section 61-5A-4 NMSA 1978.

10 D. Licensees with inactive licenses must renew
11 their licenses triennially and comply with all the requirements
12 set by the board, [~~and the~~] dental hygienists committee and
13 dental therapists committee.

14 E. If a licensee with an inactive license wishes to
15 resume the active practice of dentistry, [~~or~~] dental hygiene or
16 dental therapy, the licensee must notify the board, [~~or the~~]
17 dental hygienists committee or dental therapists committee in
18 writing and provide proof of completion of all requirements to
19 reactivate the license as prescribed by rule of the board, [~~or~~
20 ~~the~~] dental hygienists committee or dental therapists
21 committee. Upon payment of all fees due, the board or
22 committee may reactivate the license and the licensee may
23 resume the practice of dentistry, [~~or~~] dental hygiene or dental
24 therapy subject to any stipulations of the board, [~~or the~~]
25 dental hygienists committee or dental therapists committee.

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1 F. Inactive licenses must be reactivated or
2 permanently retired within nine years of having been placed in
3 inactive status.

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

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

8 "61-5A-18. PRACTICING WITHOUT A LICENSE--PENALTY.--

9 A. [~~Any~~] A person who practices dentistry or who
10 attempts to practice dentistry without first complying with the
11 provisions of the Dental Health Care Act and without being the
12 holder of a license entitling the practitioner to practice
13 dentistry in New Mexico is guilty of a fourth degree felony and
14 upon conviction shall be sentenced pursuant to the provisions
15 of the Criminal Sentencing Act to imprisonment for a definite
16 period not to exceed eighteen months and, in the discretion of
17 the sentencing court, to a fine not to exceed five thousand
18 dollars (\$5,000), or both. Each occurrence of practicing
19 dentistry or attempting to practice dentistry without complying
20 with the Dental Health Care Act [~~shall be~~] is a separate
21 violation.

22 B. [~~Any~~] A person who practices as a dental
23 hygienist or who attempts to practice as a dental hygienist
24 without first complying with the provisions of the Dental
25 Health Care Act and without being the holder of a license

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

10 C. A person who practices as a dental therapist or
11 who attempts to practice as a dental therapist without first
12 complying with the provisions of the Dental Health Care Act and
13 without a license entitling the holder to practice as a dental
14 therapist in the state is guilty of a misdemeanor. Upon
15 conviction of a misdemeanor pursuant to this subsection, the
16 person shall be sentenced under the provisions of the Criminal
17 Sentencing Act to imprisonment for a definite period of less
18 than one year and, in the discretion of the sentencing court,
19 fined in an amount not to exceed one thousand dollars (\$1,000),
20 or both. Each occurrence of practicing as a dental therapist
21 or attempting to practice as a dental therapist without
22 complying with the provisions of the Dental Health Care Act is
23 a separate violation.

24 [~~G.~~] D. A person [~~that~~] who functions or attempts
25 to function as a non-dentist owner or who is an officer of a

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1 corporate entity that functions or attempts to function as a
2 non-dentist owner in New Mexico without first complying with
3 the provisions of the Dental Health Care Act is guilty of a
4 misdemeanor and upon conviction shall be sentenced pursuant to
5 the provisions of the Criminal Sentencing Act to imprisonment
6 for a definite period not to exceed one year and, in the
7 discretion of the sentencing court, ~~[to a fine]~~ fined in an
8 amount not to exceed one thousand dollars (\$1,000), or both.
9 Each occurrence of functioning as a non-dentist owner without
10 complying with the Dental Health Care Act ~~[shall be]~~ is a
11 separate violation.

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

14 ~~[E-]~~ F. Upon conviction of any person for violation
15 of any provision of the Dental Health Care Act, the convicting
16 court may, in addition to the penalty provided in this section,
17 enjoin the person from any further or continued violations of
18 the Dental Health Care Act and enforce the order of contempt
19 proceedings."

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

22 "61-5A-19. REINSTATEMENT OF REVOKED OR SUSPENDED
23 LICENSE.--

24 A. Unless otherwise stated in the order of
25 revocation, a motion for reinstatement of a revoked license

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1 ~~may~~ shall not be filed for a period of at least three years
2 from the effective date of the revocation.

3 B. If the motion for reinstatement is denied, no
4 further motions for reinstatement shall be considered for a
5 period of one year.

6 C. A licensee who has been suspended for a specific
7 period of time shall be automatically reinstated at the
8 expiration of the period specified in the order of suspension.
9 The suspended dentist, ~~or~~ dental hygienist or dental
10 therapist will automatically be reinstated as of the day after
11 the expiration of the period of suspension; provided that prior
12 to the expiration of such time if the administrative prosecutor
13 has filed with the board, ~~or~~ dental hygienists committee or
14 dental therapists committee the written objections, the
15 suspended dentist, ~~or~~ dental hygienist or dental therapist
16 shall not be automatically reinstated. Should objections be
17 filed, the petition for reinstatement shall be referred to the
18 board, ~~or~~ dental hygienists committee or dental therapists
19 committee for hearing ~~under~~ pursuant to the provisions of
20 Subsection E of this section.

21 D. ~~Suspended~~ The procedure for reinstatement of
22 dentists, ~~or~~ dental hygienists ~~[indefinite suspension]~~ or
23 dental therapists who have been suspended for an indefinite
24 period of time is as follows:

25 (1) a licensee who has been suspended for an

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1 indefinite period of time may, at any time after complying with
2 the conditions of reinstatement, file a petition for
3 reinstatement with the board, dental hygienists committee or
4 dental therapists committee;

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

8 (3) if the motion for reinstatement is denied,
9 no further motions for reinstatement [~~will~~] shall be considered
10 for a period of one year.

11 E. The procedure for reinstatement hearings [~~are~~]
12 is as follows:

13 (1) applications for reinstatement shall be
14 referred to the board, [~~or~~] dental hygienists committee or
15 dental therapists committee for hearing if the applicant meets
16 the criteria set forth in this section;

17 (2) the board, [~~or~~] dental hygienists
18 committee or dental therapists committee shall schedule a
19 hearing as soon as practical at which the applicant shall have
20 the burden of demonstrating that the applicant has the moral
21 qualifications, that the applicant is once again fit to resume
22 the practice of dentistry, [~~or~~] dental hygiene or dental
23 therapy and that the resumption of the applicant's practice of
24 dentistry, [~~or~~] dental hygiene or dental therapy will not be
25 detrimental to the public interest;

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1 (3) the board, ~~[or]~~ dental hygienists
2 committee or dental therapists committee shall file its
3 findings of fact, conclusions of law and decision within ninety
4 days of the hearing; and

5 (4) the board's, ~~[or]~~ dental hygienists
6 committee's or dental therapists committee's decision to refuse
7 to reinstate a license shall not be reviewable except for an
8 abuse of discretion."

9 SECTION 21. Section 61-5A-20 NMSA 1978 (being Laws 1994,
10 Chapter 55, Section 20, as amended) is amended to read:

11 "61-5A-20. FEES.--The board, ~~[and the]~~ dental hygienists
12 committee and dental therapists committee shall establish a
13 schedule of reasonable fees not to exceed the following:

	Dentists	<u>Dental</u>	Dental
		<u>Therapists</u>	Hygienists
14			
15			
16	A. licensure by examination	\$1,500	<u>\$1,000</u> \$1,000
17	B. licensure by credential	\$3,000	<u>\$1,500</u> \$1,500
18	C. specialty license by		
19	examination	\$1,500	
20	D. specialty license by		
21	credential	\$3,000	
22	E. temporary license		
23	48 hours	\$ 50	<u>\$ 50</u> \$ 50
24	six months	\$ 300	<u>\$ 200</u> \$ 200
25	12 months	\$ 450	\$ 300 \$ 300

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1	F. application for			
2	certification in local			
3	anesthesia		\$	40
4	G. examination in local			
5	anesthesia		\$	150
6	H. triennial license renewal	\$ 600	<u>\$ 450</u>	\$ 450
7	I. late renewal	\$ 100	<u>\$ 100</u>	\$ 100
8	J. reinstatement of license	\$ 450	<u>\$ 300</u>	\$ 300
9	K. administrative fees	\$ 300	<u>\$ 300</u>	\$ 300
10	L. impaired dentist, [or]			
11	dental hygienist <u>or dental</u>			
12	<u>therapist</u>	\$ 150	<u>\$ 75</u>	\$ 75
13	M. assistant, <u>expanded-</u>			
14	<u>function dental</u>			
15	<u>auxiliary or community</u>			
16	<u>dental health coordinator</u>			
17	certificate	\$ 100		
18	N. application for			
19	certification for			
20	collaborative practice		<u>\$ 150</u>	\$ 150
21	O. annual renewal for			
22	collaborative practice		<u>\$ 50</u>	\$ 50
23	P. application for inactive			
24	status	\$ 50	<u>\$ 50</u>	\$ 50
25	Q. triennial renewal of			

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1 conclusive evidence of such conviction;

2 (3) is guilty of gross incompetence or gross
3 negligence, as defined by rules of the board, in the practice
4 of dentistry, dental hygiene, dental therapy or dental
5 assisting;

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

9 (5) is guilty of unprofessional conduct as
10 defined by rule;

11 (6) is guilty of any violation of the
12 Controlled Substances Act;

13 (7) has violated any provisions of the Dental
14 Health Care Act or rule [~~or regulation~~] of the board, [~~or the~~]
15 dental hygienists committee or dental therapists committee;

16 (8) is guilty of willfully or negligently
17 practicing beyond the scope of licensure;

18 (9) is guilty of practicing dentistry, [~~or~~]
19 dental hygiene or dental therapy without a license or aiding or
20 abetting the practice of dentistry, [~~or~~] dental hygiene or
21 dental therapy by a person not licensed under the Dental Health
22 Care Act;

23 (10) is guilty of obtaining or attempting to
24 obtain any fee by fraud or misrepresentation or has otherwise
25 acted in a manner or by conduct likely to deceive, defraud or

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1 harm the public;

2 (11) is guilty of patient abandonment;

3 (12) is guilty of failing to report to the
4 board, dental hygienists committee or dental therapists

5 committee any adverse action taken against the licensee by a
6 licensing authority, peer review body, malpractice insurance
7 carrier or other entity as defined in rules of the board,
8 dental hygienists committee and [~~the~~] dental therapists
9 committee;

10 (13) has had a license, certificate or
11 registration to practice as a dentist, [~~or~~] dental hygienist or
12 dental therapist revoked, suspended, denied, stipulated or
13 otherwise limited in any jurisdiction, territory or possession
14 of the United States or another country for actions of the
15 licensee similar to acts described in this subsection. A
16 certified copy of the decision of the jurisdiction taking such
17 disciplinary action will be conclusive evidence; or

18 (14) has failed to furnish the board, [~~its~~]
19 dental hygienists committee or dental therapists committee or
20 its investigators or [~~its~~] representatives with information
21 requested by the board or [~~the~~] committee in the course of an
22 official investigation.

23 B. Disciplinary proceedings may be instituted by
24 sworn complaint by any person, including a board or committee
25 member, and shall conform with the provisions of the Uniform

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1 Licensing Act.

2 C. Licensees and certificate holders shall bear the
3 costs of disciplinary proceedings unless exonerated.

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

7 E. Licensees whose licenses are in a probationary
8 status shall pay reasonable expenses for maintaining
9 probationary status, including but not limited to laboratory
10 costs when laboratory testing of biological fluids or
11 accounting costs when audits are included as a condition of
12 probation."

13 SECTION 23. Section 61-5A-24 NMSA 1978 (being Laws 1994,
14 Chapter 55, Section 24) is amended to read:

15 "61-5A-24. INJUNCTION TO STOP UNLICENSED DENTAL, [ØR]
16 DENTAL HYGIENE OR DENTAL THERAPY PRACTICE.--

17 A. The attorney general, the district attorney, the
18 board, the dental hygienists committee or the dental therapists
19 committee or any [~~citizen~~] resident of any county where any
20 person practices dentistry, [~~or~~] dental hygiene or dental
21 therapy without possessing a valid license to do so may, in
22 accordance with the laws of New Mexico governing injunctions,
23 maintain an action in the name of the state to enjoin such
24 person from practicing dentistry, [~~or~~] dental hygiene or dental
25 therapy until a valid license to practice dentistry, [~~or~~]

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1 dental hygiene or dental therapy is secured ~~and~~. Any person
2 who has been enjoined who violates the injunction shall be
3 punished for contempt of court; provided that the injunction
4 does not relieve any person practicing dentistry, ~~or~~ dental
5 hygiene or dental therapy without a valid license from a
6 criminal prosecution ~~therefore~~ as provided by law.

7 B. In charging any person in a complaint for
8 injunction, or in an affidavit, information or indictment with
9 practicing dentistry, ~~or~~ dental hygiene or dental therapy
10 without a valid license, it is sufficient to charge that the
11 person did, upon a certain day and in a certain county, engage
12 in the practice of dentistry, ~~or~~ dental hygiene or dental
13 therapy without a valid license, without averring any further
14 or more particular facts concerning the same."

15 SECTION 24. A new section of the Dental Health Care Act
16 is enacted to read:

17 "[NEW MATERIAL] DENTAL THERAPISTS--LICENSURE--DENTAL
18 HYGIENIST LICENSURE IN DENTAL THERAPY.--

19 A. An applicant for dental therapist licensure by
20 examination shall be required to pass a written examination
21 covering the laws and rules for practice in the state. Each
22 written examination shall be supplemented by a practical or
23 clinical examination administered by the dental therapists
24 committee or its agents that reasonably tests the applicant's
25 qualifications to practice as a dental therapist. Upon an

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1 applicant passing these examinations and receipt of a
2 recommendation from the dental therapists committee, the board
3 shall issue the applicant a license to practice as a dental
4 therapist.

5 B. The board, upon receipt of the dental therapists
6 committee's recommendation, shall issue a license to practice
7 as a dental therapist by credentials, without a practical or
8 clinical examination, to an applicant who is a duly licensed
9 dental therapist by examination under the laws of another state
10 or territory of the United States; provided that the license is
11 in good standing for the two previous years in that
12 jurisdiction and that the applicant meets the requirements,
13 including payment of appropriate fees and the passing of an
14 examination covering the laws and rules of the practice of
15 dental therapy in New Mexico, of the Dental Health Care Act.

16 C. A dental hygienist licensed pursuant to the
17 Dental Health Care Act may become eligible for licensure as a
18 dental therapist if, in addition to completing a qualified
19 dental hygiene education program, the dental hygienist has
20 completed one year of a dental therapy training program from a
21 dental therapy educational program, as the dental therapists
22 committee determines."

23 SECTION 25. A new section of the Dental Health Care Act
24 is enacted to read:

25 "[NEW MATERIAL] DENTAL THERAPISTS COMMITTEE--

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1 MEMBERSHIP--APPOINTMENT--VOTING.--

2 A. The "dental therapists committee" is created.
3 The dental therapists committee consists of nine members: five
4 dental therapists, two dentists and two public members. The
5 members of the board shall elect annually the dentist members
6 and the public members. To the extent possible, there shall be
7 one member from each United States congressional district in
8 the state. All members shall serve until their successors have
9 been appointed. No more than one member may be employed by or
10 receive remuneration from a dental, dental therapy or dental
11 hygiene educational institution.

12 B. The governor shall appoint the dental therapists
13 from a list of names submitted by a New Mexico association of
14 dental therapists or a national dental therapists association
15 if an association of dental therapists does not exist in the
16 state. After January 1, 2020, a dental therapist member shall
17 have been practicing dental therapy and be a resident of New
18 Mexico for the three-year period immediately preceding the date
19 of appointment. Before January 1, 2020, the governor may
20 appoint individuals as dental therapist members of the dental
21 therapists committee who are not New Mexico-licensed dental
22 therapists but who are:

- 23 (1) dental therapist educators;
24 (2) dental therapists from another state or
25 country;

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1 (3) dentists who are residents of the state
2 and whom the American association of public health dentistry
3 has nominated for appointment to the dental therapists
4 committee;

5 (4) dentists working in federally qualified
6 health centers designated by the United States department of
7 health and human services; or

8 (5) dentists working in nonprofit
9 community-based entities and organizations that use public
10 funds to provide dental, dental therapy and dental hygiene
11 services for indigent persons.

12 C. Appointments for dental therapist members shall
13 be for terms of five years. Appointments shall be made so that
14 the term of one dental therapist expires on July 1 of each
15 year.

16 D. A dental therapists committee member who fails
17 to attend three committee or board meetings, either regular or
18 special, during the committee member's term shall automatically
19 be removed as a member of the committee unless the committee
20 has excused that member from attendance for good cause shown.
21 Members of the committee not sitting on the board shall not
22 attend board disciplinary hearings.

23 E. A dental therapist committee member shall not
24 serve more than two full terms on any state-chartered board
25 whose responsibility includes the regulation of practice or

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1 licensure of dentistry, dental therapy or dental hygiene in New
2 Mexico. A partial term of three or more years shall be
3 considered a full term.

4 F. In the event of any vacancy on the dental
5 therapists committee, the secretary-treasurer of the committee
6 shall immediately notify the governor, the committee and board
7 members of the reason for its occurrence and action taken by
8 the committee so as to expedite appointment of a new committee
9 member.

10 G. The dental therapists committee shall meet at
11 least four times every year and no more than two meetings shall
12 be public rules hearings. Regular meetings shall not be more
13 than one hundred twenty days apart. The committee may also
14 hold special meetings and emergency meetings in accordance with
15 the rules of the board and committee, upon written notification
16 to all members of the committee and the board.

17 H. Members of the dental therapists committee may
18 be reimbursed as provided in the Per Diem and Mileage Act and
19 shall receive no other compensation, perquisite or allowance.

20 I. A simple majority of the dental therapists
21 committee members currently serving shall constitute a quorum,
22 provided that at least two of that quorum are not dental
23 therapist members and three are dental therapist members.

24 J. The dental therapists committee shall elect
25 officers annually as deemed necessary to administer its duties

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and as provided in rules of the board and committee."

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