

NEW MEXICO BOARD OF DENTAL HEALTH CARE



STATUTES AND RULES

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State of New Mexico
Board of Dental Health Care Practice**

NEW MEXICO BOARD OF DENTAL HEALTH CARE

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N. M. S. A. 1978, 61-5A-1

61-5A-1. Short title

Chapter 61, Article 5A NMSA 1978 may be cited as the “Dental Health Care Act”.

61-5A-2. Repealed by L. 2019, Ch. 107, § 18, eff. June 14, 2019

61-5A-3. Definitions

As used in the Dental Health Care Act:

- A. “assessment” means the review and documentation of the oral condition, and the recognition and documentation of deviations from the healthy condition, without a diagnosis to determine the cause or nature of disease or its treatment;
- B. “board” means the New Mexico board of dental health care;
- C. “certified dental assistant” means an individual certified by the dental assisting national board;
- D. “collaborative dental hygiene practice” means a New Mexico licensed dental hygienist practicing according to Subsections D through G of Section 61-5A-4 NMSA 1978;
- E. “committee” means the New Mexico dental hygienists committee;
- F. “community dental health coordinator” means a dental assistant, a dental hygienist or other trained personnel certified by the board as a community dental health coordinator to provide educational, preventive and limited palliative care and assessment services working collaboratively under the general supervision of a licensed dentist in settings other than traditional dental offices and clinics;
- G. “consulting dentist” means a dentist who has entered into an approved agreement to provide consultation and create protocols with a collaborating dental hygienist and, when required, to provide diagnosis and authorization for services, in accordance with the rules of the board and the committee;
- H. “dental hygiene-focused assessment” means the documentation of existing oral and relevant system conditions and the identification of potential oral disease to develop, communicate, implement and evaluate a plan of oral hygiene care and treatment;
- I. “dental assistant certified in expanded functions” means a dental assistant who meets specific qualifications set forth by rule of the board;
- J. “dental hygienist” means an individual who has graduated and received a degree from a dental hygiene educational program that is accredited by the commission on dental accreditation, that provides a minimum of two academic years of dental hygiene curriculum and that is an institution of higher education; and “dental hygienist” means, except as the context otherwise requires, an individual who holds a license to practice dental hygiene in New Mexico;
- K. “dental laboratory” means any place where dental restorative, prosthetic, cosmetic and therapeutic devices or orthodontic appliances are fabricated, altered or repaired by one or more persons under the orders and authorization of a dentist;
- L. “dental technician” means an individual, other than a licensed dentist, who fabricates, alters, repairs or assists in the fabrication, alteration or repair of dental restorative, prosthetic, cosmetic and therapeutic devices or orthodontic appliances under the orders and authorization of a dentist;
- M. “dental therapist” means an individual who:
 - (1) is licensed as a dental hygienist;
 - (2) has provided, in accordance with board rules, evidence to the board that the individual has graduated and received a degree from a dental therapy education program that is accredited by the commission on dental accreditation; and
 - (3) except as the context otherwise requires, is licensed to practice dental therapy in the state;
- N. “dental therapy post-graduate clinical experience” means advanced training in patient management and technical competency:
 - (1) that is approved by the board, based on educational and supervisory criteria developed by the board and established by board rule;
 - (2) that is sanctioned by a regionally accredited educational institution with a program accredited by the commission on dental accreditation;
 - (3) that consists of two thousand hours of advanced training or, if the dental therapy educational program graduate has five years of experience as a dental hygienist, one thousand five hundred hours of advanced training; and
 - (4) for which the dental therapist may have been compensated;
- O. “dental therapy practice agreement” means a contract between a supervising dentist and a dental

therapist that outlines the parameters of care, level of supervision and protocols to be followed while performing dental therapy procedures on patients under the supervising dentist's and dental therapist's care;

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

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

- (1) is physically present throughout the performance of the act;
- (2) orders, controls and accepts full professional responsibility for the act performed; and
- (3) evaluates and approves the procedure performed before the patient departs the care

setting;

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

S. "federally qualified health center" means a health facility that the United States department of health and human services has deemed to qualify for federal funds as a federally qualified health center;

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

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

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

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

X. "non-dentist owner" means an individual not licensed as a dentist in New Mexico or a corporate entity not owned by a majority interest of a New Mexico licensed dentist that employs or contracts with a dentist or dental hygienist to provide dental or dental hygiene services;

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

- (1) provides clinical dental services primarily to low-income patients or medicaid recipients; and
- (2) has demonstrated to the taxation and revenue department that it has been granted exemption from the federal income tax by the United States commissioner of internal revenue as an organization described in Section 501(c)(3) of the United States Internal Revenue Code of 1986, as amended or renumbered;

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

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

61-5A-4. Scope of practice

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

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

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

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

(4) the offering of advice or authoritative comment regarding the appropriateness of dental

therapies, the need for recommended treatment or the efficacy of specific treatment modalities for other than the purpose of consultation to another dentist; or

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

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

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

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

(d) correct a malposition;

(e) treat a fracture;

(f) remove calcareous deposits;

(g) replace missing anatomy with an artificial substitute;

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

(i) give interpretations or readings of dental radiographs;

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

(k) do any other remedial, corrective or restorative work.

B. As used in the Dental Health Care Act, “the practice of dental hygiene” means the application of the science of the prevention and treatment of oral disease through the provision of educational, assessment, preventive, clinical and other therapeutic services under the general supervision of a dentist. A dental hygienist in a collaborative practice may perform the procedures listed in this section without general supervision while the hygienist is in a cooperative working relationship with a consulting dentist, pursuant to rules promulgated by the board and the committee. “The practice of dental hygiene” includes:

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

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

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

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

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

(6) exposing and assessing oral radiographs for abnormalities;

(7) screening to identify indications of oral abnormalities;

(8) performing dental hygiene-focused assessments;

(9) assessing periodontal conditions; and

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

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

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

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

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

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

and

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

F. A dental hygienist:

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

- (a) under the supervision of a dentist;
- (b) pursuant to rules the board and the committee have adopted;
- (c) within the parameters of a drug formulary approved by the board in consultation with the board of pharmacy;
- (d) within the parameters of guidelines established pursuant to Section 61-5A-10 NMSA 1978; and
- (e) in compliance with state laws concerning prescription packaging, labeling and recordkeeping requirements; and

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

G. A New Mexico licensed dental hygienist may be certified for collaborative dental hygiene practice in accordance with the educational and experience criteria established collaboratively by the committee and the board.

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

- (1) placing and shaping direct restorations;
- (2) taking final impressions, excluding those for fixed or removable prosthetics involving multiple teeth;
- (3) cementing indirect and provisional restorations for temporary use;
- (4) applying pit and fissure sealants without mechanical alteration of the tooth;
- (5) placing temporary and sedative restorative material in hand-excavated carious lesions and unprepared tooth fractures;
- (6) removal of orthodontic bracket cement; and
- (7) fitting and shaping of stainless steel crowns to be cemented by a dentist.

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

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

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

61-5A-5. License required; exemptions

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

- (1) practice dentistry;
- (2) use the title “dentist”, “dental surgeon”, “oral surgeon” or any other title, abbreviation, letters, figures, signs or devices that indicate the person is a licensed dentist; or
- (3) perform any of the acts enumerated under the definition of the practice of dentistry as defined in the Dental Health Care Act.

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

- (1) regularly licensed physicians or surgeons are not prohibited from extracting teeth or treating any disease coming within the province of the practice of medicine;
- (2) New Mexico licensed dental hygienists and community dental health coordinators may provide those services within their scope of practice that are also within the scope of the practice of dentistry;
- (3) any dental student duly enrolled in an accredited school of dentistry recognized by the board, while engaged in educational programs offered by the school in private offices, public clinics or educational institutions within the state of New Mexico under the indirect supervision of a licensed dentist;
- (4) any dental hygiene or dental assisting student duly enrolled in an accredited school of dental hygiene or dental assisting engaged in procedures within or outside the scope of dental hygiene that are part of the curriculum of that program in the school setting and under the indirect supervision of a faculty member of

the accredited program who is a licensed dentist, dental hygienist or dental assistant certified in the procedures being taught;

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

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

(7) dental assistants performing adjunctive services to the provision of dental care, under the indirect supervision of a dentist, as determined by rule of the board if such services are not within the practice of dental hygiene as specifically listed in Subsection B of Section 61-5A-4 NMSA 1978, unless allowed in Subsection F of this section;

(8) a dental therapy student or graduate of a dental therapy educational program enrolled in a board-approved program while engaged in an educational program offered by the dental therapy educational program or dental therapy post-graduate clinical experience in a private office, public clinic or educational institution within the state of New Mexico under the indirect supervision of a licensed dentist; and

(9) a dental therapist who is licensed in New Mexico working under the supervision of a dentist and performing the procedures in accordance with the provisions of Section 9 of this 2019 act.

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

- (1) practice as a dental therapist;
- (2) use the title, abbreviation "D.T.", letters, figures, signs or devices that indicate the person is a licensed dental therapist; or
- (3) perform any of the acts defined as the practice of dental therapy in the Dental Health Care Act.

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

- (1) practice as a dental hygienist;
- (2) use the title "dental hygienist" or abbreviation "R.D.H." or any other title, abbreviation, letters, figures, signs or devices that indicate the person is a licensed dental hygienist; or
- (3) perform any of the acts defined as the practice of dental hygiene in the Dental Health Care Act.

E. The following, under the stipulations described, may practice dental hygiene or the area of dental hygiene outlined without a New Mexico dental hygiene license:

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

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

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

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

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

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

(3) dental assistants certified in expanded functions, working under the indirect supervision of a dental hygienist certified for collaborative practice and under the protocols established in a collaborative practice agreement with a consulting dentist.

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

- (1) expose dental radiographs;
- (2) perform rubber cup coronal polishing that is not represented as a prophylaxis;
- (3) apply fluoride and pit and fissure sealants without mechanical alteration of the tooth;
- (4) perform those other dental hygienist functions as recommended to the board by the committee and set forth by rule of the board; and
- (5) perform such other related functions that are not expressly prohibited by statute or rules

of the board.

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

- (1) place temporary and sedative restorative material in unexcavated carious lesions and unprepared tooth fractures;
- (2) collect and transmit diagnostic data and images via telemetric connection;
- (3) dispense and apply medications on the specific order of a dentist;
- (4) provide limited palliative procedures for dental emergencies in consultation with a supervising dentist as allowed by the rules the board has promulgated; and
- (5) perform other related functions for which the community dental health coordinator meets training and educational standards established by the board and that are not expressly prohibited by statute or rules promulgated by the board.

H. Unless licensed as a dentist or non-dentist owner, or as otherwise exempt from the licensing requirements of the Dental Health Care Act, no individual or corporate entity shall:

- (1) employ or contract with a dentist or dental hygienist for the purpose of providing dental or dental hygiene services as defined by their respective scopes of practice; or
- (2) enter into a managed care or other agreement to provide dental or dental hygiene services in New Mexico.

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

- (1) government agencies providing dental services within affiliated facilities;
- (2) government agencies engaged in providing public health measures to prevent dental disease;
- (3) spouses of deceased licensed dentists or dental hygienists for a period of one year following the death of the licensee;
- (4) accredited schools of dentistry, dental hygiene and dental assisting providing dental services solely in an educational setting;
- (5) dental hygienists licensed in New Mexico or corporate entities with a majority interest owned by a dental hygienist licensed in New Mexico;
- (6) federally qualified health centers, as designated by the United States department of health and human services, providing dental services;
- (7) nonprofit community dental organizations; and
- (8) hospitals licensed by the department of health.

61-5A-5.1. Non-dentist owner; employing or contracting for dental services

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

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

- (1) employ or contract with a dentist or dental hygienist for the purpose of providing dental or dental hygiene services as defined by their respective scopes of practice; or
- (2) enter into a managed care or other agreement to provide dental or dental hygiene services in New Mexico.

61-5A-6. Certification of dental assistants, expanded-function dental auxiliaries and community dental health coordinators

A. A certified dental assistant, an expanded-function dental auxiliary, a community dental health coordinator or a dental assistant certified in expanded functions shall be required to adhere to the educational requirements, examinations, recertification criteria and fees as established by rules and regulations of the board. The fee shall be the same for one or more expanded functions.

B. Certificates granted by the board may be revoked, suspended, stipulated or otherwise limited, and a certificate holder may be fined or placed on probation if found guilty of violation of the Dental Health Care Act.

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

D. Unless certified to practice as a dental assistant certified in expanded functions or an expanded-function dental auxiliary, no person shall:

- (1) practice as a dental assistant certified in expanded functions as defined by rules of the board; or

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

61-5A-6.1. Expanded-function dental auxiliary; certification

A. The board shall establish academic standards and criteria for certifying dental assistants, dental hygienists or other dental personnel to practice as expanded-function dental auxiliaries. Those standards and criteria shall include a formal curriculum and a certifying examination.

B. The board shall promulgate rules relating to the certification of expanded-function dental auxiliaries pursuant to the State Rules Act.¹

61-5A-7. Dental and dental hygiene districts created

For the purpose of selecting members of the board and the committee, there are created five districts composed of the following counties:

- A. district I: San Juan, Rio Arriba, Taos, Sandoval, McKinley and Cibola;
- B. district II: Colfax, Union, Mora, Harding, San Miguel, Quay, Guadalupe, Santa Fe and Los Alamos;
- C. district III: Bernalillo, Valencia and Torrance;
- D. district IV: Catron, Socorro, Grant, Sierra, Hidalgo, Luna, Dona Ana and Otero; and
- E. district V: Lincoln, De Baca, Roosevelt, Chaves, Eddy, Curry and Lea.

61-5A-8. Board created

A. There is created the nine-member "New Mexico board of dental health care". The brd shall consist of five dentists, two dental hygienists and two public members. The dentists shall be actively practicing and have been licensed practitioners and residents of New Mexico for a period of five years preceding the date of appointment. The dental hygienist members shall be members of the committee and shall be elected annually to sit on the board by those sitting on the committee. The appointed public members shall be residents of New Mexico and shall have no financial interest, direct or indirect, in the professions regulated in the Dental Health Care Act.

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

C. Appointments for dentists and public members shall be for terms of five years. Dentists' appointments shall be made so that the term of one dentist member expires on July 1 of each year. Public members' five-year terms begin at the date of appointment.

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

E. No board member shall serve more than two full terms on any state-chartered board whose responsibility includes the regulation of practice or licensure of dentistry or dental hygiene in New Mexico. A partial term of three or more years shall be considered a full term.

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

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

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

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

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

61-5A-9. Committee created

A. There is created the nine-member “New Mexico dental hygienists committee”. The committee shall consist of five dental hygienists, two dentists and two public members. The dental hygienists shall be actively practicing and have been licensed practitioners and residents of New Mexico for a period of five years preceding the date of their appointment. The dentists and public members shall be members of the board and shall be elected annually to sit on the committee by those members sitting on the board.

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

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

D. Any committee member failing to attend three committee or board meetings, either regular or special, during the committee member’s term shall automatically be removed as a member of the committee unless excused from attendance by the committee for good cause shown. Members of the committee not sitting on the board shall not be required or allowed to attend board disciplinary hearings.

E. No committee member shall serve more than two full terms on any state-chartered board whose responsibility includes the regulation of practice or licensure of dentistry or dental hygiene in New Mexico. A partial term of three or more years shall be considered a full term.

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

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

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

I. A simple majority of the committee members currently serving shall constitute a quorum, provided at least two of that quorum are not hygienist members and three are hygienist members.

J. The committee shall elect officers annually as deemed necessary to administer its duties and as provided in rules and regulations of the board and committee.

61-5A-10. Powers and duties of the board and committee

In addition to any other authority provided by law, the board and the committee, when designated, shall:

A. enforce and administer the provisions of the Dental Health Care Act and the Dental Amalgam Waste Reduction Act;

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

- (1) regulate the examination and licensure of dentists and dental therapists and, through the committee, regulate the examination and licensure of dental hygienists;
- (2) provide for the examination and certification of dental assistants by the board;
- (3) provide for the regulation of dental technicians by the board;
- (4) regulate the practice of dentistry, dental therapy and dental assisting and, through the committee, regulate the practice of dental hygiene; and
- (5) provide for the regulation and licensure of non-dentist owners by the board;

C. adopt and use a seal;

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

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

F. grant, deny, review, suspend and revoke licenses and certificates to practice dentistry, dental therapy, dental assisting and, through the committee, dental hygiene and censure, reprimand, fine and place on probation and stipulation dentists, dental therapists, dental assistants and, through the committee, dental hygienists, in accordance with the Uniform Licensing Act for any cause stated in the Dental Health Care Act and the Dental Amalgam Waste Reduction Act;

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

H. maintain records of the name, address, license number and such other demographic data as may

serve the needs of the board of licensees, together with a record of license renewals, suspensions, revocations, probations, stipulations, censures, reprimands and fines. The board shall make available composite reports of demographic data but shall limit public access to information regarding individuals to their names, addresses, license numbers and license actions or as required by statute;

- I. hire and contract for services from persons as necessary to carry out the board's duties;
- J. establish ad hoc committees whose members shall be appointed by the chair with the advice and consent of the board or committee and shall include at least one member of the board or committee as it deems necessary for carrying on its business;
- K. have the authority to pay per diem and mileage to individuals who are appointed by the board or the committee to serve on ad hoc committees;
- L. have the authority to hire or contract with investigators to investigate possible violations of the Dental Health Care Act and the Dental Amalgam Waste Reduction Act;
- M. have the authority to issue investigative subpoenas prior to the issuance of a notice of contemplated action for the purpose of investigating complaints against dentists, dental therapists, dental assistants and, through the committee, dental hygienists licensed under the Dental Health Care Act and the Dental Amalgam Waste Reduction Act;
- N. have the authority to sue or be sued and to retain the services of an attorney at law for counsel and representation regarding the carrying out of the board's duties;
- O. have the authority to create and maintain a formulary, in consultation with the board of pharmacy, of medications that a dental therapist or dental hygienist may prescribe, administer or dispense in accordance with rules the board has promulgated; and
- P. establish continuing education or continued competency requirements for dentists, dental therapists, certified dental assistants in expanded functions, dental technicians and, through the committee, dental hygienists.

61-5A-11. Ratification of committee recommendations

- A. The board shall ratify the recommendations of the committee unless the board makes a specific finding that a recommendation is:
 - (1) beyond the jurisdiction of the committee;
 - (2) an undue financial impact upon the board; or
 - (3) not supported by the record.
- B. The board shall provide the necessary expenditures incurred by the committee and the board in implementing and executing the ratified recommendations.

61-5A-12. Dentists; requirements for licensure; specialty license

- A. All applicants for licensure as a dentist shall have graduated and received a degree from a school of dentistry that is accredited by the commission on dental accreditation and shall have passed the written portion of the dental examination administered by the joint commission on national dental examinations of the American dental association or, if the test is not available, another written examination determined by the board.
- B. Applicants for a general license to practice dentistry by examination shall be required, in addition to the requirements set forth in Subsection A of this section, to pass a test covering the laws and rules for the practice of dentistry in New Mexico. Written examinations shall be supplemented by the board or its agents by administering to each applicant a practical or clinical examination that reasonably tests the applicant's qualifications to practice general dentistry. These examinations shall include examinations offered by the central regional dental testing service, northeast regional board of dental examiners, southern regional testing agency or western regional examining board or any other comparable practical clinical examination the board approves; provided, however, that the board may disapprove any examination after it considers compelling evidence to support disapproval. Upon an applicant passing the written and clinical examinations and payment in advance of the necessary fees, the board shall issue a license to practice dentistry.
- C. The board may issue a general license to practice dentistry, by credentials, without a practical or clinical examination to an applicant who is duly licensed by a clinical examination as a dentist under the laws of another state or territory of the United States; provided that license is active and that all dental licenses that individual possesses have been in good standing for five years prior to application. The credentials must show that no dental board actions have been taken during the five years prior to application; that no proceedings are pending in any states in which the applicant has had a license in the five years prior to application; and that a review of public records, the national practitioner data bank or other nationally recognized data resources that record actions against a dentist in the United States does not reveal any activities or unacquitted civil or criminal charges that could reasonably be construed to constitute evidence of danger to patients, including acts of moral turpitude.
- D. The board may issue a general license to practice dentistry by credentials to an applicant who

meets the requirements, including payment of appropriate fees and the passing of an examination covering the laws and rules of the practice of dentistry in New Mexico, of the Dental Health Care Act and rules promulgated pursuant to that act, and who:

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

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

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

F. The board may issue a specialty license, by credentials, without a practical or clinical examination to an applicant who is duly licensed by a clinical examination as a dentist under the laws of another state or territory of the United States and who has a postgraduate degree or certificate from an accredited dental college, school of dentistry of a university or other residency program that is accredited by the commission on dental accreditation in one of the specialty areas of dentistry recognized by the American dental association; provided that license is active and that all dental licenses that individual possesses have been in good standing for five years prior to application. The credentials must show that no dental board actions have been taken during the five years prior to application; that no proceedings are pending in any states in which the applicant has had a license in the five years prior to application; and that a review of public records, the national practitioner data bank or other nationally recognized data resources that record actions against a dentist in the United States does not reveal any activities or unacquitted civil or criminal charges that could reasonably be construed to constitute evidence of danger to patients, including acts of moral turpitude. The applicant shall also meet all other qualifications as deemed necessary by rules of the board, which shall include an examination covering the laws and rules of the practice of dentistry in New Mexico. A specialty license limits the licensee to practice only in that specialty area.

61-5A-13. Dental hygienist licensure

A. Applicants for licensure shall have graduated and received a degree from an accredited dental hygiene educational program that provides a minimum of two academic years of dental hygiene curriculum and is a post-secondary educational institution accredited by the joint commission on dental accreditation and shall have passed the written portion of the dental hygiene examination administered by the joint commission on national dental examinations of the American dental association or, if this test is not available, another written examination determined by the committee.

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

C. The board, upon the committee's recommendation, shall issue a license to practice as a dental hygienist by credentials without examination, including practical or clinical examination, to an applicant who is a duly licensed dental hygienist by examination under the laws of another state or territory of the United States and whose license is in good standing for the two previous years in that jurisdiction and if the applicant otherwise meets all other requirements of the Dental Health Care Act, including payment of appropriate fees and passing an examination covering the laws and rules pertaining to practice as a dental hygienist in New Mexico.

61-5A-14. Temporary licensure

The board or the committee may issue a temporary license to practice dentistry or dental hygiene to any applicant who is licensed to practice dentistry or dental hygiene in another state or territory of the United States and who is otherwise qualified to practice dentistry or dental hygiene in this state. The following provisions shall apply:

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

B. the applicant shall practice dentistry or dental hygiene under the sponsorship of or in association

with a licensed New Mexico dentist or dental hygienist;

C. the temporary license may be issued for those activities as stipulated by the board or committee in the rules of the board. It may be issued upon written application of the applicant when accompanied by such proof of qualifications as the secretary-treasurer of the board or committee, in his discretion, may require. Temporary licensees shall engage in only those activities specified on the temporary license for the time designated, and the temporary license shall identify the licensed New Mexico dentist or dental hygienist who will sponsor or associate with the applicant during the time the applicant practices dentistry or dental hygiene in New Mexico;

D. the sponsoring or associating dentist or dental hygienist shall submit an affidavit attesting to the qualifications of the applicant and the activities the applicant will perform;

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

F. the application for a temporary license under this section shall be accompanied by a license fee; and

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

61-5A-14.1. Public-service licensure

The board or the committee may issue a temporary public-service license to practice dentistry or dental hygiene to an applicant who is licensed to practice dentistry or dental hygiene in another state or territory of the United States or who is enrolled as a dental resident in a residency program in this state and the commission on dental accreditation has accredited that program. That applicant shall be otherwise qualified to practice dentistry or dental hygiene in this state. The following provisions shall apply:

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

B. a temporary public-service license issued to a dental residency student who has not taken and passed a clinical examination accepted by the board shall not be renewed after the student has completed the residency program;

C. the applicant shall practice dentistry or dental hygiene under the sponsorship of or in association with a licensed New Mexico dentist or dental hygienist;

D. the public-service license may be issued for those activities as stipulated by the board or committee in the rules of the board. It may be issued upon written application of the applicant when accompanied by such proof of qualifications as the secretary-treasurer of the board or committee, in the secretary-treasurer's discretion, may require. Public-service licensees shall engage in only those activities specified on the public-service license for the time designated, and the public-service license shall identify the licensed New Mexico dentist or dental hygienist who will sponsor or associate with the applicant during the time the applicant practices dentistry or dental hygiene in New Mexico;

E. the sponsoring or associating dentist or dental hygienist shall submit an affidavit attesting to the qualifications of the applicant and the activities the applicant will perform;

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

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

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

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

- (1) the dentist or dental hygienist receives no compensation;
- (2) the project is sponsored by an entity that meets the board's definition of "entity" and that the board has approved to undertake the charitable project;
- (3) the dental care is performed within the limits of the license that the dentist or dental hygienist holds in another jurisdiction;
- (4) upon request, the out-of-state dentist or dental hygienist produces any document necessary to verify the dentist's or dental hygienist's credentials; and
- (5) the out-of-state dentist or dental hygienist works under the indirect supervision of a

dentist or dental hygienist licensed in this state.

61-5A-15. Content of licenses and certificates; display of licenses and certificates

- A. All dental licenses issued by the board shall bear:
 - (1) a serial number;
 - (2) the full name of the licensee;
 - (3) the date of issue;
 - (4) the seal of the board;
 - (5) if the license is a specialty license, the specialty to which practice is limited;
 - (6) the signatures of a majority of the board members; and
 - (7) the attestation of the board president and secretary.
- B. All dental therapy licenses issued by the board shall bear:
 - (1) a serial number;
 - (2) the full name of the licensee;
 - (3) the date of issue;
 - (4) the seal of the board;
 - (5) the signatures of a majority of the board members; and
 - (6) the attestation of the board president and secretary.
- C. All dental hygienist licenses issued by the board shall bear:
 - (1) a serial number;
 - (2) the full name of the licensee;
 - (3) the date of issue;
 - (4) the seal of the board;
 - (5) the signatures of a majority of the committee members; and
 - (6) the attestation of the board president and secretary.
- D. Certificates issued to dental assistants shall bear:
 - (1) a serial number;
 - (2) the full name of the assistant;
 - (3) the date of issue;
 - (4) the date of expiration;
 - (5) the expanded functions certified to perform; and
 - (6) the attestation of the board secretary.
- E. All licenses and certificates shall be displayed in a conspicuous place in the office where the holder practices. The license or certificate shall, upon request, be exhibited to any of the members of the board, the committee or its authorized agent.

61-5A-16. License and certificate renewals

- A. Except as provided in Subsection I of this section, all licensees shall be required to renew their licenses triennially as established by rules of the board.
- B. All dental assistants certified in expanded functions, expanded-function dental auxiliaries and community dental health coordinators shall be required to renew their certificates triennially as established by rules of the board.
- C. The board or committee may establish a method to provide for staggered triennial terms and may prorate triennial renewal fees and impaired dentist and dental hygienist fees until staggered triennial renewal is established. The fact that a licensee has not received a renewal form from the board or committee shall not relieve the licensee of the duty to renew the license or certificate nor shall such omission on the part of the board or committee operate to exempt the licensee from the penalties for failure to renew the licensee's license or certificate.
- D. All licensees shall pay a triennial renewal fee and an impaired dentist and dental hygienist fee, and all licensees shall return a completed renewal application form that includes proof of continuing education or continued competency.
- E. Each application for triennial renewal of license shall state the licensee's full name, business address, the date and number of the license and all other information requested by the board or committee.
- F. A licensee who fails to submit an application for triennial renewal on or before July 1 but who submits an application for triennial renewal within thirty days thereafter shall be assessed a late fee.
- G. A licensee who fails to submit application for triennial renewal between thirty and sixty days of the July 1 deadline may have the licensee's license or certificate suspended. If the licensee renews by that time, the licensee shall be assessed a cumulative late fee.
- H. The board or the committee may summarily revoke, for nonpayment of fees or failure to comply

with continuing education or continued competency requirements, the license or certificate of a licensee or certificate holder who has failed to renew the license or certificate on or before August 31.

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

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

61-5A-17. Retirement and inactive status; reactivation

A. A licensee who wishes to retire from practice shall meet all requirements for retirement as set by rules of the board, and, if the licensee is a dental hygienist, the committee. The licensee shall notify the board or the committee in writing before the expiration of the licensee's current license, and the secretary of the board or the committee shall acknowledge the receipt of notice and record it. If, within a period of three years from the date of retirement, the licensee wishes to resume practice, the applicant shall notify the board or the committee in writing and give proof of completing all requirements as prescribed by rules of the board and the committee to reactivate the license.

B. At any time during the three-year period following retirement, a licensee with a retired New Mexico license may request in writing to the board or the committee that the licensee's license be placed in inactive status. Upon the receipt of the application and fees as determined by the board or the committee and with the approval of the board or the committee, the license may be placed in inactive status.

C. A licensee whose license has been placed in inactive status may not engage in any of the activities contained within the scope of practice of dentistry, dental therapy or dental hygiene in New Mexico described in the Dental Health Care Act.

D. Licensees with inactive licenses must renew their licenses triennially and comply with all the requirements set by the board and, if the licensee is a dental hygienist, by the committee.

E. If a licensee with an inactive license wishes to resume active practice, the licensee must notify the board or, if the licensee is a dental hygienist, the committee, in writing and provide proof of completion of all requirements to reactivate the license as prescribed by rule of the board or the committee. Upon payment of all fees due, the board may reactivate the license and the licensee may resume practice subject to any stipulations of the board or the committee.

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

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

61-5A-18. Practicing without a license; penalty

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

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

C. A person that functions or attempts to function as a non-dentist owner or who is an officer of a corporate entity that functions or attempts to function as a non-dentist owner in New Mexico without first complying with the provisions of the Dental Health Care Act is guilty of a misdemeanor and upon conviction shall be sentenced pursuant to the provisions of the Criminal Sentencing Act to imprisonment for a definite period not to exceed one year and, in the discretion of the sentencing court, to a fine not to exceed one thousand dollars (\$1,000), or both. Each occurrence of functioning as a non-dentist owner without complying with the Dental Health Care Act shall be a separate violation.

D. The attorney general or district attorney shall prosecute all violations of the Dental Health Care Act.

E. Upon conviction of any person for violation of any provision of the Dental Health Care Act, the convicting court may, in addition to the penalty provided in this section, enjoin the person from any further or continued violations of the Dental Health Care Act and enforce the order of contempt proceedings.

61-5A-19. Reinstatement of revoked or suspended license

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

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

C. A licensee who has been suspended for a specific period of time shall be automatically reinstated at the expiration of the period specified in the order of suspension. The suspended licensee shall automatically be reinstated as of the day after the expiration of the period of suspension; provided that prior to the expiration of such time if the administrative prosecutor has filed with the board or committee the written objections, the suspended licensee shall not be automatically reinstated. Should objections be filed, the petition for reinstatement shall be referred to the board or committee for hearing pursuant to provisions of Subsection E of this section.

D. Procedure for reinstatement of licensees who have been suspended for an indefinite period of time is as follows:

(1) a licensee who has been suspended for an indefinite period of time may, at any time after complying with the conditions of reinstatement, file a petition for reinstatement with the board or committee;

(2) the petition shall be referred to the board or committee for hearing pursuant to provisions of Subsection E of this section; and

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

E. Procedure for reinstatement hearings is as follows:

(1) applications for reinstatement shall be referred to the board or, if the application is for reinstatement of a license to practice dental hygiene, to the committee for hearing if the applicant meets the criteria set forth in this section;

(2) the board or committee shall schedule a hearing as soon as practical at which the applicant shall have the burden of demonstrating that the applicant has the moral qualifications, that the applicant is once again fit to resume the practice of dentistry, dental therapy or dental hygiene and that the resumption of the applicant's practice of dentistry, dental therapy or dental hygiene will not be detrimental to the public interest;

(3) the board or committee shall file its findings of fact, conclusions of law and decision within ninety days of the hearing; and

(4) the board's or committee's decision to refuse to reinstate a license shall not be reviewable except for an abuse of discretion.

61-5A-20. Fees

The board and the committee shall establish a schedule of reasonable fees not to exceed the following:

	Dentists	Dental Hygienists
A. licensure by examination	\$1,500	\$1,000
B. licensure by credential	\$3,000	\$1,500
C. specialty license by examination	\$1,500	
D. specialty license by credential	\$3,000	
E. temporary license		
48 hours	\$ 50	\$ 50

	six months	\$ 300	\$ 200
	12 months	\$ 450	
			\$ 300
F.	application for certification in local anesthesia		
G.	examination in local anesthesia		\$ 150
H.	triennial license renewal	\$ 600	\$ 450
I.	late renewal	\$ 100	\$ 100
J.	reinstatement of license	\$ 450	\$ 300
K.	administrative fees	\$ 300	\$ 300
L.	impaired dentist or dental hygienist	\$ 150	\$ 75
M.	assistant, expanded-function dental auxiliary or community dental health coordinator certificate		\$ 100
N.	application for certification for collaborative practice		\$ 150
O.	annual renewal for collaborative practice		\$ 50
P.	application for inactive status	\$ 50	\$ 50
Q.	triennial renewal of inactive license	\$ 90	\$ 90

Non-dentist Owners

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

Dental Therapists

- T. dental therapist license (initial) \$1,000
- U. dental therapist license triennial renewal \$ 300.

61-5A-21. Disciplinary proceedings; application of uniform licensing act

A. In accordance with the Uniform Licensing Act and rules of the board, the board and, as relates to dental hygienist licensure, committee may fine and may deny, revoke, suspend, stipulate or otherwise limit any license or certificate, including those of licensed non-dentist owners, held or applied for under the Dental Health Care Act, upon findings by the board or the committee that the licensee, certificate holder or applicant:

- (1) is guilty of fraud or deceit in procuring or attempting to procure a license or certificate;
- (2) has been convicted of a crime punishable by incarceration in a federal prison or state penitentiary; provided a copy of the record of conviction, certified to by the clerk of the court entering the conviction, shall be conclusive evidence of such conviction;
- (3) is guilty of gross incompetence or gross negligence, as defined by rules of the board, in the practice of dentistry, dental therapy, dental hygiene or dental assisting;
- (4) is habitually intemperate or is addicted to the use of habit-forming drugs or is addicted to any vice to such degree as to render the licensee unfit to practice;
- (5) is guilty of unprofessional conduct as defined by rule;
- (6) is guilty of any violation of the Controlled Substances Act;
- (7) has violated any provisions of the Dental Health Care Act or rule or regulation of the board or, as relates to the practice of dental hygiene, the committee;
- (8) is guilty of willfully or negligently practicing beyond the scope of licensure;
- (9) is guilty of practicing dentistry, dental therapy or dental hygiene without a license or aiding or abetting the practice of dentistry, dental therapy or dental hygiene by a person not licensed under the Dental Health Care Act;
- (10) is guilty of obtaining or attempting to obtain any fee by fraud or misrepresentation or has otherwise acted in a manner or by conduct likely to deceive, defraud or harm the public;
- (11) is guilty of patient abandonment;
- (12) is guilty of failing to report to the board any adverse action taken against the licensee by a licensing authority, peer review body, malpractice insurance carrier or other entity as defined in rules of the board and the committee;
- (13) has had a license, certificate or registration to practice as a dentist, dental therapist or dental hygienist revoked, suspended, denied, stipulated or otherwise limited in any jurisdiction, territory or possession of the United States or another country for actions of the licensee similar to acts described in this subsection. A certified copy of the decision of the jurisdiction taking such disciplinary action will be conclusive evidence; or
- (14) has failed to furnish the board, its investigators or its representatives with information requested by the board or the committee in the course of an official investigation.

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

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

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

E. Licensees whose licenses are in a probationary status shall pay reasonable expenses for maintaining probationary status, including laboratory costs when laboratory testing of biological fluids or accounting costs when audits are included as a condition of probation.

61-5A-22. Anesthesia administration

A. The board shall establish rules or regulations pertaining to the administration of nitrous oxide analgesia, conscious sedation, deep sedation and general anesthesia by dentists.

B. The board or its agent may evaluate credentials, facilities, equipment, personnel and procedures prior to issuing permits to allow the administration of agents that are utilized in providing analgesia, sedation or general anesthesia and may re-evaluate the same at its discretion.

C. The board may suspend or revoke the license of any dentist who fails to comply with anesthesia related rules or regulations of the board.

61-5A-23. Reporting of settlements and judgments; professional review actions; immunity from civil damages

A. All entities that make payments under a policy of insurance, self-insurance or otherwise in settlement or satisfaction of a judgment in a dental malpractice action or claim, all hospitals, all health care entities and all professional review bodies shall report to the board all payments relating to malpractice actions or claims arising in New Mexico and all appropriate professional review actions of licensees.

B. No hospitals, health care entities, insurance carriers or professional review bodies required to report under this section, which provide such information in good faith, shall be subject to suit for civil damages as a result thereof.

C. Any hospital, health care entity, insurance carrier or professional review body failing to comply with the reporting requirements established in this section shall be subject to a civil penalty not to exceed two thousand dollars (\$2,000).

61-5A-24. Injunction to stop unlicensed dental or dental hygiene practice

A. The attorney general, district attorney, the board, the committee or any citizen of any county where any person practices dentistry or dental hygiene without possessing a valid license to do so may, in accordance with the laws of New Mexico governing injunctions, maintain an action in the name of the state. To enjoin such person from practicing dentistry or dental hygiene until a valid license to practice dentistry or dental hygiene is secured and any person who has been enjoined who violates the injunction shall be punished for contempt of court, provided that the injunction does not relieve any person practicing dentistry or dental hygiene without a valid license from a criminal prosecution therefore as provided by law.

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

61-5A-25. Protected actions and communications

A. No member of the board or the committee or any ad hoc committee appointed by the board or the committee shall bear liability or be subject to civil damages or criminal prosecutions for any action undertaken or performed within the proper functions of the board or the committee.

B. All written and oral communication made by any person to the board or the committee relating to actual or potential disciplinary action, which includes complaints made to the board or the committee, shall be confidential communications and are not public records for the purposes of the Public Records Act. All data, communications and information acquired, prepared or disseminated by the board or the committee relating to actual or potential disciplinary action or its investigation of complaints shall not be disclosed except to the extent necessary to carry out the purposes of the board or the committee or in a judicial appeal from the actions of the board or the committee or in a referral of cases made to law enforcement agencies, national database clearinghouses or other licensing boards.

C. Information contained in complaint files is public information and subject to disclosure when the board or the committee acts on a complaint and issues a notice of contemplated action or reaches a settlement prior to the issuance of a notice of contemplated action.

D. No person or legal entity providing information to the board or the committee, whether as a report, a complaint or testimony, shall be subject to civil damages or criminal prosecutions.

61-5A-26. Fund established

A. There is created in the state treasury the “board of dental health care fund”.

B. All money received by the board and money collected under the Dental Health Care Act shall be deposited with the state treasurer. The state treasurer shall credit this money to the board of dental health care fund except money collected for the impaired assessment, which shall be held separate from the board fund. Fees collected by the board from fines shall be deposited in the board of dental health care fund and, at the discretion of the board and the committee, may be transferred into the impaired dentists and dental hygienists fund.

C. Payment out of the board of dental health care fund shall be on vouchers issued and signed by the secretary-treasurer of the board upon warrants drawn by the department of finance and administration in accordance with the budget approved by that department.

D. Except as provided in Paragraph (7) of Subsection C of Section 3 of this 2017 act, all amounts paid into the board of dental health care fund are subject to the order of the board and are to be used only for meeting necessary expenses incurred in executing the provisions and duties of the Dental Health Care Act. All money unused at the end of any fiscal year shall remain in the fund for use in accordance with provisions of the Dental Health Care Act.

E. All funds that have accumulated to the credit of the board under any previous law shall be continued for use by the board in administration of the Dental Health Care Act.

61-5A-27. Criminal Offender Employment Act

The provisions of the Criminal Offender Employment Act shall govern any consideration of criminal records required or permitted by the Dental Health Care Act.

61-5A-28. Temporary provision

Until revised, rescinded or modified by the board or committee, regulations adopted under the Dental Act shall remain in effect upon enactment of the Dental Health Care Act and be enforced by the board or the committee.

61-5A-29. Licensure or certification under prior law

A. Any person licensed as a dentist or hygienist under any prior laws of this state, whose license is valid on the effective date of the Dental Health Care Act, is held to be licensed under the Dental Health Care Act and is entitled to renewal of his license as provided in that act.

B. Any person certified under any prior laws of this state, whose certificate is valid on the effective date of the Dental Health Care Act, is held to be certified under the Dental Health Care Act and is entitled to renewal of his certificate as provided in that act.

61-5A-30. Termination of agency life; delayed repeal

The New Mexico board of dental health care is terminated on July 1, 2023 pursuant to the Sunset Act. The board shall continue to operate according to the provisions of the Dental Health Care Act and the Impaired Dentists and Dental Hygienists Act until July 1, 2024. Effective July 1, 2024, the Dental Health Care Act and the Impaired Dentists and Dental Hygienists Act are repealed.

NEW MEXICO BOARD OF DENTAL HEALTH CARE

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Article 5B Impaired Dentists and Dental Hygienists Act

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Impaired Dentists and Dental Hygienists Act

61-5B-1. Short title. (Repealed effective July 1, 2024.)

Sections 31 [30] through 41 [61-5B-1 to 61-5B-11 NMSA 1978] of this act shall be cited as the "Impaired Dentists and Dental Hygienists Act".

61-5B-2. Definitions. (Repealed effective July 1, 2024.)

As used in the Impaired Dentists and Dental Hygienists Act:

- A. "board" means the New Mexico board of dental health care;
- B. "dental hygienists committee" means the New Mexico dental hygienists committee;
- C. "dentistry or dental hygiene" means the practice of dentistry or dental hygiene; and
- D. "licensee" means a dentist or dental hygienist licensed by the board.

61-5B-3. Grounds for restriction, suspension, revocation, stipulation or other limitation of license. (Repealed effective July 1, 2024.)

The license of any dentist or dental hygienist to practice dentistry or dental hygiene in this state shall be subject to restriction, suspension, revocation, stipulation or may otherwise be limited in case of inability of the licensee to practice with reasonable skill and safety to patients by reason of one or more of the following:

- A. mental illness;
- B. physical illness, including but not limited to deterioration through the aging process or loss of motor skills;
- C. habitual or excessive use or abuse of drugs, as defined in the Controlled Substances Act [30-31-1 NMSA 1978]; or
- D. habitual or excessive use or abuse of alcohol.

61-5B-4. Board or dental hygienists committee; additional powers and duties as related to the Impaired Dentists and Dental Hygienists Act. (Repealed effective July 1, 2024.)

A. If the board or dental hygienists committee has reasonable cause to believe that a person licensed to practice dentistry or dental hygiene is unable to practice with reasonable skill and safety to patients because of a condition described in the Impaired Dentists and Dental Hygienists Act, the board shall cause an examination of such licensee to be made and shall, following the examination, take appropriate action within the provisions of the Impaired Dentists and Dental Hygienists Act.

B. Examination of a licensee pursuant to an order of the board shall be conducted by an examining committee designated by the board. Each examining committee shall be composed of two duly licensed dentists or two duly licensed dental hygienists if the licensee is a dental hygienist and two duly licensed physicians, one of whom shall be a psychiatrist who is knowledgeable and experienced in the field of chemical dependency if a question of mental illness or dependency is involved. Whenever possible, examining committee members shall be selected for their knowledge or experience in the areas of alcoholism, chemical dependency, mental health and geriatrics and may be rehabilitated impaired dentists, dental hygienists or physicians. In designating the members of such examining committee, the board may consider nominations from the New Mexico dental association for the dentist member, the New Mexico dental hygienists' association for dental hygiene members thereof and nomination from the New Mexico medical society for the physician members thereof. No current members of the board, dental hygienists committee or New Mexico board of medical examiners shall be designated as a member of an examining committee.

61-5B-5. Examination by committee. (Repealed effective July 1, 2024.)

A. The examining committee assigned to examine a licensee pursuant to referral by the board shall conduct an examination of the licensee for the purpose of determining the fitness of the licensee to practice dentistry or dental hygiene with reasonable skill and safety to patients, either on a restricted or unrestricted basis, and shall report its findings and recommendations to the board. The findings and recommendations shall be based on findings by the examining committee that the licensee examined possesses one or more of the impairments set forth in the Impaired Dentists and Dental Hygienists Act and such impairment does, in fact, affect the ability of the licensee to skillfully and safely practice dentistry or dental hygiene. The examining committee shall order the licensee to appear before it for hearing and give the licensee fifteen days notice of time and place of the hearing, together with a statement of the cause for such examination. The notice shall be served upon the licensee either personally or by registered or certified mail with return receipt requested.

B. If the examining committee, in its discretion, deems a mental or physical examination of the licensee necessary to its determination of the fitness of the licensee to practice, the examining committee shall order the licensee to submit to such examination. Any person licensed to practice dentistry or dental hygiene in this state

shall, by so practicing or by making or filing an annual registration to practice dentistry or dental hygiene in this state, be deemed to have:

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

(2) waived all objections to the admissibility of the report of the examining committee to the board or the dental hygienists committee on the grounds of privileged communication.

C. Any licensee who submits to a diagnostic mental or physical examination as ordered by the examining committee shall have a right to designate an accompanying individual to be present at the examination and make an independent report to the board.

D. Failure of a licensee to comply with an examining committee order under Subsection B of this section to appear before it for hearing or to submit to mental or physical examination under this section shall be reported by the examining committee to the board or dental hygienists committee and, unless due to circumstances beyond the control of the licensee, shall be grounds for the immediate and summary suspension by the board of the licensee to practice dentistry or dental hygiene in this state until further order of the board.

61-5B-6. Voluntary restriction of licensure. (Repealed effective July 1, 2024.)

A. A licensee may request in writing to the board a restriction to practice under his existing license, and the board and the dental hygienists committee shall have authority, if it deems appropriate, to attach stipulations to the licensure of the licensee to practice dentistry or dental hygiene within specified limitations and waive the commencement of any proceeding. Removal of a voluntary restriction on licensure to practice dentistry or dental hygiene shall be subject to the procedure for reinstatement of license. As a condition for accepting such voluntary limitation of practice, the board may require each licensee to:

(1) agree to and accept care, counseling or treatment of physicians or other appropriate health care providers acceptable to the board;

(2) participate in a program of education prescribed by the board; or

(3) practice under the direction of a dentist acceptable to the board for a specified period of time.

B. Subject to the provisions of the Impaired Dentists and Dental Hygienists Act, a violation of any of the conditions of the voluntary limitation of practice statement by such licensee shall be due cause for the refusal of renewal, or the suspension or revocation, of the license by the board.

61-5B-7. Report to the board or dental hygienists committee; action. (Repealed effective July 1, 2024.)

A. The examining committee shall report to the board or the dental hygienists committee its findings on the examination of the licensee, the determination of the examining committee as to the fitness of the licensee to engage in the practice of dentistry or dental hygiene with reasonable skill and safety to patients, either on a restricted or unrestricted basis, and any intervention that the examining committee may recommend. Such recommendation by the examining committee shall be advisory only and shall not be binding on the board.

B. The board or dental hygienists committee may accept or reject the recommendation of the examining committee to permit a licensee to continue to practice with or without any restriction on his licensure to practice dentistry or dental hygiene or may refer the matter back to the examining committee for further examination and report thereon.

C. In the absence of a voluntary agreement by a licensee for restriction of the licensure of the dentist or the dental hygienist to practice dentistry or dental hygiene, any licensee shall be entitled to a hearing before the board under and in accordance with the procedure contained in the Uniform Licensing Act [61-1-1 NMSA 1978] and a determination on the evidence as to whether or not restriction, suspension or revocation of licensure shall be imposed.

61-5B-8. Proceedings. (Repealed effective July 1, 2024.)

A. The board may formally proceed against a licensee under the Impaired Dentists and Dental Hygienists Act in accordance with the procedures contained in the Uniform Licensing Act [61-1-1 NMSA 1978].

B. When the licensee being considered for action is a dental hygienist, the board shall act upon recommendation of the dental hygienists committee on all aspects of procedures in the Impaired Dentists and Dental Hygienists Act.

C. At the conclusion of the hearing, the board or the dental hygienists committee shall make the following findings:

(1) whether or not the licensee is impaired by one of the grounds for restriction, suspension or revocation listed herein;

(2) whether or not such impairment does in fact limit the ability of the licensee to practice dentistry or dental hygiene skillfully and safely;

(3) to what extent such impairment limits the ability of the licensee to practice dentistry or dental hygiene skillfully and safely and whether the board or dental hygienists committee finds that such impairment is such that the license should be suspended, revoked or restricted in the licensee's practice of dentistry or dental hygiene; and

(4) if the finding recommends suspension or restriction of the ability of the licensee to practice dentistry or dental hygiene, then the board shall make specific recommendations as to the length and nature of the suspension or restriction and shall recommend how such suspension or restriction shall be carried out and supervised.

D. At the conclusion of the hearing, the board or the dental hygienists committee shall make a determination of the merits and may order one or more of the following:

(1) placement of the licensee on probation on such terms and conditions as it deems proper for the protection of the public;

(2) suspension or restriction of the license of the licensee to practice dentistry or dental hygiene for the duration of the licensee's impairment;

(3) revocation of the license of the licensee to practice dentistry or dental hygiene; or

(4) reinstatement of the license of the licensee to practice dentistry or dental hygiene without restriction.

E. The board may temporarily suspend the license of any licensee without a hearing, simultaneously with the institution of proceedings under the Uniform Licensing Act, if it finds that the evidence in support of the determination of the examining committee is clear and convincing and that continuation in practice would constitute an imminent danger to public health and safety.

F. Neither the record of the proceeding nor any order entered against a licensee may be used against the licensee in any other legal proceeding except upon judicial review.

61-5B-9. Reinstatement of license. (Repealed effective July 1, 2024.)

A. A licensee whose licensure has been restricted, suspended or revoked under the Impaired Dentists and Dental Hygienists Act, voluntarily or by action of the board, shall have a right at reasonable intervals to petition for reinstatement of the license and to demonstrate that the licensee can resume the competent practice of dentistry or dental hygiene with reasonable skill and safety to patients.

B. The petition shall be made in writing. If the licensee is a dental hygienist, the dental hygienists committee shall be advised and given all information so that their recommendation can be given to the board.

C. Action of the board on the petition shall be initiated by referral to and examination by the examining committee.

D. The board may, in its discretion, upon written recommendation of the examining committee, restore the licensure of the licensee on a general or limited basis.

61-5B-10. Impaired dentists and dental hygienists treatment program. (Repealed effective July 1, 2024.)

A. The board has the authority to enter into an agreement with a nonprofit corporation to implement an impaired dentists and dental hygienists treatment program.

B. For the purposes of this section, "impaired dentists and dental hygienists treatment program" means a program of care and rehabilitation services provided by those organizations authorized by the board to provide for the detention, intervention and monitoring of an impaired dentist or dental hygienist.

61-5B-11. Impaired dentists and dental hygienists fund created. (Repealed effective July 1, 2024.)

A. There is created an "impaired dentists and dental hygienist fund".

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

C. All funds received by the board for an impaired assessment, either special or at time of re-licensure, shall be deposited with the state treasurer. The state treasurer shall credit this money to the impaired dentists and dental hygienists fund.

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

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

F. Licensees shall be assessed an impaired fee at the time of renewal. The amount of the fee shall be determined by the board and the committee and shall be established to meet the need for enforcing the Impaired Dentists and Dental Hygienists Act.

G. The fund shall be used for the purpose of administration, testing, monitoring, hearings and consultation fees by the board or dental hygienists committee or their agent, which are necessary to enforce the Impaired Dentists and Dental Hygienists Act. It is not the purpose of the fund to pay for treatment of impaired dentists and dental hygienists.

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TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING
CHAPTER 5 DENTISTRY (DENTISTS, DENTAL HYGIENISTS, ETC.)
PART 1 GENERAL PROVISIONS

16.5.1.1 ISSUING AGENCY: New Mexico Board of Dental Health Care.
[16.5.1.1 NMAC – Rp, 16.5.1.1 NMAC, 12/14/2019]

16.5.1.2 SCOPE: The provisions in 16.5.1 NMAC apply to all parts of Chapter 5 and provide relevant information to all licensees or certificate holders or anyone affected or interested in the licensing and regulation of dentists, dental hygienists and dental assistants.
[16.5.1.2 NMAC - Rp, 16.5.1.2 NMAC, 12/14/2019]

16.5.1.3 STATUTORY AUTHORITY: Section 61-5A-1 through Section 61-5A-29, NMSA 1978, (Repl. Pamp. 1996). Section 16.5.1.10 NMAC is authorized by Subsection C of Section 10-15-1 NMSA 1978, (Repl. Pamp. 1993) Section 16.5.1.11 NMAC and 16.5.1.12 NMAC are authorized by Section 14-2-1 through 14-2-16, NMSA 1978, (Repl. Pamp. 1993). Section 16.5.1.26 NMAC is authorized by Section 14-16-18, NMSA 1978.
[16.5.1.3 NMAC - Rp, 16.5.1.3 NMAC, 12/14/2019]

16.5.1.4 DURATION: Permanent.
[16.5.4 NMAC - Rp, 16.5.4 NMAC, 12/14/2019]

16.5.1.5 EFFECTIVE DATE: December 14, 2019, unless a different date is cited at the end of a section.
[16.5.1.5 NMAC - Rp, 16.5.1.5 NMAC, 12/14/2019]

16.5.1.6 OBJECTIVE: The objective of Part 1 is to set forth the provisions which apply to all of Chapter 5, and to all persons and entities affected or regulated by Chapter 5 of Title 16.
[16.5.1.6 NMAC - Rp, 16.5.1.6 NMAC, 12/14/2019]

16.5.1.7 DEFINITIONS:

- A. “Act”** means the Dental Health Care Act, Sections 61-5A-1 through 61-5A-29, NMSA 1978.
- B. “Assessment”** means the review and documentation of the oral condition, and the recognition and documentation of deviations from the healthy condition, without a diagnosis to determine the cause or nature of disease or its treatment.
- C. “Authorization”** means written or verbal permission from a dentist to a dental hygienist, dental assistant, or dental student to provide specific tests, treatments or regimes of care.
- D. “CITA”** means the council of interstate testing agencies, a separate and independent entity not including any successor, which acts as a representative agent for the board and committee in providing written and clinical examinations to test the applicant's competence to practice in New Mexico.
- E. “Close personal supervision”** means a New Mexico licensed dentist directly observes, instructs and certifies in writing the training and expertise of New Mexico licensed or certified employees or staff.
- F. “Consulting dentists”** means a dentist who has entered into an approved agreement to provide consultation and create protocols with a collaborating dental hygienist and, when required, to provide diagnosis and authorization for services, in accordance with the rules of the board and the committee.
- G. “CRDTS”** means the central regional dental testing service, a separate and independent entity not including any successor, which acts as a representative agent for the board and committee in providing written and clinical examinations to test the applicant's competence to practice in New Mexico.
- H. “Current patients of record”** means the New Mexico licensed dentist has seen the patient in the practice in the last 12 months.
- I. “Dental hygiene-focused assessment”** means the documentation of existing oral and relevant systemic conditions and the identification of potential oral disease to develop, communicate, implement and evaluate a plan of oral hygiene care and treatment.
- J. “Dental record”** means electronic, photographic, radiographic or manually written records.
- K. “Diagnosis”** means the identification or determination of the nature or cause of disease or condition.
- L. “Direct supervision”** means the process under which an act is performed when a dentist licensed pursuant to the Dental Health Care Act:
 - (1) is physically present throughout the performance of the act;
 - (2) orders, controls and accepts full professional responsibility for the act performed;

- (3) evaluates and approves the procedure performed before the patient departs the care setting; and
- (4) is capable of responding immediately if any emergency should arise.
- M. “Electronic signature”** means an electronic sound, symbol or process attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record.
- N. “Extenuating circumstances”** are defined as a serious, physician-verified illness or death in immediate family, or military service. The extenuating circumstances must be presented for the board’s consideration on a case-by-case basis.
- O. “General supervision”** means the authorization by a dentist of the procedures to be used by a dental hygienist, dental assistant, expanded function dental auxiliary, dental student, or community dental health coordinator and the execution of the procedures in accordance with a dentist’s diagnosis and treatment plan at a time the dentist is not physically present and in facilities as designated by the rules of the board.
- P. “Impaired Act”** means the Impaired Dentists and Dental Hygienists Act, Sections 61-5B-1 through 61-5B-11 NMSA 1978.
- Q. “Indirect supervision”** means that a dentist, or in certain settings a dental hygienist or dental assistant certified in expanded functions, is present in the treatment facility while authorized treatments are being performed by a dental hygienist, dental assistant or dental student as defined in 61-5A-3 NMSA 1978.
- R. “Jurisprudence exam”** means the examination given regarding the laws, rules and regulations, which relate to the practice of dentistry, dental hygiene and dental assisting in the state of New Mexico.
- S. “Licensee”** means an individual who holds a valid license to practice dentistry or dental hygiene in New Mexico.
- T. “NERB/CDCA”** means the former north east regional board of dental examiners, now called the commission of dental competency assessments, a separate and independent entity not including any successor, which acts as a representative agent for the board and committee in providing written and clinical examinations to test the applicant’s competence to practice in New Mexico.
- U. “Mobile dental facility”** means a facility in which dentistry is practiced and that is routinely towed, moved or transported from one location to another.
- V. “Non-dentist owner”** means an individual not licensed as a dentist in New Mexico or a corporate entity not owned by a majority interest of a New Mexico licensed dentist that employs or contracts with a dentist or dental hygienist to provide dental or dental hygiene services and that does not meet an exemption status as detailed in Subsection G of 61-5A-5 NMSA 1978.
- W. “Palliative procedures”** means nonsurgical, reversible procedures that are meant to alleviate pain and stabilize acute or emergent problems.
- X. “Portable dental unit”** means a non-facility in which dental equipment used in the practice of dentistry is transported to and used on a temporary basis at an out-of-office location.
- Y. “Professional background service”** means a board designated professional background service, which compiles background information regarding an applicant from multiple sources.
- Z. “Protective patients stabilization”** means any manual method, physical or mechanical device, material, or equipment that immobilizes or reduces the ability of a patient to move his or her arms, legs, body, or head freely.
- AA. “Provider”** means a provider of dental health care services, including but not limited to dentists, dental hygienists, and dental assistants.
- BB. “Specialist”** means a specialty is an area of dentistry that has been formally recognized by the board and the American dental association as meeting the specified requirements for recognition of dental specialists.
- CC. “SRTA”** means the southern regional testing agency, a separate and independent entity not including any successor, which acts as a representative agent for the board and committee in providing written and clinical examinations to test the applicant’s competence to practice in New Mexico.
- DD. “Supervising dentist”** means a dentist that maintains the records of a patient, is responsible for their care, has reviewed their current medical history and for purposes of authorization, has examined that patient within the previous 11 months or will examine that patient within 30 days of giving authorization.
- EE. “Supervision”** means the dentist shall adequately monitor the performance of all personnel, licensed or unlicensed, that he or she supervises. The dentist is ultimately responsible for quality patient care and may be held accountable for all services provided by administrative and clinical individuals that the dentist supervises.
- FF. “Teledentistry”** means a dentist’s use of health information technology in real time to provide limited diagnostic treatment planning services in cooperation with another dentist, a dental hygienist, a community health coordinator or a student enrolled in a program of study to become a dental assistant, dental hygienist or dentist.

GG. “Third Party payer” means an organization other than the patient (1st party) or the health care provider (2nd party) involved in the financing of personal health services.

HH. “WREB” means the western regional examining board, which acts as the representative agent for the board and committee in providing written and clinical examinations to test the applicant's competence to practice in New Mexico.

II. “Written authorization” means a signed and dated prescription from a supervising dentist to a dental hygienist to provide specific tests, treatments or regimes of care in a specified location for 30 days following the date of signature.

[16.5.1.7 NMAC - Rp, 16.5.1.7 NMAC, 12/14/2019]

16.5.1.8 LICENSE DISPLAY: A valid license, certificates or permits must be displayed and must be visible to the public in each place of employment or business of the licensee.

[16.5.1.8 NMAC - Rp, 16.5.1.8 NMAC, 12/14/2019]

16.5.1.9 RESPONSIBILITY OF LICENSEE OR CERTIFICATE HOLDER:

A. It is the responsibility of the licensee or certificate holder to keep the board informed of a current mailing address. All correspondence, including renewal forms, will be mailed to the last address on file. The board assumes no responsibility for renewal applications or other correspondence not received because of a change of address.

B. The board must be informed of current practice address(s) for all licensees or certificate holders. Any change in practice address(s) must be reported to the board in writing within 30 days of the change.

[16.5.1.9 NMAC - Rp, 16.5.1.9 NMAC, 12/14/2019]

16.5.1.10 SEVERABILITY: If any part of these rules are held invalid by a court of competent jurisdiction, the remaining provisions of the rules shall remain in force and effect, unless otherwise determined by a court of competent jurisdiction.

[16.5.1.10 NMAC - Rp, 16.5.1.10 NMAC, 12/14/2019]

16.5.1.11 TELEPHONE CONFERENCES: As authorized by Subsection C of Section 10-15-1 NMSA 1978 of the Open Meetings Act, NMSA 1978, when it is difficult or impossible for a member of the board or committee to attend a meeting in person, the member may participate through a conference telephone. Each member participating by conference telephone must be identified when speaking, all participants must be able to hear each other at the same time and members of the public attending the meeting must be able to hear any member of the board or committee who speaks during the meeting.

[16.5.1.11 NMAC - Rp, 16.5.1.11 NMAC, 12/14/2019]

16.5.1.12 PUBLIC RECORDS: Except as provided herein and except as otherwise provided by law, all applications, pleadings, petitions and motions are matters of public record at the time of filing with the board. Upon notification of the defendant, the notice of contemplated action, or the pre notice of contemplated action settlement agreed upon prior to the issuance of an notice of contemplated action and the information contained in the complaint file becomes a public record and subject to disclosure. With the exemption of voluntarily admission to a monitored treatment program shall not be public record. (Refer to 61-5A-25, NMSA 1978).

[16.5.1.12 NMAC - Rp, 16.5.1.12 NMAC, 12/14/2019]

16.5.1.13 INSPECTION OF PUBLIC RECORDS: The board operates in compliance with the Inspection of Public Records Act, Sections 14-2-1 through 14-2-16, NMSA 1978. The board administrator is the custodian of the board's records.

[16.5.1.13 NMAC - Rp, 16.5.1.13 NMAC, 12/14/2019]

16.5.1.14 NON-PUBLIC RECORDS: The following records are considered confidential and are not subject to public inspection:

- A.** letters of reference, if applicable;
- B.** medical reports or records of chemical dependency, physical or mental examinations or treatment as outlined in the rules governing the impaired practitioner program;
- C.** examination scores;
- D.** the contents of any examination used to test for an individual's knowledge or competence;
- E.** investigative files;
- F.** written and oral communication relating to actual or potential disciplinary action, including complaints; and

G. matters of opinion.

[16.5.1.14 NMAC - Rp, 16.5.1.14 NMAC, 12/14/2019]

16.5.1.15 GUIDELINES FOR APPROVAL OF CONTINUING EDUCATION:

A. Approved courses and providers. The following providers and courses are approved for continuing education credits. Professional training programs used by dental assistants for certification preparation in expanded functions are considered to be “approved training programs.” The credit hours for approved training programs may also be used to meet continuing education requirements such as:

- (1) scientific meetings or sessions sponsored or recognized by a local, state, regional, national, or international dental, dental hygiene, dental assisting or medical related professional organization;
- (2) any dental related course sponsored by an institution accredited by the United States department of education;
- (3) courses that are primarily in relationship to maximizing income, billing, or marketing in the dental or dental hygiene practice shall be limited to eight hours per triennial period;
- (4) courses presented by approved study clubs as further defined in Subsection B of

16.5.1.15 NMAC;

- (5) on-line and self-study as further defined in Subsection C of 16.5.1.15 NMAC;
- (6) original presentation by a licensee who has submitted to the board an outline, date, place, and sponsor of the presentation; a maximum of eight hours will be allowed each triennial period in this category;
- (7) any course not sponsored by a recognized provider may be approved by the secretary-treasurer or delegate of the board; the application for approval must include the course outline, date, location, hours, names and qualifications of presenters;
- (8) medical education courses that are accredited by the American council for continuing medical education (ACCME) shall be limited to eight hours per triennial period;
- (9) clinical examiners for regional boards shall be allowed up to 24 hours per triennial period;
- (10) a non-board or non-committee licensee volunteering for the board or committee may receive up to 10 hours of continuing education for board approved activities; including serving as a hearing officer, investigator, mentor, or monitor;
- (11) participation in a board or dental hygiene committee board approved charitable event to include a post-event survey; charitable event credits shall be limited to eight hours per triennial period.

B. Approved study clubs. The board may approve study clubs which meet the following criteria:

- (1) composed of not less than five licensees with elected officers, written bylaws, and regular meetings;

- (2) organized for the purpose of scientific study;
- (3) the approved club must keep records of continuing education information or material presented the number of hours and the members in attendance; films, cassettes, or similar media produced or distributed by approved providers may be used; guest speakers may also be used to present educational material.

C. Allowable on-line, webinars, or self-study.

- (1) A self-study course of instruction designed to directly enhance the licensee’s or certificate holder’s knowledge, skill, or competence in providing care to the dental consumers.
- (2) A course that includes a post study course examination must be completed and returned for grading by the course provider.
- (3) The hours of credit must be listed on the certificate.
- (4) A maximum of 30 credits per triennial period will be allowed in the category of on-line, webinar, or self-study.
- (5) A license or certificate holder may take the board’s open book jurisprudence examination, up to once a year, and be granted three hours of continuing education credit for successfully passing the exam with a score of seventy-five percent or above. There will be a twenty-five dollar (\$25) fee for the exam to cover the cost of handling.
- (6) Basic life support (BLS) or cardiac pulmonary resuscitation (CPR) is not allowed thru a self-study course, a hands-on course is required.

D. Credit hours.

- (1) One hour of credit will be granted for every hour of contact instruction. This credit shall apply to either academic or clinical instruction. Eight hours shall be the maximum number of continuing education credits granted in a single day.

(2) Courses which are presented in institutions of higher education for the purpose of receiving a degree, advanced degree or certificate will earn the licensee or certificate holder 10 hours for every semester credit hour assigned a course as specified in the catalogue of the institution presenting the course.

E. Courses not allowed. Courses dealing largely with money management, personal finances or personal business matters, and courses in basic educational or cultural subjects that are not taught in direct relationship to dental care may not be used to fulfill continuing education requirements.

F. Verification of course attendance. The following documents, or combination of documents, may be used to verify attendance/participation in the required continuing education:

- (1) course certificate with the course title, content, presenter, sponsor and units/hours;
- (2) pamphlet of course with same information as requested on certificate along with canceled check;
- (3) course attendance sheet submitted from the sponsor;
- (4) course code or statement of attendance from presenter or sponsor of licensee attendance;
- (5) for out of state courses and meetings when certificates or sign-in sheets are not available, the licensee may provide a copy of the registration form, with a copy of courses in printed form which were offered, identify the ones attended, along with information regarding travel and lodging accommodations for the meeting; and
- (6) licensee is responsible for maintaining records of all CEUs for one year following the renewal cycle.

[16.5.1.15 NMAC - Rp, 16.5.1.15 NMAC, 12/14/2019]

16.5.1.16 CONTROL AND PREVENTION OF BLOODBORNE INFECTIONS: The following rules are enacted to prevent transmission of the human immunodeficiency virus (HIV), hepatitis B infectious state (i.e. acute infection and chronic carriers only) (HBV), the hepatitis C virus (HCV), and other blood borne infections.

A. Requirements for providers. Any provider licensed or certified by the New Mexico board of dental health care must comply with the guidelines established in this rule. A provider who fails to use appropriate infection control techniques and sterilization procedures to protect patients may be subject to disciplinary action by the board.

B. Infection control as a standard of care. In offices and facilities providing dental services, compliance with the following policies and procedures are required to further reduce the low risk of infection:

- (1) implementation of policies and procedures to minimize occupational exposure to potentially infectious materials (e.g. blood); guidelines or recommendations of the American dental association, American dental hygienists' association, center for disease control, and the occupational safety and health administration must be followed;
- (2) strict adherence to infection control practices and universal barrier precautions are mandatory in all dental care settings and shall include sterilization of instruments and hand pieces, after each use, by any acceptable sterilization technique as currently recognized by the center for disease control; and
- (3) policies and procedures must be implemented to report and manage patient and provider exposure to blood; affected individuals must be notified when exposure may constitute a significant risk of transmission of blood borne infection; the notification must include the nature of possible infection, but need not include the identity of the provider should the provider be the known source of infection.

C. Infection control training. All providers shall have formal training in infection control techniques. Training is a requirement for licensure, as well as for renewal of all licenses and certificates. The course must be approved in accordance with Section 16.5.1.15 NMAC or sponsored by the occupational safety and health administration.

D. Evaluation of provider with blood borne infection.

- (1) Counseling and testing recommended. The board and committee strongly recommend counseling and testing of any provider for HIV, HBV, HCV and other blood borne infections.
- (2) Evaluation of individual cases. Providers who have transmissible blood borne infections and who perform invasive procedures which might cause increased risk of transmission are strongly urged to submit to a voluntary evaluation process established by the New Mexico department of health. Individual evaluations conducted under the auspices of the New Mexico department of health will be strictly confidential unless that agency recommends practice restrictions. The New Mexico department of health will notify the board and committee of recommended practice restrictions. Any violation of practice restrictions will be considered grounds for disciplinary action by the board and committee.

(3) Impairment evaluation. If a dental health care provider licensed or certified by the board has a functional impairment due to blood borne infection or other medical impairment, they must contact the impaired committee of the board.

E. Confidentiality for dental health care workers.

(1) The board and committee recognize providers are not required to disclose blood borne infections to patients or employers unless they cannot perform the essential duties of their job or practice, or unless the provider poses a danger to patient safety.

(2) Any retrospective studies of New Mexico providers shall be carried out under the guidance and direction of the New Mexico department of health.
[16.5.1.16 NMAC - Rp, 16.5.1.16 NMAC, 12/14/2019]

16.5.1.17 BOARD OF DENTAL HEALTH CARE:

A. Officers. The board shall elect a chair, vice-chair, and secretary-treasurer at the first regularly scheduled meeting in each calendar year.

B. Committee members. Two dentist members and two public members from the board shall be elected to serve as members of the dental hygienists committee at the first regularly scheduled meeting in each calendar year.

[16.5.1.17 NMAC - Rp, 16.5.1.17 NMAC, 12/14/2019]

16.5.1.18 DENTAL HYGIENIST COMMITTEE:

A. Officers. The committee shall elect a chair, vice-chair, and secretary at the first regularly scheduled meeting in each calendar year.

B. Board members. Two dental hygienists members of the committee shall be elected to serve as members of the board of dental health care by a simple majority vote at the first regularly scheduled meeting in the calendar year.

[16.5.1.18 NMAC - Rp, 16.5.1.18 NMAC, 12/14/2019]

16.5.1.19 BOARD AND COMMITTEE MEETINGS: The board and committee shall meet at least four times a year, regular meetings shall not be more than 120 days apart, and only two of those meetings may be public rules hearings.

[16.5.1.19 NMAC - Rp, 16.5.1.19 NMAC, 12/14/2019]

16.5.1.20 U.S. CITIZENSHIP OR LEGAL RESIDENT: Any person requesting a license to practice dentistry, dental hygiene or certificate to practice as a dental assistant, expanded function dental auxiliary or community dental health coordinator must be a United States citizen or legal resident with a valid social security number.

[16.5.1.20 NMAC - Rp, 16.5.1.20 NMAC, 12/14/2019]

16.5.1.21 CONSULTING SERVICES; CLAIMS REVIEW BY INSURANCE COMPANIES OR THIRD PARTY PAYERS: A dentist who reviews dental insurance or third party payment claims for patients being treated by a dentist in New Mexico must meet the following requirements:

A. be a current New Mexico licensed dentist; and

B. within 60 days, of initial agreement or contract with insurance company or third party payer, the reviewing dentist must provide the board office with the dentist's license number and name of the insurance company or third party payer for which the dentist is providing claims review services.

[16.5.1.21 NMAC - Rp, 16.5.1.21 NMAC, 12/14/2019]

16.5.1.22 LEGAL EXPERT WITNESS REQUIREMENTS: A dentist who testifies in a malpractice case(s) or legal case(s) involving New Mexico licensed dentists and procedures performed in New Mexico must also be a current New Mexico licensed dentist and in good standing.

[16.5.1.22 NMAC - Rp, 16.5.1.22 NMAC, 12/14/2019]

16.5.1.23 PARENTAL RESPONSIBILITY ACT; DELEGATION OF AUTHORITY: The authority of the New Mexico board of dental health care to issue a notice of contemplated action, to refer cases in which a notice of contemplated action has been issued for administrative prosecution, to hold hearings and issue decision and orders to any licensee or applicant for licensure whose name appears on the certified list issued by the New Mexico department of human services, as provided in Section 40-5A-1, et seq., NMSA 1978, may be delegated to the New Mexico regulation and licensing department. This section shall not be construed to deprive the board of its authority to issue a notice of contemplated action for any violation of the Parental Responsibility Act, to refer a case for administrative prosecution, hold a hearing or issue a decision and order for any violation of the Parental Responsibility Act.

[16.5.1.23 NMAC - Rp, 16.5.1.23 NMAC, 12/14/2019]

16.5.1.24 RECORD KEEPING: All records of patient treatment must be maintained for at least six years. If a dentist or non-dentist owner retires or is no longer practicing in New Mexico, the dentist or non-dentist owner must provide the following documentation to the board office:

- A. actual date of retirement or date of no longer practicing in New Mexico;
- B. proof of written notification to all patients currently under active treatment; and
- C. the location where all active dental treatment records will be maintained for a minimum of six years; active treatment records are records of patients in the 12 previous months to the date of closing practice, the notification to the board must include the name, address, and telephone number of the person who is serving as the custodian of the records.

[16.5.1.24 NMAC - Rp, 16.5.1.24, 12/14/2019]

16.5.1.25 CODE OF ETHICS: Unless otherwise stated in the rules or statute, the board, licensees and certificate holders shall refer to the most recent version of the American dental association (ADA) code of ethics for guidance.

[16.5.1.25 NMAC - Rp, 16.5.1.25 NMAC, 12/14/2019]

16.5.1.26 ELECTRONIC SIGNATURES: The board will accept electronic signatures on all applications and renewals submitted for professional licensure under the Dental Health Care Act, Sections 61-5A-1 to-30, NMSA 1978.

[16.5.1.26 NMAC - Rp, 16.5.1.26 NMAC, 12/14/2019]

16.5.1.27 PROTECTIVE PATIENT STABILIZATION: Unless otherwise stated in rules or statute, the board, licensees and certificate holders shall refer to the American academy of pediatric dentistry's guidelines on protective patients stabilization.

[16.5.1.27 NMAC - Rp, 16.5.1.27 NMAC, 12/14/2019]

16.5.1.28 MOBILE DENTAL FACILITIES AND PORTABLE DENTAL UNITS: Dentists and dental hygienists that perform services in mobile dental facilities or use portable dental units shall use the following guidelines:

- A. Maintain all records, either paper or electronic in a secure form or location.
- B. Provide to the board, upon request, all treatment records and locations of treatment.
- C. Provide to the board, upon request, the name, address, and contact information of the owner/operator of the mobile dental facility.
- D. Provide each patient, parent, or guardian with the name(s) of the dentist or hygienist providing treatment and contact information immediately after treatment.
- E. Have agreements in place with New Mexico licensed dentists for any immediate follow-up care.
- F. Dentists and hygienists shall display a copy of their license and registration within or directly outside the mobile dental facility or areas in which portable dental units are utilized. Exceptions:
 - (1) occasional services provided to a patient of record of a fixed dental office who is treated outside of the dental office;
 - (2) services publicly funded and provided solely as a public health measure;
 - (3) services provided to a patient by an accredited dental or dental hygiene school;
 - (4) services by a dentist, physician, or CRNA providing sedation in a dental office;
 - (5) collaborative hygienists in compliance with rules established in 16.5.17 NMAC.

[16.5.1.28 NMAC - Rp, 16.5.1.28 NMAC, 12/14/2019]

16.5.1.29 ADVERTISING, PROMOTIONS AND SPECIALTY RECOGNITIONS FOR ALL LICENSEES: This rule applies to advertising in all types of media that is directed to the public. No dentist, dental hygienist, non-dentist owner, or their representatives shall advertise in any form of communication in a manner that is misleading, deceptive, or false. The licensee will be responsible for any third party making such false claims or misleading advertising on their (licensee's) behalf.

- A. Definitions:
 - (1) for the purposes of this section, "advertising/advertisement" is:
 - (a) any written or printed communication for the purpose of soliciting, describing, or promoting a dentist's, hygienist's, non-dentist owner's licensed activity, including, but not limited to, a brochure, letter, pamphlet, newspaper, directory listing, periodical, business card or other similar publication;
 - (b) any radio, television, internet, computer network or similar airwave or electronic transmission which solicits or promotes the dental practice'
 - (c) "advertising" or "advertisement" does not include any of the following;

(i) any printing or writing on buildings, uniforms or badges, where the purpose of the writing is for identification;

(ii) any printing or writing on memoranda or other communications used in the ordinary course of business where the sole purpose of the writing is other than the solicitation or promotion of the dental practice;

(iii) any printing or writing on novelty objects or dental care products.

(2) “bait advertising” is an alluring but insincere offer to sell a product or service which the advertiser in truth does not intend or want to sell. Its purpose is to switch consumers from buying the advertised merchandise or services, in order to sell something else, usually at a higher price or on a basis more advantageous to the advertiser. The primary aim of a bait advertisement is to obtain leads as to persons interested in buying merchandise or services of the type so advertised. See 16 U.S.C Section 238.

B. General requirements:

(1) at the time any type of advertisement is placed, the licensee must in good faith possess and provide to the board upon request information that would substantiate the truthfulness of any assertion, omission, or claim set forth in the advertisement;

(2) the board recognizes that clinical judgment must be exercised by a dentist or dental hygienist. Therefore, a good faith diagnosis that the patient is not an appropriate candidate for the advertised dental or dental hygiene service or product is not a violation of this rule;

(3) licensee shall be responsible for, and shall approve any advertisement made on behalf of the dental or dental hygiene practice, except for brand advertising, i.e. advertising that is limited to promotion of the name of the practice or dental corporation. The licensee shall maintain a record documenting their approval and shall maintain such record for a period of three years.

C. The term false advertising means advertising, including labeling, which is misleading in any material respect; and in determining whether any advertising is misleading, there shall be taken into account among other things not only representations made by statement, word, design, sound or any combination thereof, but also the extent to which the advertising fails to reveal facts material in the light of such representations with respect to the commodity to which the advertising related under the conditions prescribed in said advertisement, or under such conditions as are customary or usual. See Section 57-15-2 NMSA 1978. Misleading, deceptive, or false advertising includes, but is not limited to the following, and if substantiated, is a violation and subject to disciplinary action by the board:

(1) a known material misrepresentation of fact;

(2) the omission of a fact necessary to make the statement considered as a whole not materially misleading;

(3) advertising that is intended to be or is likely to create an unjustified expectation about the results the dentist or dental hygienist can achieve;

(4) advertising that contains a material, objective representation, whether express or implied, that the advertised services are superior in quality to those of other dental or dental hygiene services if that representation is not subject to reasonable substantiation. For the purpose of this subsection, reasonable substantiation is defined as tests, analysis, research, studies, or other evidence based on the expertise of professionals in the relevant area that have been conducted and evaluated in an objective manner by persons qualified to do so, using procedures generally accepted in the profession to yield accurate and reliable results. Individual experiences are not a substitute for scientific research. Evidence about the individual experience of consumers may assist in the substantiation, but a determination as to whether reasonable substantiation exists is a question of fact on a case-by-case basis;

(5) the false or misleading use of a claim regarding licensure, certification, registration, permitting, listing, education, professional memberships or an unearned degree;

(6) advertising that uses patient testimonials unless the following conditions are met:

(a) the patient’s name, address, and telephone number as of the time the advertisement was made must be maintained by the dentist or dental hygienist and that identifying information shall be made available to the Board upon request by the board;

(b) dentists or dental hygienists who advertise dental or dental hygiene services, which are the subject of the patient testimonial, must have actually provided these services to the patient making the testimonial;

(c) if compensation, remuneration, a fee, or benefit of any kind has been provided to the person in exchange for consideration of the testimonial, such testimonial must include a statement that the patient has been compensated for such testimonial;

(d) a specific release and consent for the testimonial shall be obtained from the patient;

(e) any testimonial shall indicate that results may vary in individual cases;

- (7) advertising that makes an unsubstantiated medical claim or is outside the scope of dentistry, unless the dentist or dental hygienist holds a license, certification, or registration in another profession and the advertising and or claim is within the scope authorized by the license, certification, or registration in another profession;
- (8) advertising that makes unsubstantiated promises or claims, including but not limited to claims that the patient will be cured;
- (9) the use of bait advertising as outlined in federal trade commission guidelines;
- (10) advertising that includes an endorsement by a third party in which there is compensation, remuneration, fee paid, or benefit of any kind if it does not indicate that it is a paid endorsement;
- (11) advertising that infers or gives the appearance that such advertisement is a news item without using the phrase “paid advertisement”;
- (12) the promotion of a professional service which the licensee knows or should know is beyond the licensee’s ability to perform;
- (13) the use of any personal testimonial by the licensee attesting to a quality or competence of a service or treatment.
- (14) advertising that claims to provide services at a specific rate and fails to disclose that a dental benefit plan may provide payment for all or part of the services;
- (15) print advertising that contains all applicable conditions and restrictions of an offer that is not clearly legible or visible. The board will consider font size and positioning within the advertisement as to what is determined as false, misleading or deceptive;
- (16) audio advertising that contains all applicable conditions and restrictions that is broadcast at different speed and volume of the main recording and offer;
- (17) failure to include in all advertising media for the practice (excluding building signage and promotional items), in a reasonably visible and legible manner, the dentist’s or non-dentist owner’s name(s), address and contact information or direct reference where the name of the dentist(s) or non-dentist owner(s) can be found, including, but not limited to, an internet website;
- (18) failure to update website(s) wherein the names of the current dentist(s) are for each office location within 30 days of the change;
- (19) failure to practice dentistry under the name of a corporation, company, association, limited liability company, or trade name without full and outward disclosure of his/her full name, which shall be the name used in his/her license or renewal certificate as issued by the board, or his/her commonly used name;
- (20) failure to practice dentistry without displaying his/her full name as it appears on the license issued by the board on the entrance of each dental office;
- (21) advertising or making claims that a licensee or practice claims to be superior to any other licensee or practice, including, but not limited to, descriptions of being “the highest quality”, a “super-dentist” or “super-general dentist/practitioner”, “specially-trained hygienist”, “hygienist specializing in non-surgical periodontics”, or similar;

D. Specialty Practice and Advertising: the board may discipline a dentist for advertising or otherwise holding himself/herself out to the public as a practicing a dental specialty unless the dentist is licensed by the board to practice the specialty or unless the dentist has earned a post-graduate degree or certificate from an accredited dental college, school of dentistry of a university or other residency program that is accredited by the commission on dental accreditation (CODA) in one to the specialty areas of dentistry recognized by the American dental association. See Subsection E and F of Section 61-5A-12 NMSA 1978.

E. Acronyms: In addition to those acronyms required by law pertaining to one’s business entity such as professional corporation (P.C.) or limited liability company (L.L.C.), dentists or dental hygienists may only use DDS, DMD, RDH, MD, PhD, MA, MS, BA, BS. Any credential that does not meet this requirement must be completely spelled out.

[16.5.1.29 NMAC - N, 12/14/2019]

History of 16.5.1 NMAC:

Pre-NMAC History:

Material in this part was derived from that previously filed with the commission of public records - state records center and archives as:

- BDE 69-1, Rules and Regulations of the New Mexico Board of Dental Examiners, filed 8/14/1969;
- BDE 70-1, Rules and Regulations of the New Mexico Board of Dental Examiners, filed 9/21/1970;
- BDE 73-1, Rules and Regulations of the New Mexico Board of The New Mexico Board of Dentistry, filed 02/12/1973;
- Article I, Board of Dentistry, filed 3/11/1981;
- Rules 1.1-1.8, Dental Hygiene Committee Rules and Regulations, filed 11/20/1987

BOD Rule 1, Board of Dentistry, filed 2/9/1989;
BOD Rule 14, Public Records Policy, filed 3/13/1992;
BOD Rule 15, The Control and Prevention of the Transmission of Blood borne Infections in Dental Offices and Facilities, filed 9/16/1992;
BODHC Rule 1-95, General Provisions, filed 5/5/1995;
BODHC Rule 2-95, Definitions, filed 5/5/1995;
BODHC Rule 3-95, Guidelines for Approved Continuing Education, filed 5/5/1995;
BODHC Rule 4-95, Control and Prevention of the Transmission of Blood borne Infections, filed 5/5/1995;
BODHC Rule 5-95, Savings Clause, filed 5/5/1995.

History of Repealed Material:

BDE 73-1, Rules and Regulations of the New Mexico Board of Dentistry (filed 2/12/1973) repealed by Article XIV, filed 3/12/1981.

16.5.1 NMAC, Dentistry (Dentists, Dental Hygienists, Etc.) - General Provisions filed 12/1/2001, Repealed effective 12/14/2019.

Other History:

BODHC Rule 1-95, General Provisions; BODHC Rule 2-95, Definitions; BODHC Rule 3-95, Guidelines for Approved Continuing Education; BODHC Rule 4-95, Control and Prevention of the Transmission of Blood borne Infections; BODHC Rule 5-95, Savings Clause all (filed 5/5/1995) were renumbered, reformatted, amended and replaced by 16 NMAC 5.1, General Provisions, effective 09/30/1996.

16 NMAC 5.1, General Provisions (filed 9/17/1996) was renumbered, reformatted and amended to 16.5.1 NMAC, General Provisions, effective 12/14/2000.

16.5.1 NMAC, Dentistry (Dentists, Dental Hygienists, Etc.) - General Provisions filed 12/1/2001 was replaced by Dentistry (Dentists, Dental Hygienists, Etc.) - General Provisions, effective 12/14/2019.

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING
CHAPTER 5 DENTISTRY (DENTISTS, DENTAL HYGIENISTS, ETC.)
PART 2 IMPAIRED PRACTITIONER PROGRAM

16.5.2.1 ISSUING AGENCY: New Mexico Board of Dental Health Care.
[9/30/96; 16.5.2.1 NMAC - Rn & A, 16 NMAC 5.2.1, 04/17/06]

16.5.2.2 SCOPE: The provisions of Part 2 of Chapter 5 apply to all dentists and dental hygienists who hold a current license or retired license or who are applying for licensure in New Mexico.
[9/30/96; 16.5.2.2 NMAC - Rn, 16 NMAC 5.2.2, 04/17/06]

16.5.2.3 STATUTORY AUTHORITY: Part 2 is promulgated pursuant to the Impaired Dentists and Hygienists Act, Sections 61-5B-1 through 61-5B-11 NMSA 1978 (1996 Repl Pamp.).
[9/30/96; 16.5.2.3 NMAC - Rn, 16 NMAC 5.2.3, 04/17/06]

16.5.2.4 DURATION: Permanent.
[9/30/96; 16.5.2.4 NMAC - Rn, 16 NMAC 5.2.4, 04/17/06]

16.5.2.5 EFFECTIVE DATE: September 30, 1996, unless a later date is cited at the end of a section.
[9/30/96; 16.5.2.5 NMAC - Rn & A, 16 NMAC 5.2.5, 04/17/06]

16.5.2.6 OBJECTIVE: To clarify the procedures identified in the Impaired Dentists and Hygienists Act.
[9/30/96; 16.5.2.6 NMAC - Rn, 16 NMAC 5.2.6, 04/17/06]

16.5.2.7 DEFINITIONS: [RESERVED]
[9/30/96; 16.5.2.7 NMAC - Rn, 16 NMAC 5.2.7, 04/17/06]

16.5.2.8 COMPLAINTS: Anyone may file a complaint with the board if they have reasonable cause to believe a dentist or dental hygienist is impaired by:

- A. mental illness;
- B. physical illness, including but not limited to deterioration through the aging process or loss of motor skills;
- C. habitual or excessive use or abuse of drugs, as defined in the Controlled Substances Act;

or

- D. habitual or excessive use or abuse of alcohol.

[9/30/96; 16.5.2.8 NMAC - Rn, 16 NMAC 5.2.8, 04/17/06]

16.5.2.9 PROCESS: Complaints received in the board office that allege impaired practice will be processed in the following manner.

- A. The complaint committee of the board shall review the complaint to determine if the board has jurisdiction over the matter and if the complaint may have merit.
- B. If the complaint committee has reasonable cause to believe that a person licensed to practice dentistry or dental hygiene is unable to practice with reasonable skill and safety to patients because of a condition listed in 16.5.2.8 NMAC, the committee shall refer the matter to the board.
- C. The board shall designate an examining committee consisting of two licensed dentists or two licensed hygienists, if the licensee is a dental hygienist and two licensed physicians, one of whom shall be a psychiatrist who is knowledgeable and experienced in the field of chemical dependency if a question of mental illness or dependency is involved.
 - (1) The board may consider nominations from the New Mexico dental association for dentist members or the New Mexico dental hygienists' association for dental hygienist members of the examining committee; the board may consider nominations from the New Mexico medical society for the physician members of the committee; and
 - (2) no current member of the board or dental hygienists committee shall be a member of an examining committee.

D. The examining committee shall examine a licensee referred by the board to determine the licensee's fitness to practice dentistry or dental hygiene with reasonable skill and safety to patients, on a restricted or unrestricted basis. The committee may recommend intervention as necessary.

(1) The examining committee shall order the licensee to appear before it for hearing. The committee shall give the licensee 15 days notice of the time and place for the hearing and the reason for the examination. Notice shall be served personally or by registered or certified mail with return receipt requested;

(2) if the examining committee feels that a mental or physical examination of the licensee is necessary to determine the licensee's fitness to practice, the committee shall order the licensee to submit to the examination;

(a) a person licensed to practice dentistry or dental hygiene gives consent to submit to a mental or physical examination when directed to do so by the committee by practicing dentistry or dental hygiene or filing an annual registration; the licensee also waives objections on the grounds of privileged communication to the admissibility of the report of the examining committee to the board or dental hygienists committee; and

(b) a licensee who submits to a diagnostic mental or physical examination as ordered by the examining committee has a right to designate an individual to be present at the examination and make an independent report to the board or dental hygienists committee;

(3) failure of a licensee to appear for an examining committee hearing or submit to a mental or physical examination shall be reported to the board or dental hygienists committee; this may be grounds for the immediate and summary suspension of the licensee's license to practice dentistry or dental hygiene unless the failure is due to circumstances beyond the licensee's control; the suspension remains in effect until further order of the board;

(4) the examining committee shall report its findings and recommendations to the board.

[9/30/96; 16.5.2.9 NMAC - Rn, 16 NMAC 5.2.9, 04/17/06; A, 06/14/12]

16.5.2.10 VOLUNTARY RESTRICTION OF LICENSE: A licensee may request a restriction to practice under his/her license. The request must be in writing to the board or the dental hygienists committee. The board or the dental hygienists committee has the authority to attach stipulations to the licensee's licensure, if appropriate and to waive commencement of any proceedings.

A. As a condition for accepting a voluntary limitation, the board may require a licensee to:

(1) agree to and accept care, counseling or treatment by physicians or other appropriate health care providers acceptable to the board; and
(2) participate in a program of education prescribed by the board; or
(3) practice under the direction of a dentist acceptable to the board for a specified period of time.

B. A violation of any of the conditions of the voluntary limitation of practice by the licensee shall be cause for the refusal of renewal, or the suspension or revocation of the license by the board.

C. Removal of a voluntary restriction on a license is subject to the procedure for reinstatement of a license.

[9/30/96; 16.5.2.10 NMAC - Rn, 16 NMAC 5.2.10, 04/17/06; A, 06/14/12; A, 01-15-15]

16.5.2.11 ACTION ON THE REPORT OF THE EXAMINING COMMITTEE: The recommendations by the examining committee are advisory and are not binding on the board. The board or the dental hygienists committee may accept or reject a recommendation by the committee to permit a licensee to practice dentistry or dental hygiene with or without any restrictions or may refer the matter back to the examining committee for further examination or report. In the absence of a voluntary agreement for restriction of her/his license, a licensee shall be entitled to a hearing before the board in accordance with the procedures in the Uniform Licensing Act and a determination on the evidence as to whether or not restriction, suspension or revocation of licensure shall be imposed.

[16.5.2.11 NMAC - N, 06/14/12]

16.5.2.12 PROCEEDINGS: The board may proceed formally against a licensee under the Impaired Dentists and Dental Hygienists Act in accordance with the procedures contained in the Uniform Licensing Act. When the licensee is a dental hygienist, the board shall act upon the recommendation of the dental hygienists committee on all procedures in the Impaired Dentists and Dental Hygienists Act.

A. At the conclusion of a hearing, the board shall make the following findings:

- (1) whether or not the licensee is impaired by one of the conditions listed in 16.5.2.8 NMAC;
- (2) whether or not such impairment does in fact limit the licensee's ability to practice dentistry or dental hygiene skillfully and safely;
- (3) to what extent such impairment limits the licensee's ability to practice dentistry or dental hygiene skillfully and safely and whether the board or the dental hygienists committee finds that the impairment is such that the license should be suspended, revoked or restricted; and
- (4) if the finding recommends suspension or restriction, then the board shall make specific recommendations as to the length and nature of the suspension or restriction and how it shall be carried out and supervised.

B. In addition to the findings listed in Subsection A of 16.4.2.12 NMAC, at the conclusion of a hearing, the board or the dental hygienists committee shall make a determination of the merits and may order one or more of the following:

- (1) placement of the licensee on probation on such terms and conditions as it deems proper for the protection of the public;
 - (2) suspension or restriction of the license of the licensee to practice dentistry or dental hygiene for the duration of the licensee's impairment;
 - (3) revocation of the license of the licensee to practice dentistry or dental hygiene;
- or
- (4) reinstatement of the license of the licensee to practice dentistry or dental hygiene without restriction.

C. The board may temporarily suspend the license of any licensee without a hearing, simultaneously with the institution of proceedings under the Uniform Licensing Act if it finds that the evidence in support of the determination of the examining committee is clear and convincing and that the licensee's continuation in practice would constitute an imminent danger to public health and safety.

D. Neither the record of the proceedings nor any order entered against a licensee may be used against the licensee in other legal proceeding except upon judicial review.

[16.5.2.12 NMAC - N, 06/14/12]

16.5.2.13 DISCIPLINARY ACTION: No action or examination or proceedings under the Impaired Dentists and Dental Hygienists Act precludes the board from investigating or acting simultaneously, in its sole discretion, under the Dental Health Care Act.

[16.5.2.13 NMAC - N, 06/14/12]

16.5.2.14 REINSTATEMENT OF LICENSE: A licensee whose license has been restricted, suspended or revoked under the Impaired Dentists of Dental Hygienists Act, voluntarily or by action of the board, shall have a right at reasonable intervals to petition for reinstatement of the license and to demonstrate that the licensee can resume the competent practice of dentistry or dental hygiene with reasonable skill and safety to patients.

A. The licensee shall make the petition in writing. If the licensee is a dental hygienist, the dental hygienists committee shall be advised and given all information so that its recommendation can be given to the board.

B. Once the board receives a licensee's petition for reinstatement, it shall be referred to the examination committee for an examination of the licensee.

C. The board, in its discretion, upon written recommendation of the examination committee, may restore the license of the licensee on a general or limited basis.

[16.5.2.14 NMAC - N, 06/14/12]

16.5.2.15 [RESERVED]

[16.5.2.14 NMAC - N, 06/14/12; Repealed, 01/15/15]

HISTORY OF 16.5.2 NMAC:

Pre-NMAC History: The material in this part was derived from that previously filed with the commission of public records - state records center and archives as: BODHC 6-95, Impaired Practitioner Program, filed 7/31/95.

History of Repealed Material: [RESERVED]

Other History:

BODHC 6-95, Impaired Practitioner Program (filed 7/31/95) was renumbered, reformatted, amended and replaced by 16 NMAC 5.2, Impaired Practitioner Program, effective 9/30/96.
16 NMAC 5.2, Impaired Practitioner Program (filed 9/17/96) renumbered, reformatted, amended and replaced by 16.5.2 NMAC, Impaired Practitioner Program, effective 04/17/06.

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING
CHAPTER 5 DENTISTRY (DENTISTS, DENTAL HYGIENISTS, ETC.)
PART 3 MANDATORY REPORTING REQUIREMENTS

16.5.3.1 ISSUING AGENCY: New Mexico Board of Dental Health Care.
[9/30/96; 16.5.3.1 NMAC - Rn & A, 16 NMAC 5.3.1, 04/17/06]

16.5.3.2 SCOPE: The provisions of Part 3 of Chapter 5 apply to all dentists and dental hygienists licensed to practice in New Mexico.
[9/30/96; 16.5.3.2 NMAC - Rn, 16 NMAC 5.3.2, 04/17/06]

16.5.3.3 STATUTORY AUTHORITY: Sections 61-5A-21 and 61-5A-23 NMSA 1978 (1996 Repl. Pamp.).
[9/30/96; 16.5.3.3 NMAC - Rn, 16 NMAC 5.3.3, 04/17/06]

16.5.3.4 DURATION: Permanent
[9/30/96; 16.5.3.4 NMAC - Rn, 16 NMAC 5.3.4, 04/17/06]

16.5.3.5 EFFECTIVE DATE: September 30, 1996, unless a later date is cited at the end of a section.
[9/30/96; 16.5.3.5 NMAC - Rn & A, 16 NMAC 5.3.5, 04/17/06]

16.5.3.6 OBJECTIVE: To establish mandatory reporting requirements for adverse events and incidents against licensed dentists and dental hygienists.
[9/30/96; 16.5.3.6 NMAC - Rn, 16 NMAC 5.3.6, 04/17/06]

16.5.3.7 DEFINITIONS: [RESERVED]
[9/30/96; 16.5.3.7 NMAC - Rn, 16 NMAC 5.3.7, 04/17/06]

16.5.3.8 ADVERSE EVENTS AND INCIDENTS WHICH MUST BE REPORTED BY THE LICENSEE: As a condition of licensure, any licensee who seeks or holds an active license, or temporary or public service license in New Mexico, or a retired licensee who seeks to reactivate their license within three years after retirement, must report the following adverse events and incidents in a written report to the board office within thirty days of that event or incident:

- A. conviction of a felony or misdemeanor, other than a traffic violation;
- B. any payment in settlement of a claim, or satisfaction of judgment, in a dental malpractice action personally or by a third party;
- C. any professional review action in which membership status in a health care facility is revoked or suspended; or
- D. discipline by any other state licensing authority;
- E. any known morbidity or mortality arising as a direct result of examination, prescription, diagnosis or treatment by a licensee which results in hospitalization or treatment of the patient by emergency personnel.

[5/31/95, 12/15/97; 16.5.3.8 NMAC - Rn, 16 NMAC 5.3.8, 04/17/06; A, 07/19/10; A, 01/09/12]

16.5.3.9 DISPOSITION OF REPORTS: The reporting of the incidents or events listed in Section 8 of this part shall be maintained in a separate file and shall not be disclosed except as provided by law. Information contained in this report may be used by the board, or its investigators, to establish to the satisfaction of the board that the licensee is competent, is of good moral character, and continues to practice in a professional manner to the standards of care expected of its licensees.

[5/31/95; 9/30/96; 16.5.3.9 NMAC - Rn, 16 NMAC 5.3.9, 04/17/06]

16.5.3.10 USE OF REPORTS: The board at its discretion may further evaluate, or investigate circumstances leading to the incident or event, and for good cause, or for the proper protection of the public initiate disciplinary action against the licensee in accordance with procedures contained in the Uniform Licensing Act, or evaluate the licensee's ability to practice with reasonable skill and safety to patients in accordance with procedures contained in the Impaired Dentists and Hygienists Act.

[5/31/95; 9/30/96; 16.5.3.10 NMAC - Rn, 16 NMAC 5.3.10, 04/17/06]

16.5.3.11 VIOLATIONS: Violations of the provisions of Part 3 of Chapter 5 may result in suspension or revocation of the license to practice as a dentist in accordance with NMSA 1978 61-5A-21.
[5/31/95; 9/30/96; 16.5.3.11 NMAC - Rn, 16 NMAC 5.3.11, 04/17/06]

HISTORY OF 16.5.3 NMAC:

Pre-NMAC History: The material in this part was derived from that previously filed with the commission of public records - state records center and archives as:

BOD Rule 16, Mandatory Reporting of Adverse Events and Incidents, filed 2/14/94.

BODHC Rule DS 10-95, Dentists, Mandatory Reporting, filed 5/5/95.

History of Repealed Material: [RESERVED]

Other History:

BODHC Rule DS 10-95, Dentists, Mandatory Reporting (filed 5/5/95) was renumbered, reformatted, amended and replaced by 16 NMAC 5.3, Mandatory Reporting Requirements, effective 9/30/96.

16 NMAC 5.3, Mandatory Reporting Requirements (filed 9/17/96) renumbered, reformatted, amended and replaced by 16.5.3 NMAC, Mandatory Reporting Requirements, effective 04/17/06.

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING
CHAPTER 5 DENTISTRY (DENTISTS, DENTAL HYGIENISTS, ETC.)
PART 4 EMERGENCY LICENSURE AND CERTIFICATION PROVISIONS

16.5.4.1 ISSUING AGENCY: New Mexico Board of Dental Health Care.
[16.5.4.1 NMAC - N, 04/17/06]

16.5.4.2 SCOPE: The provisions of 16.5.4 NMAC apply to all parts of Chapter 5 and provide relevant information to any person who qualifies to obtain a license or certification under the provisions for emergency licensure in New Mexico.
[16.5.4.2 NMAC - N, 04/17/06; A, 01/09/12]

16.5.4.3 STATUTORY AUTHORITY: NMSA 1978 Section 61-5A-1 through Section 61-5A-30 (1996 Repl. Pamp.).
[16.5.4.3 NMAC - N, 04/17/06]

16.5.4.4 DURATION: Permanent.
[16.5.4.4 NMAC - N, 04/17/06]

16.5.4.5 EFFECTIVE DATE: 04/17/06, unless a later date is cited at the end of a section.
[16.5.4.5 NMAC - N, 04/17/06]

16.5.4.6 OBJECTIVE: To establish rules to govern the emergency licensure or certification for dentists, dental hygienists, dental assistants, expanded function dental auxiliary, and community dental health coordinators affected by a declared disaster.
[16.5.4.6 NMAC - N, 04/17/06; A, 01/09/12]

16.5.4.7 DEFINITIONS: [RESERVED]

16.5.4.8 REQUIREMENTS FOR EMERGENCY LICENSURE:

A. Dentists, dental hygienists, dental assistants, expanded function dental auxiliary, and community dental health coordinators currently licensed or certified and in good standing, or otherwise meeting the requirements for New Mexico licensure or certification in a state in which a federal disaster has been declared, may be licensed or certified in New Mexico during the four months following the declared disaster at no cost upon satisfying the following requirements:

(1) receipt by the board of a completed application which has been signed and notarized and which is accompanied by proof of identity, which may include a copy of a driver's license, passport or other photo identification issued by a governmental entity;

(2) licensing qualifications and documentation requirements 16.5.6 NMAC, 16.5.7 NMAC, 16.5.8 NMAC for Dentists, 16.5.19 NMAC, 16.5.20 NMAC, 16.5.21 NMAC for Dental Hygienists, 16.5.33 NMAC for Dental Assistants 16.5.42 NMAC for Expanded Function Dental Auxiliary and 16.5.50 NMAC for Community Dental Health Coordinators;

(3) other required information and documentation will be the name and address of employer, copy of diploma, copy of current active license or certificate in good standing in another state, or verification of licensure, copy of DEA license if applicable; a license or certificate will not be granted without a practice location; the board will query the national practitioners databank, American association of dental examiners and other state dental boards where the practitioner has ever held a license or certificate; if any or all of this information or documents are not available or destroyed in a disaster, an affidavit certifying this will be required.

B. The board may waive the following requirements for licensure:

(1) application fee;

(2) background check by a professional background information service; and

(3) transcripts from an ADA accredited program.

C. The board may waive the specific forms required under the requirements for licensure or certification if the applicant is unable to obtain documentation from the federal declared disaster areas.

D. Nothing in this section shall constitute a waiver of the requirements for licensure or certification for dentists as required in 16.5.6 NMAC, 16.5.7 NMAC, 16.5.8 NMAC; dental hygienists as required in 16.5.19 NMAC, 16.5.20 NMAC, 16.5.21 NMAC; dental assistants as required in 16.5.33 NMAC; expanded function dental auxiliary as required in 16.5.42 NMAC and community dental health coordinator as required in 16.5.50 NMAC.

E. Licenses and certifications issued under the emergency provision shall expire four months, following the date of issue, unless the board or an agent of the board approves a renewal application. Application for renewal shall be made 30 days prior to the date of expiration and may be renewed no more than once. The applicant must obtain a permanent or temporary license or certification within eight months of the issuance of the initial emergency license or certificate. The board reserves the right to request additional documentation, including but not limited to recommendation forms and work experience verification forms prior to approving license or certification renewal. The board will renew an emergency license or certificate for a period of four months for the following renewal fees:

- | | | |
|---|----------|------------------------------------|
| (1) dentists | \$100.00 | emergency license renewal fee; |
| (2) dental hygienists | \$ 50.00 | emergency license renewal fee; |
| (3) dental assistants | \$ 10.00 | emergency certificate renewal fee; |
| (4) expanded function dental auxiliary | \$ 10.00 | emergency certificate renewal fee; |
| (5) community dental health coordinator | \$ 10.00 | emergency certificate renewal fee. |

F. Licensees issued a license or certificate under the emergency provision are subject to all provisions of the Dental Health Care Act, Article 5A and the rules and regulations, Title 16 Chapter 5, specifically the disciplinary proceedings NMSA 1978 Section 61-5A-21.

[16.5.4.8 NMAC - N, 04/17/06; A, 07/16/07; A, 07/17/08; A, 01/09/12]

16.5.4.9 EMERGENCY LICENSE TERMINATION:

A. The emergency license or certification shall terminate upon the following circumstances:

(1) the issuance of a permanent or temporary license for dentists as required in 16.5.6 NMAC, 16.5.7 NMAC, 16.5.8 NMAC; dental hygienists as required in 16.5.19 NMAC, 16.5.20 NMAC, 16.5.21 NMAC; dental assistants as required in 16.5.33 NMAC; expanded function dental auxiliary as required in 16.5.42 NMAC and community dental health coordinators as required in 16.5.50 NMAC; or

(2) proof that the emergency license or certificate holder has engaged in fraud deceit; misrepresentation in procuring or attempting to procure a license or certificate under this section.

B. Termination of an emergency license or certificate shall not preclude application for permanent licensure or certification.

[16.5.4.9 NMAC - N, 04/17/06; A, 01/09/12]

HISTORY OF 16.5.4 NMAC: [RESERVED]

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING
CHAPTER 5 DENTISTRY (DENTISTS, DENTAL HYGIENISTS, ETC.)
PART 5 DENTISTS, FEES

16.5.5.1 ISSUING AGENCY: New Mexico Board of Dental Health Care.
[9/30/1996; 16.5.5.1 NMAC - Rn & A, 16 NMAC 5.5.1, 06/14/2001]

16.5.5.2 SCOPE: The provisions of 16.5.5 NMAC apply to all applicants for licensure; to active, retired, expired and suspended licensees; and to anyone who requests a list or labels of licensed dentists, multiple copies of the law or rules, or copies of public records.
[9/30/1996; 16.5.5.2 NMAC - Rn, 16 NMAC 5.5.2, 06/14/2001]

16.5.5.3 STATUTORY AUTHORITY: 16.5.5 NMAC is promulgated pursuant to the Dental Health Care Act, NMSA 1978 Section 61-5A-20 (1996 Repl. Pamp.).
[9/30/1996; 16.5.5.3 NMAC - Rn, 16 NMAC 5.5.3, 06/14/2001]

16.5.5.4 DURATION: Permanent.
[9/30/1996; 16.5.5.4 NMAC - Rn, 16 NMAC 5.5.4, 06/14/2001]

16.5.5.5 EFFECTIVE DATE: September 30, 1996, unless a later date is cited at the end of a section.
[9/30/1996; 16.5.5.5 NMAC - Rn, 16 NMAC 5.5.5, 06/14/2001; A, 04/17/2006]

16.5.5.6 OBJECTIVE: To establish fees to generate revenue adequate to fund the cost of program administration.
[9/30/1996; 16.5.5.6 NMAC - Rn, 16 NMAC 5.5.6, 06/14/2001]

16.5.5.7 DEFINITIONS: [RESERVED]
[9/30/1996; 16.5.5.7 NMAC - Rn, 16 NMAC 5.5.7, 06/14/2001]

16.5.5.8 FEES:

- A.** All fees are non-refundable.
- B.** Application for licensure by examination fee is \$600, which includes the initial licensing period.
- C.** Application for licensure by credential fee is \$850, which includes the initial licensing period.
- D.** An applicant who does not obtain a passing score on the jurisprudence exam must submit an additional fee of \$100 to re-take the exam.
- E.** Triennial renewal fee for all dental licensees is \$550.
 - (1) Impaired fee is \$30 per triennial renewal period plus renewal fee.
 - (2) Late renewal fee of \$100 after July 1 through September 1 plus renewal and impaired fees.
 - (3) Cumulative late fee of \$10 per day from August 1 to the date of the postmark or hand-delivery to the board office plus renewal, late and impaired fees.
- F.** Triennial renewal fee for inactive license is \$90.
- G.** Temporary license fees:
 - (1) forty-eight- hour license, application fee of \$50, license fee of \$50;
 - (2) six- month license, application fee of \$100, license fee of \$200;
 - (3) twelve- month license, application fee of \$100, license fee of \$300;
 - (4) twelve month license for student enrolled in residency program, application fee of \$25.00, license fee of \$50.00.
- H.** Anesthesia permit fees:
 - (1) nitrous oxide permit fee is \$25;
 - (2) minimal sedation permit fee is \$25;
 - (3) moderate sedation permit fee is \$300;
 - (4) deep sedation and general anesthesia permit fee is \$300.
- I.** Reinstatement fee is \$400.
- J.** Application for licensure for inactive status is \$50.
- K.** Non-dentist owner fees.
 - (1) Application for licensure fee is \$300, which includes the initial licensing period.
 - (2) Triennial renewal fee of \$150.
 - (3) Late renewal fee of \$100 after July 1 through September 1 plus renewal fee.

(4) Cumulative late fee of \$10 per day from August 1 to the date of the postmark or hand-delivery to the board office plus renewal and late fee.

L. Administrative and duplication fees:

(1) duplicate license fee is \$25;

(2) multiple copies of the statute or rules are \$10 each;

(3) copy fees are \$0.25 per page;

(4) list of current dental licensees is \$300; an annual list of current licensees is available to the professional association upon request at no cost; and

(5) mailing labels of current dental licensees is \$300.

[10/21/1970, 3/14/1973, 4/11/1981, 3/7/1988, 4/12/1992, 3/16/1994, 5/31/1995, 9/30/1996, 12/15/1997, 5/28/1999, 8/16/1999; 16.5.5.8 NMAC - Rn & A, 16 NMAC 5.5.8, 06/14/2001; A, 5/31/2002, A, 03/06/2005; A, 04/17/2006 A, 07/16/2007; A, 07/17/2008; A, 06/10/2009; A, 01/15/2015, A, 3/18/2018]

HISTORY of 16.5.5 NMAC:

Pre-NMAC History:

Material in this part was derived from that previously filed with the commission of public records - state records center and archives as:

Article IV, Licensing of Dentist, filed 03/11/1981;

Article IV, Licensing of Dentist, filed 01/12/1982;

Article IV, Licensing of Dentist, filed 03/30/1982;

BOD Rule 4, Licensing of Dentists, filed 02/09/1989;

BODHC Rule DS 6-95, Dentistry, Fees, filed 05/05/1995.

History of Repealed Material: [RESERVED]

Other History:

16 NMAC 5.5, Dentists, Fees, filed 09/17/1996;

16 NMAC 5.5, Dentists, Fees, filed 09/17/1996 - renumbered, reformatted and amended to 16.5.5 NMAC, Dentists, Fees, effective 06/14/2001.

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING
CHAPTER 5 DENTISTRY (DENTISTS, DENTAL HYGIENISTS, ETC.)
PART 6 DENTISTS, LICENSURE BY EXAMINATION

16.5.6.1 ISSUING AGENCY: New Mexico Board of Dental Health Care.
[16.5.6.1 NMAC - Rp, 16.5.6.1 NMAC, 12/14/2019]

16.5.6.2 SCOPE: The provisions of 16.5.6 NMAC apply to all applicants for licensure by examination as a general dentist or specialty practitioner.
[16.5.6.2 NMAC - Rp, 16.5.6.2 NMAC, 12/14/2019]

16.5.6.3 STATUTORY AUTHORITY: 16.5.6 NMAC is promulgated pursuant to the Dental Health Care Act, Section 61-5A-12, NMSA 1978, (Repl. Pamp. 1996).
[16.5.6.3 NMAC - Rp, 16.5.6.3 NMAC, 12/14/2019]

16.5.6.4 DURATION: Permanent.
[16.5.6.4 NMAC - Rp, 16.5.6.4 NMAC, 12/14/2019]

16.5.6.5 EFFECTIVE DATE: December 14, 2019, unless a later date is cited at the end of a section.
[16.5.6.5 NMAC - Rp, 16.5.6.5 NMAC, 12/14/2019]

16.5.6.6 OBJECTIVE: To establish the requirements for application for licensure as a dentist by examination.
[16.5.6.6 NMAC - Rp, 16.5.6.6 NMAC, 12/14/2019]

16.5.6.7 DEFINITIONS: For the purposes of these rules, “dental public health” is specialty practice focused on preventing and controlling dental diseases and promoting dental health through organized community efforts. Since the diplomat examination does not test clinical skills, dentists licensed based on diplomat status shall not practice clinical dentistry.
[16.5.6.7 NMAC - Rp, 16.5.6.7 NMAC, 12/14/2019]

16.5.6.8 PREREQUISITE REQUIREMENTS FOR GENERAL PRACTICE LICENSE: Each applicant for a license to practice dentistry by examination must possess the following qualifications:

A. graduated and received a diploma from an accredited dental school as defined in Section 61-5A-12 A, NMSA 1978;

B. successfully completed the dental national board examination as defined in Section 61-5A-12 A, NMSA 1978;

C. passed a board approved clinical examination; including periodontal and restorative procedures on patients in a clinical setting, the results of the clinical examination are valid in New Mexico for a period not to exceed five years:

(1) the applicant shall apply directly to a board accepted examining agent for examination; and

(2) results of the clinical examination must be sent directly to the board office; and
D. completed the jurisprudence exam with a score of at least seventy five percent; the applicant shall schedule the exam through the board office;

E. the board requires a level III background status report from a board designated professional background service for new graduates, and a level II background status report from a board designated professional background service for an applicant who has been in practice with experience; application for this service will be included with other application materials; the applicant will apply and pay fees directly to a board designated professional background service to initiate this service.
[16.5.6.8 NMAC - Rp, 16.5.6.8 NMAC, 12/14/2019]

16.5.6.9 PREREQUISITE REQUIREMENTS FOR SPECIALTY LICENSE: Each applicant for a license to practice a dental specialty by examination must possess the following qualifications. Individuals licensed to practice a dental specialty shall be limited to practice only in that specialty area:

A. graduated and received a diploma from an accredited dental school as defined in Subsection A of 61-5A-12 NMSA; and

B. a postgraduate degree or certificate from an accredited dental school or approved residency program as defined in Subsection E of 61-5A-12 NMSA 1978 in one of the following specialty areas:

- (1) dental public health,
- (2) endodontics,
- (3) oral and maxillofacial surgery,
- (4) orthodontics and dento-facial orthopedics,
- (5) oral pathology,
- (6) pediatric dentistry,
- (7) periodontology,
- (8) prosthodontics, or
- (9) other specialties approved by the American dental association;

C. successfully completed the dental national board examination as defined in Subsection A of 61-5A-12 NMSA 1978;

D. passed a specialty clinical examination approved by the board; the results of the exam are valid in New Mexico for a period not to exceed five years; examination results must be sent directly to the board office;

E. an applicant in any specialty defined above for which there is no specialty clinical examination may substitute diplomat status for the examination;

F. completed the jurisprudence exam with a score of at least seventy five percent; the applicant shall schedule the exam through the board office; and

G. the board requires a level II background status report from a board designated professional background service; application for this service will be included with other application materials; the applicant will apply and pay fees directly to a board designated professional background service to initiate this service.

[16.5.6.9 NMAC - Rp, 16.5.6.9 NMAC, 12/14/2019]

16.5.6.10 DOCUMENTATION REQUIREMENTS: Each applicant for a license by examination must submit the required fees and following documentation:

A. completed application signed and notarized with a passport quality photo taken within six months; applications are valid for one year from the date of receipt;

B. official transcripts or an original letter on letterhead with an embossed seal verifying successfully passing all required courses from the dental school or college, to be sent directly to the board office from the accredited program;

C. a copy of clinical examination score card or certificate from the appropriate specialty board;

D. copy of national board examination certificate or score card;

E. proof of having taken a course in infection control technique or graduation from dental school within the past 12 months;

F. proof of current basic life support (BLS) or cardiac pulmonary resuscitation (CPR) certification accepted by the American heart association, the American red cross; or the American safety and health institute (ASHI); cannot be a self-study course;

G. the board will obtain verification of applicant status from the national practitioners data bank and the American association of dental examiners clearinghouse; and

H. the appropriate status report from a board designated professional background service must be received by the board office directly from a board designated professional background service; the results of the background check must either indicate no negative findings, or if there are negative findings, those findings will be considered by the board;

I. the board may deny, stipulate, or otherwise limit a license if it is determined the applicant is guilty of violating any of the provisions of the act, the Uniform Licensing Act, the Impaired Dentists and Hygienists Act, these rules, or if it is determined that the applicant poses a threat to the welfare of the public;

J. verification of licensure in all states where the applicant holds or has held a license in good standing to practice dentistry, or other health care profession; verification must be sent directly to the office from the other state(s) board, must include a seal, and must attest to the status, issue date, license number, and other information contained on the form;

K. in addition to the documentation required above, an applicant for licensure in a specialty area must request official transcripts from the residency program or postgraduate training program to be sent directly to the board office from the accredited program.

[16.5.6.10 NMAC - Rp, 16.5.6.10 NMAC, 12/14/2019]

16.5.6.11 RE-EXAMINATION PROCEDURE: An applicant who does not obtain a passing score on the jurisprudence exam must submit the re-examination fee as set forth in Subsection D of 16.5.5.8 NMAC to re-take the exam.

[16.5.6.11 NMAC - Rp, 16.5.6.11 NMAC, 12/14/2019]

16.5.6.12 LICENSURE PROCEDURE: Upon receipt of a completed application, including all required documentation and fees, the secretary-treasurer or the delegate of the board will review and may approve the application. The board shall formally accept the approval of the application at the next scheduled meeting.

A. Initial dental licenses are issued for a period not to exceed three years, as defined in Section 16.5.11.8 NMAC.

B. Any application that cannot be approved by the delegate of the board will be reviewed by the entire board at the next scheduled meeting.

[16.5.6.12 NMAC - Rp, 16.5.6.12 NMAC, 12/14/2019]

History of 16.5.6 NMAC:

Pre-NMAC History:

Material in this part was derived from that previously filed with the commission of public records - state records center and archives as:

Article II, Examination to Practice Dentistry, filed 3/11/1981.

Article II, Examination to Practice Dentistry, filed 1/12/1982.

Article, II, Examination to Practice Dentistry, filed 3/30/1982.

Article, II, Examination to Practice Dentistry, filed 2/5/1988.

BOD Rule 3, Examination to Practice Dentistry, filed 2/9/1989.

BODHC Rule DS 1-95, Dentistry, General Practice Licensure, filed 5/5/1995.

BODHC Rule DS 2-95, Dentistry, Specialty Licensure by Examination, filed 5/5/1995.

History of Repealed Material:

16.5.6 NMAC - Dentist, Licensure by Examination filed 6/1/2001, Repealed effective 12/14/2019.

Other History:

16 NMAC 5.6, Dentists, Licensure by Examination, filed 9/17/1996;

16 NMAC 5.6, Dentists, Licensure by Examination, filed 9/17/1996 - renumbered, reformatted and amended to 16.5.6 NMAC, Dentists, Licensure by Examination, effective 6/14/2001.

16.5.6 NMAC - Dentist, Licensure by Examination filed 6/1/2001 was replaced by 16.5.6 NMAC - Dentist, Licensure by Examination, effective 12/14/2019.

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING
CHAPTER 5 DENTISTRY (DENTISTS, DENTAL HYGIENISTS, ETC.)
PART 7 DENTISTS, TEMPORARY OR PUBLIC SERVICE LICENSURE

16.5.7.1 ISSUING AGENCY: New Mexico Board of Dental Health Care.
[9-30-96; 16.5.7.1 NMAC - Rn & A, 16 NMAC 5.7.1, 12-14-00]

16.5.7.2 SCOPE: The provisions of 16.5.7 NMAC apply to all dentists applying for a temporary or a public service license to practice in New Mexico.
[9-30-96; 16.5.7.2 NMAC - Rn, 16 NMAC 5.7.2, 12-14-00; A, 01-09-12]

16.5.7.3 STATUTORY AUTHORITY: 16.5.7 NMAC is promulgated pursuant to the Dental Health Care Act, NMSA 1978 Section 61-5A-14.
[9-30-96; 16.5.7.3 NMAC - Rn, 16 NMAC 5.7.3, 12-14-00]

16.5.7.4 DURATION: Permanent.
[9-30-96; 16.5.7.4 NMAC - Rn, 16 NMAC 5.7.4, 12-14-00]

16.5.7.5 EFFECTIVE DATE: September 30, 1996, unless a different date is cited at the end of a section.
[9-30-96; 16.5.7.5 NMAC - Rn, 16 NMAC 5.7.5, 12-14-00; A, 09-18-10]

16.5.7.6 OBJECTIVE: To establish the requirements for application for temporary or public service licensure as a dentist.
[9-30-96; 16.5.7.6 NMAC - Rn, 16 NMAC 5.7.6, 12-14-00; A, 01-09-12]

16.5.7.7 DEFINITIONS:

A. "Entity" means a dental or dental hygiene organization, foundation or officially recognized study club, which has a constitution, bylaws and whose officers or board of trustees are dentists or dental hygienists licensed in good standing in the state.

B. "Good standing" means having an active dental license in a jurisdiction for a period of at least three consecutive years immediately preceding the date of application, and a minimum of five years of dental licensure. The board shall consider stipulations, disciplinary, or administrative actions taken against a licensee by the issuing agency, within the previous five years, when determining whether a license is in good standing.

C. "In the state" or "in this state" means that a program has a physical presence in New Mexico in the form of a facility and a permanent faculty.

[9-30-96; 16.5.7.7 NMAC - Rn, 16 NMAC 5.7.7, 12-14-00; A, 01-09-12]

16.5.7.8 CATEGORIES OF TEMPORARY OR PUBLIC SERVICE LICENSES: Applications for a temporary or a public service New Mexico dental license may be issued in the following categories for specific purposes if education and experience requirements are met.

A. Clinical educator. Dentists, not currently licensed in New Mexico, who provide clinical education or training that includes demonstrations on live subjects must apply for temporary licensure. The temporary license is issued for 48 hours; if the course lasts longer than two days, additional 48 hour licenses may be requested upon payment of the applicable fees; a temporary license may not be issued for less than 48 hours.

B. A student who is enrolled in a commission of dental accreditation (CODA) dental specialty program or a commission of dental accreditation (CODA) general practice dental residency program, or an advanced education in general dentistry program, who holds a current, valid license in good standing in another US jurisdiction, may be granted a temporary 48 hour license for the purpose of observing or assisting a licensed New Mexico practitioner in cases for educational purposes.

C. A resident or student enrolled in a commission of dental accreditation (CODA) accredited program in the state of New Mexico may be granted a public service license for up to 12 months. This public service license shall be automatically renewed annually only for the purpose of completing the education program and shall not be valid once the residency or educational program is completed or the applicant is no longer enrolled, provided:

(1) the program in this state is accredited by the commission on dental accreditation (CODA);

(2) the residency program maintains a physical presence in New Mexico, including:

(a) a faculty and staff full time in New Mexico who holds a license in New Mexico in good standing in accordance with the degree they hold; and

(b) a facility in the state where residency students may attend lectures, seminars and receive clinical instruction;

(3) public service license for a dental resident or student may not be converted to any other public service license or license by credentials;

(4) the applicant must practice under the sponsorship of or be associated with a dentist holding a current license in good standing in this state;

(5) upon application by a resident or student, the participating residency or education program must supply documentation to the board of its accreditation status, faculty and facilities in New Mexico; and

(6) successful completion of a clinical board examination is not a requirement for a public service license to be granted to a student or resident under this section.

D. Clinical practice in underserved area or state institutions. A dentist may be granted temporary licensure to practice in a state institution, a program approved or maintained by the New Mexico department of health (NMDOH), or a program or clinic designated by the New Mexico department of health (NMDOH), as dental care underserved area (DCUA). The New Mexico department of health (NMDOH) may recommend to the New Mexico board of dental health care, counties, communities, county census divisions, or in the case of urban areas, neighborhoods, zip codes, and census tracts to be considered as dental care underserved areas (DCUA's). Areas recommended as DCUA's may reflect those areas designated by the federal government as dental health professional shortage areas (DHPSA). The New Mexico board of dental health care will request annually from NMDOH a written report of which areas are recommended as DCUA's and will update the listing throughout the year as appropriate. The New Mexico board of dental health care may designate DCUA's based upon these recommendations:

(1) the temporary license holder is restricted to work exclusively in the institution or program named on the application or the temporary license certificate;

(2) a temporary license for clinical practice in an underserved area or state institution is valid for 12 months and shall expire at the end of that period; the board may re-issue the temporary license for three additional 12 month periods; each license reissue must be approved by the board; the licensee must contact the board office three months prior to the expiration date to begin the re-issue process;

(3) the New Mexico board of dental health care shall rely upon the listing of recommended practices in underserved areas or state institutions, and the listing of recommended DCUA's provided by NMDOH in its review of applications for clinical practice in underserved areas; temporary licenses will be reissued only for sites and DCUA's that remain on the recommended listings by the New Mexico department of health;

(4) the applicant shall provide an affidavit from the administrative supervisor of the applicant's proposed employer organization as defined in Subsection C of 16.5.7.8 NMAC attesting to supervision and oversight by a New Mexico licensed dentist in good standing, and bearing the signature of both; and

(5) the applicant shall provide an affidavit from the New Mexico department of health specifying supervision will be by a licensed New Mexico dentist in good standing and bearing the signature of both;

(6) a temporary license to practice in an underserved area may be converted to a license by credentials provided the applicant:

(a) meets all requisite requirements listed in 16.5.8 NMAC and provides all documentation as required in 16.5.8.10 NMAC of these rules, with exception of the requirement to have a license in good standing for five years;

(b) practices for at least 1000 hours per year under a temporary license in an underserved area for three consecutive years; one year of credit will be granted for;

(i) a commission on dental accreditation residency (CODA) or ADA recognized specialty program; or

(ii) private practice of 1000 or more hours per year; and

(c) has no complaints under board investigation, actions pending or actions taken against the applicant's temporary license;

(d) has renewed the temporary license yearly, and has paid the required license fees;

(e) has maintained the same continuing education requirements of regularly licensed dentists as set forth in 16.5.10 NMAC of these rules; the annual continuing education requirements are to be based upon 1/3 prorated share of those required of a licensee applying for license renewal on a triennial basis; and

(f) applies for conversion of a temporary license to a license by credentials pursuant to 16.5.7.15 NMAC of these rules.

E. Emergency practitioner. Out of state specialists needed for emergency care in a hospital may be granted a temporary license:

- (1) the information normally given in official documentation may be given in written or verbal form because of the emergency nature of the license;
- (2) this category will be given a 48 hour temporary license but it may be extended in 48 hour increments until the dentist can leave the patient to the care of others; and
- (3) the New Mexico licensed dentist acting as the sponsor for the temporary licensee must be responsible for the validity of the following credentials:
 - (a) the license number in the state in which the applicant resides and practices, and the current status of the license;
 - (b) proof of liability insurance; and
 - (c) verification of status of hospital credentials in state of residence or practice.

F. Replacement practitioner. A dentist may be granted temporary licensure for six or 12 months to work exclusively with patients in the practice of a New Mexico licensed dentist who is unable to practice dentistry because of physical or mental illness, injury, pregnancy, impairment, physical absence, or other condition approved by the board:

- (1) the temporary license holder is restricted to work exclusively in the practice named on the application; and
- (2) a temporary license as a replacement practitioner is valid for no longer than 12 months, and may not be re-issued.

G. Presumptive public service licensure for a charitable dental project. A dentist not holding a license in the state may be granted a presumptive public service license for up to 72 hours to participate in a board approved charitable project. Except as noted in this section the dentist shall otherwise be subject to the provisions of the dental practice act and the rules and regulations of the board. The presumptive public service license is valid only when:

- (1) the charitable project is approved by the board at least 45 days prior to the scheduled event;
- (2) the dentist receives no compensation for participating in the project;
- (3) the project is sponsored by an entity as defined in 16.5.7.7 NMAC and that entity has been approved by the board to undertake the charitable project;
- (4) the dentist holds a license in good standing in another jurisdiction and the license is verified by the sponsoring entity;
- (5) the dentist has graduated from and holds a diploma from a dental school accredited by the commission on dental accreditation and a copy of the diploma is on file with the sponsoring entity;
- (6) upon request the out-of-state dentist shall produce copies of their diploma and license in another jurisdiction;
- (7) the dental care provided is within the scope and limits of the license the dentist holds in the other jurisdiction;
- (8) the out-of-state dentist works under the indirect supervision of a dentist licensed in good standing in this state who is present at the charitable project;
- (9) patients who receive dental care during the charitable project will be given a list of dentists whom they can contact if post-operative care is needed;
- (10) a charitable public service license is not eligible for conversion to any other public service, regular license; or license by credentials; and
- (11) no fee shall be required by the board for the presumptive public service license for a charitable project.

[3-17-73, 3-16-94, 4-15-94, 5-31-95, 9-30-96; 16.5.7.8 NMAC - Rn & A, 16 NMAC 5.7.8, 12-14-00; A, 3-29-02; A, 07-17-08; A, 09-18-10; A, 01-09-12; A, 01-15-15]

16.5.7.9 PREREQUISITE REQUIREMENTS FOR TEMPORARY AND PUBLIC SERVICE

LICENSURE: Presumptive public service practitioners as defined in Subsection G of 16.5.7.8 NMAC are not required to comply with Subsection D, E and F of this section. Residents or students as defined in Subsection C of 16.5.7.8 NMAC are not required to comply with Subsection C, E and F of this section. All other applicants for temporary or public service licensure must possess each of the following qualifications:

A. graduated and received a diploma from an accredited dental school or college as defined in NMSA 61-5A-12, A;

B. if the temporary or public service license is for a practice specialty, the applicant must have obtained a postgraduate degree or certificate from an accredited dental college, school of dentistry or other residency program that is accredited by the commission on dental accreditation;

C. hold a valid license in good standing from another state or territory of the United States;

D. applicants requesting a six or 12 month temporary or public service license must pass the jurisprudence exam with a score of at least a 75 percent;

E. for those applying for an initial temporary or public service license in public health dentistry or as a replacement practitioner, the board requires a level III background status report from a board designated professional background service; application for this service will be included with other application materials; the applicant will apply and pay fee directly to a board designated professional background service to initiate this service; the license may be provisionally issued while awaiting the report from a board designated professional background service; and

F. must have successfully passed clinical examination through WREB, CRDTS, NERB/ADEX, SRTA or other examination accepted by the board; the results of the clinical examination must be sent directly to the board office.

[3-14-73, 5-31-95; 16.5.7.9 NMAC - Rn & A, 16 NMAC 5.7.9, 12-14-00; A, 06-14-01; A, 07-16-07; A, 07-17-08; A, 09-18-10; A, 01-09-12; A, 06-14-12]

16.5.7.10 DOCUMENTATION REQUIREMENTS: Except as otherwise required by Subsection F of 16.5.7.8 NMAC, presumptive public service practitioners do not need to comply with the following for temporary or public service licensure. Residents or students as defined in Subsection C of 16.5.7.8 NMAC shall provide only documents described in Subsection F of this section. All other applicants for temporary or public service licensure shall submit the required fees and following documentation:

A. completed application signed and notarized with a passport quality photo taken within six months; applications are valid for one year from the date of receipt;

B. verification of licensure in all states where the applicant holds or has held a license to practice dentistry, or other health care profession; verification shall be sent directly to the office from the other state(s) board, shall include an embossed seal, and shall attest to the status, issue date, license number, expiration date and other information contained on the form;

C. proof of current basic life support (BLS) or cardiac pulmonary resuscitation (CPR) certification accepted by the American heart association, the American red cross, or the American safety and health institute (ASHI); cannot be a self-study course;

D. an affidavit from the New Mexico licensed dentist who is sponsoring the applicant attesting to the qualifications of the applicant and the activities the applicant will perform; applicants for temporary licensure in underserved areas and state institutions shall:

(1) provide an affidavit from the administrative supervisor of the applicant's proposed employer organization as defined in Subsection C of 16.5.7.8 NMAC attesting to supervision and oversight by a New Mexico licensed dentist, and bearing the signature of both; or

(2) provide an affidavit from the New Mexico department of health specifying supervision will be by a licensed New Mexico dentist and bearing the signature of both;

(3) report any changes in supervision or oversight of the temporary licensee to the board within 30 days of the change; and

(4) provide proof of acceptable liability insurance coverage;

E. in addition, applicants requesting temporary licensure in public health dentistry or as a replacement practitioner shall submit the following:

(1) official transcripts or an original letter on letterhead with an embossed seal verifying successfully passing all required courses from the dental school or college, to be sent directly to the board office from the accredited program;

(2) copy of national board examination certificate or score card;

(3) copy of clinical examination score card or certificate from the accepted examining agent;

(4) proof of having taken a course in infection control technique within the past 12 months;

(5) applicant shall authorize the drug enforcement administration (DEA) and American association of dental examiners clearinghouse to send verification of status directly to the board office;

(6) the board will obtain verification of applicant status from the national practitioners data bank; and

(7) a level III status report from a board designated professional background service shall be received directly from a board designated professional background service; the results of the background check shall either indicate no negative findings, or if there are negative findings, those findings will be considered by the

board; the board may deny, stipulate, or otherwise limit a license if it is determined the applicant is guilty of violating any of the provisions of the act, the Uniform Licensing Act, the Impaired Dentists and Hygienists Act, these rules, or if it is determined that the applicant poses a threat to the welfare of the public;

(8) in addition to the documentation required above, an applicant for temporary licensure in a specialty area shall request official transcripts from the residency program or postgraduate training program to be sent directly to the board office from the accredited program.

F. Residents or students as defined in Subsection C of 16.5.7.8 NMAC shall submit the required fees and following documentation:

(1) completed application signed and notarized with a passport quality photo taken within six months; applications are valid for one year from the date of receipt;

(2) official transcripts in the event that official transcripts are not available at the time of application, a letter from the dean of the dental school or college, on official letterhead, verifying the applicant's successful completion of all required courses, may be submitted but must be supplemented with final graduation documentation no later than 45 days from the start of the residency program.

(3) copy of national board examination certificate or score card;

(4) proof of having taken a course in infection control technique within the past 12 months or have graduation from dental school within the past 12 months;

(5) pass the jurisprudence exam with a score of at least 75 percent;

(6) if resident or student has or holds a license to practice dentistry or other health care profession they shall submit verification of licensure in all states where the applicant holds or has held a license to practice dentistry, or other health care profession; verification shall be sent directly to the office from the other state(s) board, shall include an embossed seal, and shall attest to the status, issue date, license number, expiration date and other information contained on the form; and

(7) issue date of the license will correspond with the first date of the residency start date.

[3-14-73, 5-31-95, 9-30-96; 16.5.7.10 NMAC - Rn, 16 NMAC 5.7.10, 12-14-00; A, 06-14-01; A, 3-29-02, A, 07-16-07; A, 09-18-10; A, 01-09-12; A, 06-14-12; A, 12-16-15]

16.5.7.11 RE-EXAMINATION PROCEDURE: An applicant who does not obtain a passing score on the jurisprudence exam must submit the re-examination fee as defined in Subsection D of 16.5.5 NMAC to retake the exam.

[9-30-96; 16.5.7.11 NMAC - Rn, 16 NMAC 5.7.11, 12-14-00; A, 01-09-12]

16.5.7.12 LICENSURE PROCEDURES: Upon receipt of a completed application, including all required documentation and fees, the secretary-treasurer or the delegate of the board will review and approve the application. The board shall formally accept the approval of the application at the next scheduled meeting.

A. Emergency Practitioner: Upon receipt of the necessary credentials from the practitioner and the verification from the sponsoring dentist, a professional member of the board or board administrator may declare the practitioner a temporary licensee of record and submit such information to the practitioner, sponsoring dentist, or the hospital.

B. Any application which cannot be approved by the delegate of the board will be reviewed by the entire Board at the next scheduled meeting.

[3-14-73, 5-31-95, 9-30-96; 16.5.7.12 NMAC - Rn, 16 NMAC 5.7.12, 12-14-00; A, 12-16-15]

16.5.7.13 RE-ISSUE PROCEDURES: To remain eligible for temporary or public service licensure; temporary or public service license holders who are eligible for re-issue per 16.5.7.8 NMAC must contact the board office three months prior to the expiration date to begin the re-issue process. All requirements regarding re-issue are the same as the initial application as defined in 16.5.7.10 NMAC. The form, application and fee and proof of 20 hours of continuing education must be post-marked on or before the expiration date.

[12-15-97; 16.5.7.13 NMAC - Rn, 16 NMAC 5.7.13, 12-14-00; A, 09-18-10; A, 01-09-12]

16.5.7.14 LIMITATION ON PRACTICE: Temporary or public service licensees shall engage in only those activities specified on the temporary or public service license for the time period designated.

A. Temporary or public service licensees shall only practice under the sponsorship or in association with a licensed New Mexico dentist or dental hygienist.

B. Temporary or public service licensees and the approved sponsor or associate are responsible for compliance with the act and these rules.

[3-14-73, 5-31-95, 12-15-97, 16.5.7.14 NMAC - Rn, 16 NMAC 5.7.14, 12-14-00; A, 01-09-12]

16.5.7.15 CONVERSION OF TEMPORARY LICENSE TO LICENSE BY CREDENTIALS:

A. Following the completion of the requirements listed in 16.5.7.8 NMAC of these rules, the temporary licensee may complete an application for licensure by credentials.

B. Any additional licenses acquired during the time practicing under a temporary license must be reported on the application for licensure by credentials.

C. Any actions taken against the applicant's license in any other jurisdiction while licensed in New Mexico under a temporary license must be reported on the application for license by credentials.

D. Upon receipt of a complete application the board shall issue a New Mexico license by credentials unless there is any action pending against the temporary license. Then at the discretion of the board or its agent, the temporary license may be extended until pending action is settled. If action is taken against the temporary license, conversion to a license by credentials will be halted and the temporary license will no longer be renewed.

E. Conversion of a temporary license to practice dentistry does not allow conversion of a temporary anesthesia permit into one lasting more than the initial 12 months. After the 12 month period, an additional permit requires successful completion of an additional anesthesia exam and a facilities inspection. See Subsection C of 16.5.15.15 NMAC.

[16.5.7.15 NMAC - N, 3-29-02; A, 07-16-07; A, 01-09-12; A, 06-14-12]

HISTORY OF 16.5.7 NMAC:

Pre-NMAC History: Material in this part was derived from that previously filed with the commission of public records - state records center and archives as:

BDE 69-1, Rules and Regulations of the New Mexico Board of Dental Examiners, filed 08-14-69;

BDE 70-1, Rules and Regulations of the New Mexico Board of Dental Examiners, filed 09-21-70;

BDE 73-1, Rules and Regulations of the New Mexico Board of The New Mexico Board of Dentistry, filed 02-12-73;

Article IV, Licensing of Dentist, filed 03-11-81;

Article IV, Licensing of Dentist, filed 01-12-82;

Article IV, Licensing of Dentist, filed 03-30-82;

BOD Rule 4, Licensing of Dentists, filed 02-09-89 (portion of);

BODHC Rule DS 3-95, Dentistry, Temporary Licensure, filed 05-05-95.

History of Repealed Material:

Article XIV, Repeals BDE 73-1, Rules and Regulations of the New Mexico Board of Dentistry, filed 2-12-73.

Other History:

16 NMAC 5.7, General Provisions, filed 09-17-96;

16 NMAC 5.1, General Provisions, filed 09-17-96 - renumbered, reformatted and amended to 16.5.7 NMAC, Dentists, Temporary Licensure, effective 12-14-00.

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING
CHAPTER 5 DENTISTRY (DENTISTS, DENTAL HYGIENISTS, ETC.)
PART 8 DENTISTS, LICENSURE BY CREDENTIALS

16.5.8.1 ISSUING AGENCY: New Mexico Board of Dental Health Care.
[9-30-96; 16.5.8.1 NMAC - Rn & A, NMAC 5.8.1, 12-14-00]

16.5.8.2 SCOPE: The provisions of 16.5.8 NMAC apply to all applicants for licensure as a general or specialty dentist by credentials.
[9-30-96; 16.5.8.2 NMAC - Rn, 16 NMAC 5.8.2, 12-14-00]

16.5.8.3 STATUTORY AUTHORITY: 16.5.8 NMAC is promulgated pursuant to the Dental Health Care Act, NMSA 1978 Section 61-5A-12 (1996 Repl. Pamp.).
[9-30-96; 16.5.8.3 NMAC - Rn, 16 NMAC 5.8.3, 12-14-00]

16.5.8.4 DURATION: Permanent.
[9-30-96; 16.5.8.4 NMAC- Rn, 16 NMAC 5.8.4, 12-14-00]

16.5.8.5 EFFECTIVE DATE: September 30, 1996, unless a later date is cited at the end of a section.
[9-30-96; 16.5.8.5 NMAC - Rn, 16 NMAC 5.8.5, 12-14-00; A, 07-19-10]

16.5.8.6 OBJECTIVE: To establish the requirements for application for licensure as a dentist by credentials held through licensure in another state(s).
[9-30-96; 16.5.8.6 NMAC - Rn, 16 NMAC 5.8.6, 12-14-00]

16.5.8.7 DEFINITIONS: License in “good standing” is defined as having an active dental license in a jurisdiction for a period of at least three consecutive years immediately preceding the date of application, and a minimum of five years of dental licensure. The board shall consider stipulations, disciplinary or administrative actions taken against a licensee by the issuing agency, within the previous five years, when determining whether a license is in “good standing”.
[8-15-95, 9-30-96, 12-15-97, 1-1-99, 8-16-99; 16.5.8.7 NMAC - Rn & A, 16 NMAC 5.8.7, 12-14-00; A, 01-09-12]

16.5.8.8 PREREQUISITE REQUIREMENTS FOR LICENSURE IN GENERAL PRACTICE: Each applicant for licensure as a general dentist by credentials must possess the following qualifications:

- A. graduated and received a diploma from an accredited dental school as defined in 61-5A-12 A;
- B. completed 60 hours of approved continuing education during the past 36 months in compliance with 16.5.1.15 NMAC of these rules;
- C. passed the dental national board examination as defined in Section 61-5A-12 A;
- D. passed the jurisprudence exam with a score of at least 75 percent;
- E. holds a current active license in good standing by clinical examination in another state or territory of the United States, or has maintained a uniform service practice in the United States military or public health service for three years immediately preceding the application;
- F. passed a clinical examination approved by the board;
- G. the board may deny, stipulate, or otherwise limit a license if it is determined the applicant holds or has held a license in another jurisdiction that is not in good standing, if proceedings are pending against the applicant in another jurisdiction, or information is received indicating the applicant is of danger to patients or is guilty of violating any of the provisions of the act, the Uniform Licensing Act, the Impaired Dentists and Hygienists Act, or these rules;
- H. the board requires a level II background status report from a board designated professional background service; application for this service will be included with other application materials; the applicant will apply and pay fees directly to a board designated professional background service to initiate this service.

[3-16-94, 8-15-95, 9-30-96, 1-1-99, 8-16-99; 16.5.8.8 NMAC - Rn & A, 16 NMAC 5.8.8, 12-14-00; A, 06-14-01; A, 07-16-07; A, 07-17-08; A, 01-09-12; A, 07-17-13]

16.5.8.9 PREREQUISITE REQUIREMENTS FOR LICENSE IN SPECIALTY PRACTICE: Any dentist who has taken a clinical examination accepted by the board and who has completed and passed a CODA accredited specialty program in one of the ADA recognized specialties may be issued a specialty license by the board. Each applicant for a license to practice a dental specialty by credentials must possess the following

qualifications. Individuals licensed to practice a dental specialty shall be limited to practice only in that specialty area.

- A. Graduated and received a diploma from an accredited dental school as defined in 61-5A-12 A.
- B. Have a postgraduate degree or certificate from an accredited dental school or approved residency program as defined in 61-5A-12 E, in one of the specialty areas of dentistry recognized by the ADA.
- C. Completed 60 hours of continuing education during the past 36 months in compliance with 16.5.1.15 NMAC of these rules.
- D. Successfully completed the dental national board examination as defined in Section 61-5A-12 A.
- E. An applicant in any specialty defined in Subsection E of 16.5.8.9 NMAC for which there is no specialty examination may substitute diplomat status for the examination.
- F. Successfully completed an examination for diplomat status or a specialty licensure examination comparable to the specialty exam recognized by the New Mexico board of dental health care:
 - (1) the examination must include the entry level clinical skills in one of the following specialties: endodontics, oral and maxillofacial surgery, orthodontics/dento-facial orthopedics, oral pathology, pediatric dentistry, periodontology, prosthodontics; or oral and maxillofacial radiology, other specialties approved by the American dental association; or
 - (2) for licensure as a specialist in dental public health, the applicant must have successfully completed the examination for diplomat status given by the American board of public health dentistry.
- G. Completed the jurisprudence exam with a score of at least 75 percent.
- H. Hold a current active license in good standing by examination in another state or territory of the United States.
- I. The board may deny, stipulate, or otherwise limit a license if it is determined the applicant holds or has held a license in another jurisdiction that is not in good standing, if proceedings are pending against the applicant in another jurisdiction, or information is received indicating the applicant is of danger to patients or is guilty of violating any of the provisions of the act, the Uniform Licensing Act, the Impaired Dentists and Hygienists Act, or these rules.
- J. The board requires a level II background status report from a board designated professional background service. Application for this service will be included with other application materials. The applicant will apply and pay fees directly to a board designated professional background service to initiate this service. [3-16-94, 8-15-95, 9-30-96, 8-16-99, 06-13-01; 16.5.8.9 NMAC - Rn, 16 NMAC 5.8.9, 12-14-00; A, 06-14-01; A, 07-16-07; A, 07-17-08; A, 01-09-12; A, 06-14-12]

16.5.8.10 DOCUMENTATION REQUIREMENTS: Each applicant for licensure by credentials must submit the required fees and following documentation:

- A. completed application signed and notarized with a passport quality photo taken within six months; applications are valid for one year from the date of receipt;
- B. official transcripts or an original letter on letterhead with an embossed seal verifying successfully passing all required courses from the dental school or college, to be sent directly to the board office from the accredited program;
- C. copy of national board examination certificate or scorecard;
- D. copy of clinical examination score card or certificate from the accepted examining agent;
- E. proof of having taken a course in infection control technique within the past twelve months;
- F. proof of current life support (BLS) or cardiac pulmonary resuscitation (CPR) certification accepted by the American heart association, the American red cross, or the American safety and health institute (ASHI); cannot be a self-study course;
- G. the board will obtain verification of applicant status from the national practitioner's data bank and the American association of dental examiners clearinghouse;
- H. verification of licensure in all states where the applicant holds or has held a license to practice dentistry, or other health care profession; verification must be sent directly to the office from the other state(s) board, must include a ~~raised~~ seal, and must attest to the status, issue date, license number, and other information contained on the form;
- I. a level II status report from a board designated professional background service must be received by the board office directly from a board designated professional background service; the results of the background check must either indicate no negative findings, or if there are negative findings, those findings will be considered by the board;
- J. the board may deny, stipulate or otherwise limit a license if it is determined the applicant is guilty of violating any of the provisions of the act, the Uniform Licensing Act, the Impaired Dentist and Hygienist Act, these rules, or if it is determined that the applicant poses a threat to the welfare of the public;

K. proof of 60 hours of continuing education during the 36 months prior to licensure in compliance with 16.5.1.15 NMAC of these rules;

L. dentists employed in uniform service practice shall furnish:
(1) a copy of the most recent commissioned officers effectiveness report, or equivalent, issued by the uniformed service dental service, and

(2) a certified letter from the clinic commander attesting to past record and any actions taken on applicant's uniform service credentials;

M. applicants for specialty by credentials in one of the following applicants for specialty license must submit: official transcripts from the residency program or postgraduate training program, sent directly to the board office from the accredited program;

N. certificate of diplomat status from the specialty board, must be sent directly to the board office; and

O. successfully completed an examination for diplomat status or a specialty licensure examination comparable to the specialty exam recognized by the New Mexico board of dental health care:

(1) the examination must include the entry level clinical skills in one of the following specialties: endodontics, oral and maxillofacial surgery, orthodontics/dento-facial orthopedics, oral pathology, pediatric dentistry, periodontology, prosthodontics; or oral and maxillofacial radiology; or

(2) for licensure as a specialist in dental public health, the applicant must have successfully completed the examination for diplomat status given by the American board of public health dentistry;

P. supplemental information may be requested by the board.

[3-16-94, 8-15-96, 9-30-96, 12-15-97, 1-1-99, 8-16-99, 2-14-00; 16.5.8.10 NMAC - Rn, 16 NMAC 5.8.10, 12-14-00; A, 06-14-01; A, 07-16-07; A, 07-19-10; A, 01-09-12; A, 01-15-15]

16.5.8.11 RE-EXAMINATION PROCEDURE: An applicant who does not obtain a passing score on the jurisprudence exam must submit the re-examination fee as defined in Subsection D of 16.5.5.8 NMAC to re-take the exam.

[9-30-96; 16.5.8.11 NMAC - Rn, 16 NMAC 5.8.11, 12-14-00]

16.5.8.12 LICENSURE PROCEDURE: Upon receipt of a completed application, including all documentation and fees, the secretary-treasurer or delegate of the board will review and may approve the application when the applicant holds a valid license obtained through clinical exam. The board shall formally accept the approval of the application at the next scheduled meeting. All applications for licensure by credentials based on uniform service practice will be taken to the board for review and final determination of eligibility for licensure at the next scheduled meeting.

A. Initial dental licenses are issued for a period not to exceed three years as defined in Section 16.5.11.8 NMAC.

B. Any application that cannot be approved by the delegate of the board will be reviewed by the entire board at the next scheduled meeting.

[8-15-95, 9-30-96, 8-16-99; 16.5.8.12 NMAC - Rn, 16 NMAC 5.8.12, 12-14-00]

HISTORY OF 16.5.8 NMAC:

Pre-NMAC History:

Material in this part was derived from that previously filed with the commission of public records - state records center and archives as:

BDE 69-1, Rules and Regulations of the New Mexico Board of Dental Examiners, filed 08-14-69;

BDE 70-1, Rules and Regulations of the New Mexico Board of Dental Examiners, filed 09-21-70;

BDE 73-1, Rules and Regulations of the New Mexico Board of The New Mexico Board of Dentistry, filed 02-12-73;

BODHC Rule DS 11-95, Dentists, Licensure by Credentials, filed 07-31-95.

History of Repealed Material:

Article XIV, Repeals BDE 73-1, Rules and Regulations of the New Mexico Board of Dentistry, filed 2-12-73.

Other History:

16 NMAC 5.8, Dentists, Licensure by Credentials, filed 07-31-95;

16 NMAC 5.8, Dentists, Licensure by Credentials, filed 09-17-96 - renumbered, reformatted and amended to 16.5.8 NMAC, Dentists, Licensure by Credentials, effective 12-14-00.

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING
CHAPTER 5 DENTISTRY (DENTISTS, DENTAL HYGIENISTS, ETC.)
PART 9 NON-DENTIST OWNERS

16.5.9.1 ISSUING AGENCY: New Mexico Board of Dental Health Care.
[16.5.9.1 NMAC - N, 03-06-05]

16.5.9.2 SCOPE: The provisions of 16.5.9 NMAC apply to all parts of Chapter 5 and provide relevant information to any person who wishes to own a practice and is not a dentist or collaborative practice dental hygienist licensed in New Mexico.
[16.5.9.2 NMAC - N, 03-06-05]

16.5.9.3 STATUTORY AUTHORITY: NMSA 1978 Section 61-5A-1 through Section 61-5A-30 (1996 Repl. Pamp.).
[16.5.9.3 NMAC - N, 03-06-05]

16.5.9.4 DURATION: Permanent.
[16.5.9.4 NMAC - N, 03-06-05]

16.5.9.5 EFFECTIVE DATE: March 6, 2005, unless a later date is cited at the end of a section.
[16.5.9.5 NMAC - N, 03-06-05]

16.5.9.6 OBJECTIVE: To set forth the provisions which apply to all of Chapter 5, and to all persons and entities affected or regulated by Chapter 5 of Title 16, and to all persons and entities affected or regulated by Chapter 5 of Title 16.
[16.5.9.6 NMAC - N, 03-06-05]

16.5.9.7 DEFINITIONS:

A. "Employee" means a licensee of the board employed or contracted with a non-dentist owner for the purpose of providing dental or dental hygiene services as defined by their respective scopes of practice; or enters into a managed care or other agreement to provide dental or dental hygiene services in New Mexico.

B. "Exempted entities" not included in non-dentist owner, under the following stipulations an entity may function as a non-dentist owner without a New Mexico license:

- (1) government agencies providing dental services within affiliated facilities;
- (2) government agencies engaged in providing public health measures to prevent dental disease;
- (3) spouses of a deceased licensed dentist or dental hygienists for a period of one year following the death of the licensee;
- (4) accredited school of dentistry, dental hygiene or dental assisting providing dental services solely in an education setting only;
- (5) dental hygienists licensed in New Mexico or corporate entities with a majority interest owned by a dental hygienist licensed in New Mexico;
- (6) federally qualified health centers, as designated by the United States department of health and human services, providing dental services;
- (7) nonprofit community-based entities and organizations that use public funds to provide dental and dental hygiene services for indigent person; and
- (8) hospitals licensed by the department of health.

C. "Non-dentist owner" means an individual not licensed as a dentist in New Mexico or a corporate entity not owned by a majority interest of a New Mexico licensed dentist that employs or contracts with a dentist or dental hygienist to provide dental or dental hygiene services.

[16.5.9.7 NMAC - N, 03-06-05; A, 01-09-12]

16.5.9.8 RESPONSIBILITY OF NON-DENTIST OWNER: To employ and contract for dental services, a non-dentist owner shall apply to the board for the proper license and adhere to the re-licensure criteria and fees as established by the rules of the board.

A. unless licensed as a dentist or non-dentist owner an individual or corporate entity shall not:
(1) employ or contract with a dentist or dental hygienist for the purpose of providing dental or dental hygiene services as defined by their respective scopes of practice; or

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

B. the non-dentist owner licensee shall follow the provisions of 16.5.16 NMAC; failure of the licensee or an employee of the licensee to follow these provisions will result in disciplinary actions as defined in 16.5.16 NMAC;

C. if an employee dentist or dental hygienist leaves the non-dentist owner practice, the non-dentist owner is responsible for the continued uninterrupted care of the patient by another licensed dentist or dental hygienist;

D. non-dentist owner shall notify the board in writing within 30 days of any changes in ownership;

E. non-dentist owner shall notify the board in writing within 30 days of any employment changes of board licensed employees;

F. non-dentist owner shall notify the board within 30 days of any disciplinary actions against the non-dentist owner(s);

G. non-dentist owner employees shall follow provision of 16.5.16 NMAC; failure of an employee of the licensee to follow these provisions will result in disciplinary actions as defined in 16.5.16 NMAC;

H. non-dentist owners licensed prior to the effective date of these rules shall be allowed to maintain their existing license(s);

I. the name and contact information of the non-dentist owner(s) shall be prominently displayed in a public area of the practice location(s) and on all advertisements of the practice;

J. the non-dentist owner(s) shall prominently display in a public area of the practice location(s) and on all advertisements the practice names of employee(s) licensed by the board;

K. no person other than a New Mexico licensed dentist shall have direct control or interfere with the dentist's or dental hygienist's clinical judgment and treatment, including, referrals or prescriptions of laboratory services;

L. non-dentist owners shall maintain patient records for a minimum of six years; and

M. a non-dentist owner licensee shall notify the board of any adverse action taken against such licensee by any licensing board, peer review body, malpractice insurance carrier, or any other entity as defined by the board; a non-dentist owner licensee shall also notify the board of its surrender of a license while under, or in lieu of, an investigation by any authority; such report shall be made in conformance with the provision of 16.5.3 NMAC.

N. the non-dentists owner shall be subject to the provisions of 16.5.58 NMAC.

[16.5.9.8 NMAC - N, 03/06/2005; A, 07/16/2007; A, 01/09/2012; A, 09/14/2012; A, 07/17/2013; A, 01/15/2015; A, 3/15/2017]

(Subsection H of 16.5.9.8 NMAC (effective 01/09/2012) was set aside by the New Mexico Court of Appeals' decision in *Pacific Dental Services, Inc. v. New Mexico Board of Dental Health Care (In re New Mexico Board of Dental Health Rule Hearing)*, case number 31,836 (June 1, 2012).

16.5.9.9 RESPONSIBILITY OF DENTISTS AND DENTAL HYGIENIST EMPLOYED BY A NON-DENTIST OWNER: Dentists and dental hygienists employed by a non-dentist owner shall report such employment in their initial and renewal applications, including the name, address and phone number of the non-dentist owner or corporation, and the name of their immediate manager or supervisor.

[16.5.9.9 NMAC - N, 03-06-05; A, 01-09-12]

16.5.9.10 DOCUMENTATION REQUIREMENTS: Each applicant for a non-dentist owner license shall submit a completed application obtained from the board office with the required fees and the following documentation:

A. completed application signed and notarized by the individual that is the non-dentist owner or by the president of the parent corporation; applications are valid for one year from the date of receipt;

B. the board requires a level II board designated professional background service report; the application for this service will be included application materials; the applicant will apply and pay fees directly to a board designated professional background service to initiate this service; if the applicant has or has had a professional license in dentistry or another related health care profession the board designated professional background service report will do a search of those appropriate databases for past disciplinary action as well as a criminal background check; in the case of any corporation entity, the board requires a review of public records and other nationally recognized data resources that record actions against a corporation in the United States that may reveal any activities or unacquitted civil or criminal charges that could reasonably be construed to constitute evidence of danger to patients, including acts of moral turpitude;

C. passed the jurisprudence examination with a score of at least seventy-five percent;

D. non-dentist owner(s) shall comply with Subsection C of this section within six months of the effective date of the rule;

E. verification of licensure in all states where the non-dentist owner holds or has held a license, or other health care profession; verification shall be sent directly to the office from the other state(s) board, shall include a raised seal, and shall attest to the status, issue date, expiration date, license number, and other information contained on the form; and

F. the board may deny, stipulate, or otherwise limit a license if it is determined the applicant is guilty of violating any of the provisions of the act, the Uniform Licensing Act, the Impaired Dentists and Hygienists Act, these rules, or if it is determined that the applicant poses a threat to the welfare of the public. [16.5.9.10 NMAC - N, 03-06-05; A, 07-16-07; A, 01-09-12]

16.5.9.11 LICENSURE PROCEDURE: Upon receipt of a completed application, including all required documentation and fees, the secretary-treasurer or the delegate of the board will review and may approve the application. The board shall formally accept the approval of the application at the next scheduled meeting.

A. Initial license: Non-dentist owner licenses are issued for a period not to exceed three years. The licensee shall apply for renewal on a triennial bases.

B. Posting: The license and subsequent renewal certificates shall be posted in each place of business. Duplicates may be requested from the board office with location of each business address where they will be posted for the public to view.

C. License: This license is non-transferable.

D. Renewal: After the initial license period, non-dentist owner licenses expire every three years on July 1. Licenses not renewed by July 1 are considered expired.

(1) A completed renewal application with appropriate fees shall be post-marked on or before July 1 of the renewal year.

(2) The board assumes no responsibility for renewal applications not received by the licensee for any reason. It is the licensee's responsibility to make timely request for the renewal form if one has not been received 30 days prior to license expiration.

E. Late renewals: Renewal applications post-marked after July 1 and prior to August 1 of the renewal year shall be accompanied by the completed renewal application, the triennial renewal fee, and the late fee.

(1) Renewal applications post-marked on or after August 1 but before September 1 of the renewal year, shall be accompanied by the completed application, the triennial renewal fee, a late fee, and a cumulative late fee of ten-dollars (\$10) per day from August 1 to the date of the postmark or hand-delivery to board office.

(2) If a renewal application is not received by the board office, or post-marked before September 1, the license shall be summarily revoked for non-payment of fees. Dental professionals in such offices or clinics shall cease and desist from further practice of dentistry or dental hygiene until non-dentist owner has renewed or re-applied.

[16.5.9.11 NMAC - N, 03-06-05; A, 01-09-12; A, 07-17-13]

16.5.9.12 PREREQUISITES FOR NON-DENTIST OWNER: Each applicant for licensure as a non-dentist owner shall possess the following:

A. shall be a United States citizen or United States legal resident;

B. shall be a resident of New Mexico or a corporation registered in New Mexico; and

C. non-dentist owner(s) or agent of corporation shall pass the New Mexico jurisprudence examination with seventy-five percent.

[16.5.9.12 NMAC - N, 01-09-12]

HISTORY OF 16.5.9 NMAC: [RESERVED]

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING
CHAPTER 5 DENTISTRY (DENTISTS, DENTAL HYGIENISTS, ETC.)
PART 10 DENTISTS, CONTINUING EDUCATION REQUIREMENTS

16.5.10.1 ISSUING AGENCY: New Mexico Board of Dental Health Care.
[16.5.10.1 NMAC - Rp, 16.5.10.1 NMAC, 12/14/2019]

16.5.10.2 SCOPE: The provisions of Part 10 of Chapter 5 apply to all licensed dentists who are applying to renew their license.
[16.5.10.2 NMAC - Rp, 16.5.10.2 NMAC, 12/14/2019]

16.5.10.3 STATUTORY AUTHORITY: Part 10 of Chapter 5 is promulgated pursuant to the Dental Health Care Act, Section 61-5A-10 NMSA 1978 (1996 Repl. Pamp.).
[16.5.10.3 NMAC - Rp , 16.5.10.3 NMAC, 12/14/2019]

16.5.10.4 DURATION: Permanent.
[16.5.10.4 NMAC - Rp , 16.5.10.4 NMAC, 12/14/2019]

16.5.10.5 EFFECTIVE DATE: December 14, 2019, unless a later date is cited at the end of a section.
[16.5.10.5 NMAC - Rp, 16.5.10.5 NMAC, 12/14/2019]

16.5.10.6 OBJECTIVE: To establish criteria for continuing education for dentists licensed in New Mexico.
[16.5.10.6 NMAC - Rp , 16.5.10.6 NMAC, 12/14/2019]

16.5.10.7 DEFINITIONS: [RESERVED]
[16.5.10.7 NMAC - Rp , 16.5.10.7 NMAC, 12/14/2019]

16.5.10.8 HOURS REQUIRED: 60 hours of continuing education, a maximum of 30 hours can be on-line, webinars or self-study, are required during each triennial renewal cycle as defined in 16.5.1 NMAC. Continuing education received after submission of renewal materials but prior to actual expiration date may be used for the requirements of the next renewal cycle. Continuing education requirements are pro-rated at 20 hours per full year of the initial licensing period. Initial licenses issued for less than a full year do not require continuing education for the first renewal.
[16.5.10.8 NMAC - Rp , 16.5.10.8 NMAC, 12/14/2019]

16.5.10.9 COURSES REQUIRED: Continuing education coursework must contribute directly to the practice of dentistry and must comply with the requirements of 16.5.1.15 NMAC of these rules. The following courses are required for license renewal.

A. Proof of current certification in basic life support (BLS) or cardiac pulmonary resuscitation (CPR) accepted by the American heart association, the American red cross, or the American safety and health institute (ASHI); cannot be self-study course.

B. Infection control. As further defined in 16.5.1.16 NMAC, a course in infection control techniques and sterilization procedures per renewal period.

C. Anesthesia/Sedation: Any dentist holding a minimal, moderate or deep sedation/general anesthesia permit is required to follow continuing education requirements as set forthin 16.5.15.20 NMAC.

D. Management of pain with controlled substances. Any dentists who holds a Federal drug enforcement administration registration to prescribe controlled substances shall successfully complete three continuing dental or medical education hours, as defined in Part 16.5.57 NMAC, in appropriate courses that shall include:

- (1) an understanding of the pharmacology and risks of controlled substances,
- (2) a basic awareness of the problems of abuse, addiction and diversion,
- (3) awareness of state and federal regulations for the prescription of controlled substances, and
- (4) management of the treatment of pain.

[16.5.10.9 NMAC - Rp, 16.5.10.9 NMAC, 12/14/2019]

16.5.10.10 VERIFICATION OF CONTINUING EDUCATION: The board will select renewal applications for verification of continuing education. Audit requests will be included with the renewal notice and those selected individuals will be asked to submit proof of compliance with the continuing education requirements. Continuing education records may be audited by the board at any time. The records identified Subsection F of 16.5.1.15 NMAC are considered acceptable forms of documentation. Continuing education records must be maintained for one year following the renewal cycle in which they are earned.
[16.5.10.10 NMAC - Rp, 16.5.10.10 NMAC, 12/14/2019]

16.5.10.11 EMERGENCY DEFERRAL:

A. Licensee unable to fulfill the continuing education requirements may apply to the board for an emergency deferral of the requirements due to extenuating circumstances as defined in 16.5.1.7 NMAC. Deferrals of up to four months may be granted by a designee of the board.

B. Licensee practicing or residing outside the United States shall not be required to fulfill the continuing education requirements for the period of the absence.

(1) The board must be notified prior to license expiration that the licensee will be outside the US, including the period of the absence.

(2) Upon return to the US, the licensee shall complete the continuing education required for the years of practice within the US during the renewal cycle, or apply for an emergency deferral.

[16.5.10.11 NMAC - Rp , 16.5.10.11 NMAC, 12/14/2019]

HISTORY OF 16.5.10 NMAC:

Pre-NMAC History: The material in this part was derived from that previously files with the commission of public records - state records center and archives as:

Article XIII, Disciplinary Proceedings, filed 3/12/1981.

Article XIII, Disciplinary Proceedings, filed 1/12/1982.

Article XIII, Disciplinary Proceedings, filed 3/30/1982.

That applicable portion of Article XIII, Disciplinary Proceedings replaced by BOD Rule 12, Continuing Education Requirements, filed 2/9/1989.

That applicable portion of BOD Rule 12, Continuing Education Requirements replaced by BODHC Rule DS 5-95, Dentists, Continuing Education Requirements, filed 5/5/1995.

History of Repealed Material:

16.5.10 NMAC - Dentists, Continuing Education Requirements filed 3/16/2006, Repealed 12/14/2019.

Other History:

BODHC Rule DS 5-95, Dentists, Continuing Education Requirements (filed 5/5/1995) was renumbered, reformatted, amended and replaced by 16 NMAC 5.10, Dentists, Continuing Education Requirements, effective 9/30/1996.

16 NMAC 5.10, Dentists, Continuing Education Requirements (filed 9/17/1996) renumbered, reformatted, amended and replaced by 16.5.10 NMAC, Dentists, Continuing Education Requirements, effective 4/17/2006.

16.5.10 NMAC - Dentists, Continuing Education Requirements filed 3/16/2006 was replaced by 16.5.10 NMAC - Dentists, Continuing Education Requirements effective 12/14/2019.

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING
CHAPTER 5 DENTISTRY (DENTISTS, DENTAL HYGIENISTS, ETC.)
PART 11 DENTISTS, LICENSE EXPIRATION AND RENEWAL

16.5.11.1 ISSUING AGENCY: New Mexico Board of Dental Health Care.
[9/30/96; 16.5.11.1 NMAC - Rn & A, 16 NMAC 5.11.1, 04/17/06]

16.5.11.2 SCOPE: The provisions of Part 11 of Chapter 5 apply to all dentists with a license to practice in New Mexico.
[9/30/96; 16.5.11.2 NMAC - Rn, 16 NMAC 5.11.2, 04/17/06]

16.5.11.3 STATUTORY AUTHORITY: Part 11 of Chapter 5 is promulgated pursuant to the Dental Health Care Act, Section 61-5A-16 NMSA 1978 (1996 Repl. Pamp.).
[9/30/96; 16.5.11.3 NMAC - Rn, 16 NMAC 5.11.3, 04/17/06]

16.5.11.4 DURATION: Permanent
[9/30/96; 16.5.11.4 NMAC - Rn, 16 NMAC 5.11.4, 04/17/06]

16.5.11.5 EFFECTIVE DATE: September 30, 1996, unless a different date is cited at the end of a section.
[9/30/96; 16.5.11.5 NMAC - Rn & A, 16 NMAC 5.11.5, 04/17/06]

16.5.11.6 OBJECTIVE: To establish procedures for license issuance, expiration and renewal.
[9/30/96; 16.5.11.6 NMAC - Rn, 16 NMAC 5.11.6, 04/17/06]

16.5.11.7 DEFINITIONS: [RESERVED]
[9/30/96; 16.5.11.7 NMAC - Rn, 16 NMAC 5.11.7, 04/17/06]

16.5.11.8 LICENSE EXPIRATION: Initial licenses expire on July 1, in the third year of licensure. No license will be issued for longer than 36 months or less than 25 months.
[11/6/83...9/30/96; 12/15/97, 8/16/99; 16.5.11.8 NMAC - Rn, 16 NMAC 5.11.8, 04/17/06]

16.5.11.9 RENEWAL PERIOD AND EXPIRATION: After the initial license period, dental licenses expire every three years on June 30. Dental licenses not renewed by July 1, are considered expired.
[9/13/69...9/30/96; 8/16/99; 16.5.11.9 NMAC - Rn & A, 16 NMAC 5.11.9, 04/17/06]

16.5.11.10 RENEWAL PROCESS: A completed renewal application, accompanied by the required fees as set forth in 16.5.5.8 NMAC, along with the required proof of completion of 60 hours of continuing education as set forth in 16.5.1.15 NMAC. The completed renewal application must be post-marked on or before July 1, of the renewal year.
[3/14/73...9/30/96; 8/16/99; 16.5.11.10 NMAC - Rn & A, 16 NMAC 5.11.10, 04/17/06]

16.5.11.11 LICENSEE RESPONSIBILITY: The board assumes no responsibility for renewal applications not received by the licensee for any reason. It is the licensees responsibility to make timely request for the renewal form if one has not been received thirty days prior to license expiration. Incomplete renewal applications shall be returned to the licensee for completion, and may result in the assessment of a late renewal fee as set forth in 16.5.5.8 NMAC.
[6/4/95; 16.5.11.11 NMAC - Rn & A, 16 NMAC 5.11.11, 04/17/06]

16.5.11.12 RENEWAL AFTER JUNE 30: Renewal applications post-marked after July 1, and prior to August 1, of the renewal year must be accompanied by the completed renewal application with the required proof of completion of 60 hours of continuing education as set forth in 16.5.10.8 NMAC, along with the triennial renewal fee, impairment fee and the late fee as set forth in 16.5.5.8 NMAC.
[3/14/73...9/30/96; 8/16/99; 16.5.11.12 NMAC - Rn & A, 16 NMAC 5.11.12, 04/17/06]

16.5.11.13 RENEWAL AFTER AUGUST 1 AND BEFORE SEPTEMBER 1: Renewal applications post-marked on or after August 1, but before September 1, of the renewal year, must be accompanied by the completed renewal application with the required proof of completion of 60 hours of continuing education as set

forth in 16.5.10.8 NMAC, along with the triennial renewal fee, impairment fee, late fee and the cumulative late fee as set forth in 16.5.5.8 NMAC.

[3/14/73...5/31/95; 16.5.11.13 NMAC - Rn & A, 16 NMAC 5.11.13, 04/17/06]

16.5.11.14 RENEWAL APPLICATION UNDELIVERABLE: If the notice of renewal is returned to the board office and the licensee has not sent a change of address, the revocation order will be considered undeliverable and will not be mailed.

[5/31/95, 8/16/99; 16.5.11.14 NMAC - Rn, 16 NMAC 5.11.14, 04/17/06]

HISTORY OF 16.5.11 NMAC:

Pre-NMAC History: The material in this part was derived from that previously filed with the State Records Center:

Article IV, Licensing of Dentist, filed 3/11/81.

Article IV, Licensing of Dentist, filed 1/12/82.

Article IV, Licensing of Dentist, filed 3/30/82.

BOD Rule 4, Licensing of Dentist, filed 2/9/89.

BODHC Rule DS 4-95, Dentistry, License Renewal, filed 5/5/95.

History of Repealed Material: [RESERVED]

Other History:

BODHC Rule DS 4-95, Dentistry, License Renewal (filed 5/5/95) was renumbered, reformatted, amended and replaced by 16 NMAC 5.11, Dentists, License Expiration and Renewal, effective 9/30/96.

16 NMAC 5.11, Dentists, License Expiration and Renewal (filed 9/17/96) renumbered, reformatted, amended and replaced by 16.5.11 NMAC, Dentists, License Expiration and Renewal, effective 04/17/06.

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING
CHAPTER 5 DENTISTRY (DENTISTS, DENTAL HYGIENISTS, ETC.)
PART 12 DENTISTS, RETIREMENT, INACTIVE AND REINSTATEMENT

16.5.12.1 ISSUING AGENCY: New Mexico Board of Dental Health Care.
[9-30-96; 16.5.12.1 NMAC - Rn & A, 16 NMAC 5.12.1, 12-14-00]

16.5.12.2 SCOPE: The provisions of 16.5.12 NMAC apply to all licensed dentists who plan to retire or reinstate an active license to practice dentistry in New Mexico.
[9-30-96; 16.5.12.2 NMAC - Rn, 16 NMAC 5.12.2, 12-14-00]

16.5.12.3 STATUTORY AUTHORITY: 16.5.12 NMAC is promulgated pursuant to the Dental Health Care Act, NMSA 1978, Section 61-5A-17 (1996 Repl. Pamp.).
[9-30-96; 16.5.12.3 NMAC - Rn, 16 NMAC 5.12.3, 12-14-00]

16.5.12.4 DURATION: Permanent.
[9-30-96; 16.5.12.4 NMAC - Rn, 16 NMAC 5.12.4, 12-14-00]

16.5.12.5 EFFECTIVE DATE: September 30, 1996, unless a later date is cited at the end of a section.
[9-30-96; 16.5.12.5 NMAC - Rn, 16 NMAC 5.12.5, 12-14-00; A, 04-17-06]

16.5.12.6 OBJECTIVE: To establish the requirements and procedures to place an active dental license in retirement status, inactive status or to reinstate the license to active status.
[9-30-96; 16.5.12.6 NMAC - Rn, 16 NMAC 5.12.6, 12-14-00, A, 03-06-05]

16.5.12.7 DEFINITIONS: [RESERVED]
[9-30-96; 16.5.12.7 NMAC - Rn, 16 NMAC 5.12.7, 12-14-00]

16.5.12.8 RETIREMENT: A license to practice dentistry may be placed in retirement status one time through the following procedures:

- A. the request for retirement status must be made in writing to the board office prior to the expiration of the current license; dentists with an active practice located in New Mexico must include the following information:
 - (1) the actual date of retirement;
 - (2) proof of written notification of approaching retirement to all patients currently under active treatment;
 - (3) the location where all active dental treatment records will be maintained for a minimum of six years; active treatment records are records of patients treated in the two years previous to the date of retirement; the notification to the board must include the name, address, and telephone number of the person who is serving as the custodian of the records;
- B. all dentists requesting retirement status may include a list of any continuing education courses taken since the last license renewal, including documentation required in 16.5.10 NMAC; and
- C. board staff shall acknowledge receipt of the request for retirement status and at the next meeting of the board the request for retirement will be placed on the agenda; upon board approval of retirement status the licensee will be exempt from payment of the triennial renewal fees during the period of retirement;
- D. the board may deny a request for retirement status if there are any current or pending complaints or disciplinary actions against the licensee;
- E. a licensee desiring to go from active to inactive must sign a waiver and stipulation provided by the board foregoing the three year retirement.

[3-14-73...5-31-95, 9-30-96; 16.5.12.8 NMAC - Rn, 16 NMAC 5.12.8, 12-14-00, A, 03-06-05; A, 01-09-12]

16.5.12.9 INACTIVE: A license to practice dentistry may be placed in inactive status one time through the following procedures.

- A. The request for inactive status must be made by an application obtained from the board office prior to the expiration of the current license or the three-year eligibility of retirement status. Dentists with an active practice located in New Mexico must include the following information:
 - (1) the actual date of inactivation request;
 - (2) proof of written notification of approaching inactive status to all patients currently under active treatment;

(3) the location where all active dental treatment records will be maintained for a minimum of six years; active treatment records are records of patients treated in the two years previous to the date of inactive status; the notification to the board must include the name, address, and telephone number of the person who is serving as the custodian of the records.

B. All dentists requesting inactive status shall include a list of any continuing education courses taken since the last license renewal, including documentation as set forth in 16.5.10 NMAC.

C. The board may deny a request for inactive status if there are any current or pending complaints or disciplinary actions against the licensee.

[3-14-73...5-31-95, 12-15-97; 16.5.12.9 NMAC - Rn & A, 16 NMAC 5.12.9, 12-14-00; N, 03-06-05; A, 04-17-06; A, 01-09-12]

16.5.12.10 REINSTATEMENT FROM RETIREMENT STATUS: A licensee whose license has been placed in retirement status may request reinstatement of the retired license within three years of the date of retirement as indicated in 16.5.12.8 NMAC. Upon receipt of the request for reinstatement, board staff shall send an application for reinstatement of license.

A. Along with the completed application, the request for reinstatement must include the reinstatement fee, the triennial renewal fee, impairment fee, and proof of the following continuing education courses:

(1) 20 hours of approved continuing education courses related to the clinical practice of dentistry, per year of retirement; at least 20 of these hours must be in the 12 months previous to the request;

(2) proof of current basic life support (BLS) or cardiac pulmonary resuscitation (CPR) certification accepted by the American heart association, the American red cross, or the American safety and health institute (ASHI); cannot be a self-study course;

(3) proof of infection control course within the past 12 months; and

(4) 60 hours of continuing education required for the last triennial renewal cycle of active licensure; these hours may include continuing education identified at the time of retirement request as well as any continuing education taken during the retirement period.

B. Applicant shall authorize the following agencies to send verification of status directly to the board office:

(1) drug enforcement administration (DEA), and

(2) American association of dental examiners clearinghouse.

C. The board will obtain electronic verification of applicant status from the national practitioners' data bank.

D. Verification of licensure in all states where the applicant holds or has held a license to practice dentistry, or other health care profession. Verification must be sent directly to the board office from the other state(s) board, must include a raised seal, and must attest to the status, issue date license number, expiration date and other information contained on the form.

E. The board at the next regularly scheduled meeting shall review the request for reinstatement, including a statement of the applicant's activities during the period of retirement and information on any existing impairment. If the board finds the application in order and is satisfied the applicant has fulfilled all required continuing education, the license will be removed from retirement status and the previous license number reassigned. The reinstated license will expire as defined in 16.5.11 NMAC.

F. A dentist with a license in retirement status may not practice dentistry in New Mexico until proof of active licensure is received from the board office.

G. If reinstatement of a retired license is not requested after three years of retirement, and if the licensee does not apply for inactive status, application for a new license must be made by examination or credentials in order to practice dentistry in New Mexico.

[16.5.12.10 NMAC - Rn, 16.5.12.9 NMAC & A, 03-06-05; A, 04-17-06; A, 07-16-07; A, 07-19-10; A, 01-09-12]

16.5.12.11 REINSTATEMENT FROM INACTIVE STATUS: A licensee whose license has been placed in inactive status may request reinstatement to active license status within nine years of the date of inactivation as indicated in 16.5.12.8 NMAC. Upon receipt of the request for reinstatement, board staff shall send an application for reinstatement of license.

A. Along with the completed application, the request for reinstatement must include the reinstatement fee, the triennial renewal fee, impairment fee and proof of the following continuing education courses:

(1) 20 hours of approved continuing education courses related to the clinical practice of dentistry, per year of inactivation; at least 20 of these hours must be in the 12 months previous to the request;

(2) proof of current basic life support (BLS) or cardiac pulmonary resuscitation (CPR) certification accepted by the American heart association, the American red cross, or the American safety and health institute (ASHI); cannot be a self-study course;

(3) proof of infection control course within the past 12 months;

(4) proof of medical emergency course during the past 12 months; and

(5) 60 hours of continuing education required for the last triennial renewal cycle of active licensure; these hours may include continuing education identified at the time of retirement request as well as any continuing education taken during the retirement period.

B. Applicant shall authorize the following agencies to send verification of status directly to the board office:

(1) drug enforcement administration (DEA); and

(2) American association of dental examiners clearinghouse.

C. The board will obtain electronic verification of applicant status from the national practitioners' data bank.

D. Verification of licensure in all states where the applicant holds or has held a license to practice dentistry, or other health care profession. Verification must be sent directly to the board office from the other state(s) board, must include a raised seal, and must attest to the status, issue date, expiration date, license number, and other information contained on the form.

E. The board at the next regularly scheduled meeting shall review the request for reinstatement, including a statement of the applicant's activities during the period of inactivation and information on any existing impairment. If the board finds the application in order and is satisfied the applicant has fulfilled all required continuing education, the license will be removed from inactive status and the previous license number reassigned. The reinstated license will expire as defined in 16.5.11 NMAC.

F. A dentist with a license in inactive status may not practice dentistry in New Mexico until proof of active licensure is received from the board office.

G. If reinstatement of an inactive license is not requested after nine years of inactivation, application for a new license must be made by examination or credentials in order to practice dentistry in New Mexico or six years if the licensee signs affidavit foregoing three years for retirement as defined in 16.5.12.8 NMAC.

[16.5.12.11 NMAC - N, 03-06-05; A, 04-17-06; A, 07-16-07; A, 07-19-10; A, 01-09-12]

History of 16.5.12 NMAC:

Pre-NMAC History:

Material in this part was derived from that previously filed with the commission of public records - state records center and archives as:

BDE 69-1, Rules and Regulations of the New Mexico Board of Dental Examiners, filed 08-14-69;

BDE 70-1, Rules and Regulations of the New Mexico Board of Dental Examiners, filed 09-21-70;

BDE 73-1, Rules and Regulations of the New Mexico Board of The New Mexico Board of Dentistry, filed 02-12-73;

Article V, Reinstatement of Dentists, filed 03-11-81;

Article VI, Retirement and Reinstatement of Dentists, filed 03-12-81;

BOD Rule 5, Retirement and Reinstatement of Dentists, filed 02-09-89;

BODHC Rule DS 7-95, Dentistry, Licensure by Credentials, filed 07-31-95.

History of Repealed Material:

Article XIV, Repeals BDE 73-1, Rules and Regulations of the New Mexico Board of Dentistry, filed 2-12-73.

Other History:

16 NMAC 5.12, Dentists, Licensure by Credentials, filed 07-31-95;

16 NMAC 5.8, Dentists, Licensure by Credentials, filed 09-17-96 - **renumbered, reformatted and amended to**

16.5.8 NMAC, Dentists, Licensure by Credentials, effective 12-14-00.

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING
CHAPTER 5 DENTISTRY (DENTISTS, DENTAL HYGIENISTS, ETC.)
PART 13 DENTISTS, LICENSE REVOCATION FOR NON-RENEWAL

16.5.13.1 ISSUING AGENCY: New Mexico Board of Dental Health Care.
[9/30/96; 16.5.13.1 NMAC - Rn & A, 16 NMAC 5.13.1, 04/17/06]

16.5.13.2 SCOPE: The provisions of Part 13 of Chapter 5 apply to all dentists licensed in New Mexico who do not submit an application for license renewal within 60 days of the expiration date.
[9/30/96; 16.5.13.2 NMAC - Rn, 16 NMAC 5.13.2, 04/17/06]

16.5.13.3 STATUTORY AUTHORITY: Part 13 of Chapter 5 is promulgated pursuant to the Dental Health Care Act, Section 61-5A-16 NMSA 1978 (1996 Repl. Pam.).
[9/30/96; 16.5.13.3 NMAC - Rn, 16 NMAC 5.13.3, 04/17/06]

16.5.13.4 DURATION: Permanent
[9/30/96; 16.5.13.4 NMAC - Rn, 16 NMAC 5.13.4, 04/17/06]

16.5.13.5 EFFECTIVE DATE: September 30, 1996, unless a later date is cited at the end of a section .
[9/30/96; 16.5.13.5 NMAC - Rn & A, 16 NMAC 5.13.5, 04/17/06]

16.5.13.6 OBJECTIVE: To establish the procedures and policies for dental licenses that are not renewed within 60 days of the date of expiration.
[9/30/96; 16.5.13.6 NMAC - Rn, 16 NMAC 5.13.6, 04/17/06]

16.5.13.7 DEFINITIONS: [RESERVED]
[9/30/96; 16.5.13.7 NMAC - Rn, 16 NMAC 5.13.7, 04/17/06]

16.5.13.8 REVOCATION OF LICENSE FOR NON-RENEWAL: Unless an application for license renewal is received by the board office, or post-marked, before September 1, the license shall be revoked for non-renewal.
[3/14/73, 5/31/95; 16.5.13.8 NMAC - Rn, 16 NMAC 5.13.8, 04/17/06; A, 07/17/08]

16.5.13.9 REINSTATEMENT OF REVOKED LICENSE: Within one year of the revocation notice, the license may be reinstated by payment of renewal and reinstatement fees, compliance with continuing education for the previous renewal cycle and for the year of the revocation. Applicants for reinstatement after one year of revocation shall re-apply as a new applicant and meet all requirements for initial licensure.

A. Applicants for reinstatement shall provide verification of licensure in all states where the applicant holds or has held a license to practice dentistry, or other health care profession within the previous year. Verification shall be sent directly to the board office from the other state(s) board, shall include a raised seal, and shall attest to the status, issue date, expiration date, license number, and other information contained on the form.

B. Upon receipt of a completed reinstatement of revoked license application, including all documentation and fees, the secretary-treasurer or delegate of the board, will review and may approve the application. The board may formally accept the approval of the application at the next scheduled meeting.
[3/14/73, 5/31/95; 16.5.13.9 NMAC - Rn, 16 NMAC 5.13.9, 04/17/06; A, 07/16/07; A, 01/09/12]

HISTORY OF 16.5.13 NMAC:

Pre-NMAC History: The material in this part was derived from that previously filed with the State Records Center:
Article IV, Licensing of Dentist, filed 3/11/81.
Article IV, Licensing of Dentist, filed 1/12/82.
Article IV, Licensing of Dentist, filed 3/30/82.
BOD Rule 4, Licensing of Dentist, filed 2/9/89.
BODHC Rule DS 4-95, Dentistry, License Renewal, filed 5/5/95.

History of Repealed Material: [RESERVED]

Other History:

BODHC Rule DS 4-95, Dentistry, License Renewal (filed 5/5/95) was renumbered, reformatted, amended and replaced by 16 NMAC 5.13, Dentists, License Revocation for Non-Renewal, effective 9/30/96.

16 NMAC 5.13, Dentists, License Revocation for Non-Renewal (filed 9/17/96) renumbered, reformatted, amended and replaced by 16.5.13 NMAC, Dentists, License Revocation for Non-Renewal, effective 04/17/06.

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING
CHAPTER 5 DENTISTRY (DENTISTS, DENTAL HYGIENISTS, ETC.)
PART 14 DENTISTS, ADJUNCTIVE DENTAL SERVICES

16.5.14.1 ISSUING AGENCY: New Mexico Board of Dental Health Care.
[16.5.14.1 NMAC - N, 7/17/2013]

16.5.14.2 SCOPE: The provisions of Part 14 of Chapter 5 apply to all dentists for the administration of adjunctive dental services.
[16.5.14.2 NMAC - N, 7/17/2013]

16.5.14.3 STATUTORY AUTHORITY: Part 14 of Chapter 5 is promulgated pursuant to the Dental Health Care Act, Section 61-5A-4, NMSA 1978, (Repl. Pamp. 1996).
[16.5.14.3 NMAC - N, 7/17/2013]

16.5.14.4 DURATION: Permanent.
[16.5.14.4 NMAC - N, 7/17/2013]

16.5.14.5 EFFECTIVE DATE: July 17, 2013, unless a later date is cited at the end of a section.
[16.5.14.5 NMAC - N, 7/17/2013]

16.5.14.6 OBJECTIVE: To establish guidelines for the administration of the defined adjunctive dental services in a dental office located in New Mexico.
[16.5.14.6 NMAC - N, 7/17/2013]

16.5.14.7 DEFINITIONS:

A. “Adjunctive dental services” means additional procedures, as recognized by the board, used for increasing efficiency, safety, outcome, or performance of dental treatment, including, but not limited to, cosmetic procedures or therapies.

B. “Botulinum toxin” means a neurotoxin that temporarily reduces muscle contraction.

C. “Dermal fillers” means a resorbable substance injected below the skin surface to reduce lines, wrinkles, or facial grooves, and for the purpose of this rule, are for the oral and maxillofacial regions of the body.

D. “Obstructive sleep apnea” means a spectrum of abnormal breathing during sleep that occurs when there is partial or complete collapse of the airway.

E. “Sleep-related breathing disorders” includes, for the purpose of this section, snoring, upper airway resistance syndrome, and obstructive sleep apnea. These disorders must be diagnosed by a physician.

F. “Upper airway resistance syndrome” is a partial collapse of the airway that is an intermediate form of abnormal breathing between snoring and obstructive sleep apnea.

[16.5.14.7 NMAC - N, 7/17/2013; A, 12/14/2019]

16.5.14.8 ADMINISTRATION OF BOTULINUM NEUROTOXIN (BOTOX) AND DERMAL

FILLERS: The board does not issue permits for the administration of botox or dermal fillers. The board does not regulate dental materials of any type; however, due to the rising utilization of these materials by dentists, the board sets forth the following requirements.

A. Before administering botulinum neurotoxin or dermal fillers, in connection with the practice of dentistry as defined in Section 61-5A-4, NMSA 1978, a dentist must receive satisfactory training at a dental institution accredited by the commission on dental accreditation (CODA) or successfully completed a board approved continuing education course of instruction that includes a minimum of the following:

- (1) patient assessment and consultation for botulinum neurotoxin and dermal fillers;
- (2) indications and contraindications for these techniques;
- (3) safety and risk issues for botulinum neurotoxin/dermal fillers injectable therapy;
- (4) proper preparation and delivery techniques for desired outcomes;
- (5) enhancing and finishing esthetic dentistry cases with dermal fillers;
- (6) botulinum neurotoxin treatment of temporomandibular dysfunction;
- (7) knowledge of adverse reactions and management and treatment of possible complications;

- (8) patient evaluation of best esthetic and therapeutic outcomes;

(9) integrating botulinum neurotoxin and dermal filler therapy into dental therapeutic and esthetic treatment plans; and

(10) 16 hours total, including eight hours minimum live patient hands-on training including diagnosis, treatment planning and proper dosing and delivery of botox and dermal fillers;

B. Botulinum neurotoxin and dermal fillers shall only be administered in dental offices using universal precautions as required by the federal centers for disease control.

C. All dental auxiliaries are prohibited from administering either botulinum neurotoxin or dermal fillers.

D. Continuing education courses shall be approved by the academy of general dentistry (AGD) program approval for continuing education (PACE), American dental association (ADA) continuing education recognition program (CERP) or other dental or medical entities accepted by the board.

[16.5.14.17 NMAC - N, 7/17/2013]

16.5.14.9 GUIDELINES FOR DENTISTS TREATING SLEEP-RELATED BREATHING DISORDERS:

A. Dentists treating patients that have been diagnosed by a physician with sleep-related breathing disorders, including, but not limited to, primary snoring, upper airway resistance syndrome or obstructive sleep apnea are to follow these guidelines published by the American dental association, the American academy of dental sleep medicine and American academy of sleep medicine.

(1) “the role of dentistry in the treatment of sleep-related breathing disorders” (American dental association).

(2) “dental sleep medicine standards for screening, treating and managing adults with sleep-related breathing disorders” (American academy of dental sleep medicine).

(3) “clinical practice guideline for the treatment of obstructive sleep apnea and snoring with oral appliance therapy: an update for 2015” (Joint statement, American academy of sleep medicine and American academy of dental sleep medicine).

B. Dentists cannot diagnose sleep related breathing disorders, but are a vital partner in treating these conditions in collaboration with medical colleagues.

[16.5.14.9 NMAC - N, 12/14/2019]

HISTORY OF 16.5.14 NMAC: [RESERVED]

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING
CHAPTER 5 DENTISTRY (DENTISTS, DENTAL HYGIENISTS, ETC.)
PART 15 DENTISTS, ANESTHESIA/SEDATION ADMINISTRATION

16.5.15.1 ISSUING AGENCY: New Mexico Board of Dental Health Care.
[16.5.15.1 NMAC - Rp, 16.5.15.1 NMAC, 3/18/2018]

16.5.15.2 SCOPE: The provisions of Part 15 of Chapter 5 apply to all dentists who hold or who are applying for certification to administer anesthesia or analgesia.
[16.5.15.2 NMAC - Rp, 16.5.15.2 NMAC, 3/18/2018]

16.5.15.3 STATUTORY AUTHORITY: Part 15 of Chapter 5 is promulgated pursuant to the Dental Health Care Act, 61.5A-22 NMSA 1978 (1996 Repl. Pamp.).
[16.5.15.3 NMAC - Rp, 16.5.15.3 NMAC, 3/18/2018]

16.5.15.4 DURATION: Permanent.
[16.5.15.4 NMAC - Rp, 16.5.15.4 NMAC, 3/18/2018]

16.5.15.5 EFFECTIVE DATE: March 18, 2018, unless a later date is cited at the end of a section.
[16.5.15.5 NMAC - Rp, 16.5.15.5 NMAC, 3/18/2018]

16.5.15.6 OBJECTIVE:

A. To establish guidelines and procedures for the regulation of dentists who administer nitrous oxide inhalation analgesia, anxiolysis, minimal sedation, moderate sedation (formerly conscious sedation I and II), and deep sedation, or general anesthesia in an office located in New Mexico. Unless otherwise defined in this Part 15, the board will reference the most current versions of the American dental association “guidelines for the use of sedation and general anesthesia by dentists” and “guidelines for teaching pain control and sedation to dentists and dental students”.

B. These guidelines are not meant to regulate the existing precedent where New Mexico licensed dentists may have hospital privileges to provide anesthesia/sedation to dental patients in the operating room or emergency room based on their training, education and policy of the hospital.
[16.5.15.6 NMAC - Rp, 16.5.15.6 NMAC, 3/18/2018]

16.5.15.7 DEFINITIONS:

A. “**Anxiolysis**” the diminution or elimination or reduction of anxiety without a concomitant reduction of the patient’s awareness or ability to react to stimuli. For the purposes of these rules, only a single dose of a single drug within the normal therapeutic dose is allowed.

B. “**American society of anesthesiologists (ASA) classification**” is the physical status classification system as defined by the American society of anesthesiologists.

C. “**Combination inhalation-enteral sedation (combined conscious sedation)**” - conscious sedation using inhalation and enteral agents. Nitrous oxide/oxygen when used in combination with sedative agents may produce anxiolysis, conscious or deep sedation or general anesthesia.

D. “**CODA**” means the commission on dental accreditation.

E. “**Conscious sedation**” means a minimally depressed level of consciousness that retains the patients’ ability to independently and continuously maintain an airway and respond appropriately to physical stimulation and verbal command. Conscious sedation is produced by a pharmacologic or non-pharmacologic method or combination thereof. In accord with this particular definition, the drugs and techniques used should carry a margin of safety wide enough to render unintended loss of consciousness unlikely. Further, patients whose only response is reflex withdrawal from repeated painful stimuli would be considered to be in a deeper state of anesthesia than conscious sedation. For the purposes of this chapter, conscious sedation is further defined as minimal and moderate sedation.

F. “**Deep sedation**” means an induced state of depressed consciousness accompanied by partial loss of protective reflexes, including the inability to continually maintain an airway independently and to respond purposefully to verbal command. Deep sedation is produced by a pharmacologic or non-pharmacologic method or combination thereof.

G. “**Enteral**” means any technique of administration in which the agent is absorbed through the gastrointestinal tract or oral mucosa (ie oral, rectal, sublingual).

H. “**End tidal carbon dioxide (ETCO2) capnography**” means monitoring of the concentration or partial pressure of end tidal carbon dioxide in respiratory gases.

I. “General anesthesia” means an induced state of unconsciousness, accompanied by partial or complete loss of protective reflexes, including the inability to continually maintain an airway independently and respond purposefully to physical stimulation or verbal command. General anesthesia is produced by a pharmacologic or non-pharmacologic method or combination thereof.

J. “Minimal sedation” means a minimally depressed level of consciousness, produced by a pharmacological method that retains the patient’s ability to independently and continuously maintain an airway and respond normally to tactile and verbal commands. Although cognitive function and coordination may be modestly impaired, ventilation and cardiovascular functions are unaffected. If more than one enteral drug is administered to achieve the desired effect, with or without concurrent use of nitrous oxide inhalation, the guidelines for moderate sedation must apply. The administration of an enteral drug exceeding the maximum recommended single dose during a single appointment is considered to be moderate sedation. Concomitant use of nitrous oxide with any sedative agent may produce minimal, moderate or deep sedation or general anesthesia.

K. “Moderate sedation” means a drug induced depression of consciousness during which patients respond purposefully to verbal commands, either alone or accompanied by light tactile stimulation. No interventions are required to maintain patent airway, and spontaneous ventilation is adequate, cardiovascular function is usually maintained. In accord with this particular definition, the drugs and techniques used should carry a margin of safety wide enough to render unintended loss of consciousness unlikely. A patient whose response is reflex withdrawal from painful stimuli is considered to be in a deeper state than that moderate sedation.

L. “Monitor” means to constantly watch or check on the condition of the patient.

M. “Nitrous oxide inhalation analgesia” means the administration by inhalation of a combination of nitrous oxide and oxygen, producing an altered level of consciousness that retains the patient's ability to independently and continuously maintain an airway and respond appropriately to physical stimulation or verbal command.

N. “Parenteral” means any technique of administration in which the drug is injected through the dermis or into blood vessel (i.e.,; intramuscular, subcutaneous, or intravenous injections).

O. “Prescribed administration” means the nitrous oxide is administered by a dental hygienist or dental assistant under the indirect supervision of the dentist with the dentist's authorization.

P. “Titration” means the incremental dosing of an intravenous or inhalation drug until the desired effect is reached. One must know if the previous dose of the drug has taken full effect before administering additional increments.

[16.5.15.7 NMAC - Rp, 16.5.15.7 NMAC, 3/18/2018]

16.5.15.8 REQUIREMENT TO BE REGISTERED OR CERTIFIED: Dentists who administer nitrous oxide inhalation analgesia in New Mexico are required to be registered with the board. Dentists who administer minimal sedation, moderate sedation, deep sedation, or general anesthesia in New Mexico are required to obtain an anesthesia permit from the board. Any dentist who fails to comply with these rules may be subject to disciplinary action by the board. Anesthesia permits valid on the effective date of this rule continue to be valid until the expiration date indicated on the permit.

A. Permit requirements: (In order of increasing complexity higher level permit includes all lower level permits within the scope of that permit).

(1) Anxiolysis only: No permit necessary (single drug/single dose, within the normal therapeutic dose for anxiolysis).

(2) Nitrous oxide alone: Permit required, no practitioner or facility exam required.

(3) Minimal sedation: Permit required, no exam of practitioner or facility, affidavit of compliance required (single enteral drug, with or without nitrous oxide, below the maximum recommended dose).

(4) Moderate sedation: Permit required, affidavit of compliance, oral, written, and facility exam required at the discretion of the board or its anesthesia committee (single enteral drugs above the maximum recommended dose, multiple enteral drugs, enteral drug plus nitrous oxide, any parenteral drugs).

(5) Deep sedation/general anesthesia: Permit required, affidavit of compliance, practitioner and facility exam required at the discretion of the board or its anesthesia committee.

B. Facility limitations: If the dentist of a facility approved for a sedation permit utilizes a certified registered nurse anesthetist (CRNA) to provide the sedation, the CRNA may only administer sedation up to the permit level of the operating dentist and the facility.

[16.5.15.8 NMAC - Rp, 16.5.15.8 NMAC, 3/18/2018]

16.5.15.9 ANESTHESIA COMMITTEE:

A. Appointment: All members of the anesthesia committee serve at the pleasure of the board. The board chair will appoint members to serve on the anesthesia committee for five year terms beginning on July 1.

Individuals for consideration may be nominated by the New Mexico dental association, any local dental society, or the anesthesia committee.

B. Terms: Each member shall be appointed to serve a term of five years, however, the appointments shall be staggered so that no more than forty percent of the members will expire in any given year.

C. Committee composition: The anesthesia committee shall consist of licensed dentists, including at least one board certified oral and maxillofacial surgeon, one general dentist, one dentist board member, one dentist not engaged in the use of sedation techniques, and when possible, representatives of other interested dental specialties. Each anesthesia committee member should be currently practicing some form of sedation and be currently qualified as an examiner, except the non-sedating dentist.

D. Duties: Establish policies and procedures for the evaluation of applications, inspections of facilities, and examination of applicants; make recommendations to the board in regard to each application; report to the board, as needed, at regularly scheduled board meetings the status of activities of the anesthesia committee; inform the board of any licensee who fails to cooperate with the requirements for application, registration or renewal of permits; inspect facilities upon request of the board; and upon request, assist the board in the investigation of complaints concerning the administration of anesthesia or analgesia.

E. Designated examiners: The anesthesia committee chair may appoint a designated examiner with an anesthesia permit of an equal or greater level to perform evaluations on licensed dental applicants to serve at the pleasure of the New Mexico board of dental health care (NMBODHC) chair. This designated examiner must be actively practicing his anesthesia level to be considered by the board.

[16.5.15.9 NMAC - Rp, 16.5.15.9 NMAC, 3/18/2018]

16.5.15.10 PEDIATRIC GUIDELINES: Unless otherwise described in this section, all anesthesia for patients 12 years and under shall follow the American academy of pediatric dentistry's "guideline for monitoring and management of pediatric patients during and after sedation for diagnostic and therapeutic procedures".

[16.5.15.10 NMAC - Rp, 16.5.15.10 NMAC, 3/18/2018]

16.5.15.11 ADMINISTRATION OF ENTERAL ANXIOLYSIS:

A. Registration: No permit required. Enteral anxiolysis consist of the administration of a single dose enteral drug, not in combination with nitrous oxide or another drug, that does not exceed the normal therapeutic single dose of the drug recommended by the manufacturer in published literature. Anxiolytic drugs should be within the scope of practice and prescriptive authority of the practitioner. Anxiolytic drugs are for the sole purpose of diminution of anxiety related to dental treatment.

B. Education/training: it is assumed that all dentists who have successfully completed a course of study at an accredited dental school have the education for this level of anxiolysis.

(1) The dentist must have an active current dental license, current drug enforcement administration (DEA) registration and current New Mexico controlled substances registration and be registered with the New Mexico board of pharmacy.

(2) Each dentist who administers or auxiliary who monitors enteral anxiolysis shall have current basic life support certification.

C. Facility/records: The dentist must have appropriate equipment to monitor vital signs and appropriate emergency equipment and drugs for the anxiolytic agent used.

(1) Records should reflect the dose and drug administered.

(2) Records should reflect how the patient was released from the office and if accompanied by a driver.

(3) All administration of anxiolytic drugs shall be under the indirect supervision or prescription of a dentist.

[16.5.15.11 NMAC - Rp, 16.5.15.11 NMAC, 3/18/2018]

16.5.15.12 ADMINISTRATION OF NITROUS OXIDE INHALATION ANALGESIA:

A. Registration: Permit required, each licensed dentist who administers or supervises the prescribed administration of nitrous oxide inhalation analgesia shall be registered with the board. A registration form will be provided upon request. When the registration has been approved by the secretary-treasurer of the board the applicant will be sent a wall certificate which does not expire. Administration of nitrous oxide inhalation analgesia without registration is a violation of these rules and may result in disciplinary action against the licensee.

B. Education/qualifications: Each licensed dentist who administers or prescribes administration of nitrous oxide inhalation analgesia shall meet the following requirements:

(1) completed a course of training leading to competency while a student in an accredited school of dentistry or through postgraduate training that includes a minimum of 14 hours of course time and management of clinical cases.

(2) each dentist and auxiliary personnel who monitors the use of, or administers nitrous oxide shall have current basic life support certification.

(3) current permit holder's education would be grandfathered by the New Mexico laws in effect at the time of original issue of their permit. However, safety standards must be updated to current state and ADA guidelines.

C. Facility/records: The dental facility shall have adequate equipment which includes fail-safe features and a twenty five percent minimum oxygen flow and an effective scavenging system.

(1) all use of nitrous oxide inhalation analgesia shall be under the indirect supervision of a licensed dentist holding a nitrous oxide permit.

(2) the patient's records shall reflect evidence of appropriate monitoring by qualified dental personnel of vital signs, including blood pressure, pulse, and respiratory rate. Dose (percent) of nitrous oxide time of administration and time of release of patient should be recorded.

[16.5.15.12 NMAC - N, 3/18/2018]

16.5.15.13 ADMINISTRATION OF MINIMAL SEDATION:

A. Minimal sedation is the use of a single enteral drug in a single or divided doses to achieve the desired effect as described in the definitions. The total dose of the single enteral drug shall not exceed the maximum recommended dose for the drug as recommended by the manufacturer and as published in scientific literature. Doses above this maximum recommended dose are considered moderate sedation, and moderate sedation guidelines will apply. A single drug combined with nitrous oxide may produce minimal, moderate, deep sedation or general anesthesia. It is the responsibility of the dentist to titrate the level of nitrous oxide to achieve only minimal sedation. If more than one enteral drug is administered to achieve the desired anxiolytic/sedation effect, with or without the concomitant use of nitrous oxide, the guidelines for moderate sedation will apply.

B. Registration: Permit required, each licensed dentist who administers or supervises the prescribed administration of drugs to achieve minimal sedation shall be registered with the board. An application form will be provided by the board office upon request. Applicant shall follow the permit application procedure as defined in Section 16.5.15.19 NMAC. Administration of minimal sedation without registration is a violation of these rules and may result in disciplinary action against the licensee.

C. Education/qualifications: The dentist must have completed a course of training while a student in an accredited school of dentistry or through board approved post graduate training. To administer minimal sedation the dentist must satisfy the following criteria:

(1) training to a level of competency in a minimal sedation consistent with that described in the most current versions of the American dental association "guidelines for the use of sedation and general anesthesia by dentists", and "guidelines for teaching pain control and sedation to dentists and dental students".

(2) courses must include 16 hours of course time plus clinically oriented experiences during which competency in enteral and combined nitrous oxide-enteral minimal sedation is demonstrated.

(a) if the training received was pre-doctoral, while in dental school, the applicant should submit proof of course content completed as included in a course description from the dental education program.

(b) if the course of study was postgraduate training, proper course completion forms must be submitted.

(3) Each dentist administering and auxiliary monitoring, minimal sedation shall have current basic life support certification.

D. Facility/records: The facility in which minimal sedation is administered must comply with the following:

(1) have adequate equipment to monitor patient's vital signs;

(2) the patient's record shall reflect evidence of appropriate monitoring of vital signs, including blood pressure, pulse, pulse oximetry, and respiratory rate during procedures and effect of medication;

(3) all use of enteral medication shall be under the indirect supervision of a licensed dentist;

(4) shall verify the patient has other means of transportation to be released from the office;

(5) administration of enteral anxiolytic medications in doses that do not exceed the normal therapeutic dosage recommended by the manufacturer in published literature and that are within the accepted scope of practice and prescriptive authority of the dentist so as not to produce conscious sedation; does not require the dentist to hold a minimal sedation permit;

(6) a log of drugs used, dosage or amount of drug used and date of administration must be maintained separate from the patient's record;

(7) ASA classification of the patient and informed consent is required.

[16.5.15.13 NMAC - N, 3/18/2018]

16.5.15.14 ADMINISTRATION OF MODERATE SEDATION (Formerly conscious sedation I and II):

A. Moderate sedation may be achieved by several methods: The end point of sedation, as in the definition, is the important factor. Drugs used here should have a wide safety margin so as to not allow patients to easily slide to deep sedation or general anesthesia. The dentist should also be aware that titrating an enteral dose of medication is difficult due to onset of action and multiple variables.

(1) moderate enteral sedation (previously conscious sedation I) is achieved by the use of: single enteral drugs in doses as needed up to and above the maximum recommended single dose, or two or more enteral drugs used in combination, or single or multiple enteral drugs combined with nitrous oxide;

(2) moderate parenteral sedation (previously conscious sedation II) is achieved by the use of single or multiple parenteral drugs, with or without nitrous oxide.

B. Registration: Permit required, each licensed dentist who administers or supervises the prescribed administration of drugs to achieve moderate sedation shall be registered with the board. Moderate sedation permits are issued for a specific practice location (facility). An application form will be provided by the board office upon request. Applicant shall follow the permit application procedure as defined in Section 16.5.15.19 NMAC. Administration of moderate sedation without registration is a violation of these rules and may result in disciplinary action against the licensee.

C. Education/qualifications: To administer moderate sedation by any means the dentist must satisfy one of the following criteria:

(1) training to a level of competency in moderate sedation consistent with that described in the most current versions of the American dental association “guidelines for the use of sedation and general anesthesia by dentists”, and “guidelines for teaching pain control and sedation to dentists and dental students”. The above involves completion of 60 hours of didactic instruction and administration of moderate sedation for at least 20 individually managed patients in a pre-doctoral program at a CODA accredited school, verifiable by the board, or in a post-doctoral continuing education program acceptable to the board and its anesthesia committee; or

(2) completion of CODA accredited post-doctoral training program, which affords comprehensive and appropriate training necessary to administer and manage moderate sedation as described in the most current versions of the American dental association “guidelines for the use of sedation and general anesthesia by dentists”, and “guidelines for teaching pain control and sedation to dentists and dental students”.

D. To administer moderate enteral sedation, the dentist must have current certification in basic life support. Moderate enteral sedation does not require ETCO₂ capnography monitoring.

E. To administer moderate parenteral sedation, the dentist must have current certification in advanced cardiac life support. Moderate parenteral sedation does require ETCO₂ capnography or precordial stethoscope monitoring.

F. Auxiliary clinical personnel must have current certification in basic life support.

G. The dentist must sign an affidavit of compliance. An oral and written examination administered by the anesthesia committee or designee will be required if the anesthesia committee or board determines an application is incomplete or is lacking information to make a final recommendation for approval. This may require travel on the applicant’s part to meet with an examiner. The applicant’s facility may also be subject to inspection and approval by the anesthesia committee or its designated examiner.

H. Current permit holder’s sedation education would be grandfathered in by board rules in effect at the time of original issue of their permit. However, safety standards must be updated to the current board and American dental association (ADA) guidelines.

I. Facility/records:

(1) the dentist must maintain a properly equipped facility for the administration of moderate sedation, staffed with supervised auxiliary personnel capable of handling procedures, problems and emergencies that may arise;

(2) the facility along with the dentist providing the sedation will be evaluated. The moderate sedation permit is valid only at the facility approved by the permit;

(3) the patients shall be monitored and records shall reflect that the pre-operative patient evaluation, including American society of anesthesiologists (ASA) classification, pre-operative preparation, electrocardiogram (ECG) (for parenteral sedation), pulse oximetry, and blood pressure. ETCO₂ capnography or precordial stethoscope monitoring is only required for moderate parenteral sedation. Recovery and discharge also needs to be performed and documented in accordance with the current “ADA guidelines for the use of sedation and general anesthesia by dentists”;

(4) a facility permitted for moderate sedation does not allow for the use of deep sedation or general anesthesia in that facility regardless of the licensee providing anesthesia;

(5) a log of drugs used, dosage or amount of drugs used and date of administration must be maintained separate from the patient’s record;

(6) informed consent is required.

J. Restrictions: A dentist with a moderate sedation (formerly conscious sedation II) permit shall not administer or employ any agent(s) which has a narrow margin for maintaining consciousness, or is federally classified as a general anesthetic including, but not limited to:

(1) ultra-short acting barbiturates including, but not limited to, sodium methohexital, thiopental, and thiamylal;

(2) alkylphenols-propofol (diprivan) including precursors or derivatives;

(3) neuroleptic agents;

(4) dissociative agents - i.e. ketamine;

(5) etomidate, and similarly acting drugs;

(6) volatile inhalational agents; or

(7) any quantity of agent(s) or technique(s), or any combination thereof, that renders a patient deeply sedated or generally anesthetized.

K. The drugs/techniques enumerated in Subsection J of Section 16.5.15.14 NMAC are presumed to produce general anesthesia and may only be used by a licensee holding a valid deep sedation/general anesthesia permit issued by the board, or by a corresponding licensing board if the licensee is not a dentist (eg., MD, CRNA). [16.5.15.14 NMAC - N, 3/18/2018]

16.5.15.15 ADMINISTRATION OF DEEP SEDATION/GENERAL ANESTHESIA:

A. Registration: Permit required, each licensed dentist who administers or supervises the prescribed administration of drugs to achieve deep sedation or general anesthesia (DS/GA) shall be registered with the board. DS/GA permits are issued for a specific practice location (facility). An application form and affidavit of compliance will be provided by the board office upon request. Applicant shall follow the permit application procedure as defined in Section 16.5.15.19 NMAC. Administration of DS/GA without registration is a violation of these rules and may result in disciplinary action against the licensee. The dentist must sign an affidavit of compliance. An oral and written examination administered by the anesthesia committee or designee will be required if the anesthesia committee or board determines an application is incomplete or is lacking information to make a final recommendation for approval. This may require travel by the applicant to meet with an examiner. The applicant's facility is also subject to inspection and approval by the anesthesia committee or its designated examiner.

B. Education/qualifications:

(1) completion of an advanced training program in anesthesia and related subjects beyond the undergraduate dental curriculum that satisfies the requirements described in the most current version of the American dental association "guidelines for the use of sedation and general anesthesia by dentists";

(2) completion of a CODA accredited post-doctoral training program (e.g. oral and maxillofacial surgery, dental anesthesiology), which affords comprehensive and appropriate training necessary to administer and manage deep sedation/general anesthesia, commensurate with these rules;

C. Current permit holders' sedation education would be grandfathered by the New Mexico laws in effect at the time of original issue of their permit. However, safety standards must be updated to current board and ADA guidelines.

D. Facility/records:

(1) the dentist maintains a properly equipped facility for the administration of deep sedation or general anesthesia in accordance with the most current version of the American dental association "guidelines for the use of sedation and general anesthesia by dentists";

(2) the office is staffed with supervised clinical auxiliary personnel capable of handling procedures, problems and emergencies incident thereto;

(3) the dentist must have current advanced cardiac life support certification (ACLS) and auxiliary clinical personnel have current basic life support certification;

(4) the patient's record shall reflect that the pre-operative patient evaluation, pre-operative preparation, ASA classification, ECG, pulse oximetry, blood pressure and ETCO₂ capnography monitoring recovery, discharge and documentation was performed in accordance with the most current version of the American dental association "guidelines for the use of sedation and general anesthesia by dentists";

(5) the dentist passes the examination and receives approval after facility inspection, or affidavit acceptance, by the anesthesia committee or designated examiner;

(6) a log of drugs used, dosage or amount of drugs and date of administration must be maintained separate from the patient's record;

(7) informed consent is required;

(8) a dentist administering deep sedation/general anesthesia must document current, successful completion of an advanced cardiac life support (ACLS) course, or an equivalent as approved by the anesthesia committee;

E. Anesthesia permit at large: This permit allows the holder to provide sedation and anesthesia services to patients in dental offices on an out-patient basis. The holder of the “anesthesia permit at large” assumes all responsibility for the administration of the sedation or general anesthesia in the dental office.

(1) to hold an “anesthesia permit at large” a dentist must meet the requirements in Section 16.5.15.15 NMAC deep sedation/general anesthesia, and is only available for dentist anesthesiologists and oral and maxillofacial surgeons;

(2) the holder of a “permit at large” may be evaluated and inspected by the anesthesia committee as deemed necessary to assure safety to the public;

(3) the holder of such a permit agrees to have available at all times all monitors, emergency equipment, and other necessary drugs and materials when administering conscious sedation, deep sedation, and general anesthesia;

(4) the permit holder will inform the board of all dental facilities where anesthesia services are to be provided and follow all other procedures as outlined in Section 16.5.15.15 NMAC, deep sedation/general anesthesia.

[16.5.15.15 NMAC - Rp, 16.5.15.12 NMAC, 3/18/2018]

16.5.15.16 SEDATION/ANESTHESIA PROVIDED BY OUTSIDE PERSONNEL:

A. Provided by dentists (DDS or DMD) or physicians (MD or DO):

(1) administration of sedation by another duly qualified dentist or physician requires the operating dentist to have completed a course in advanced cardiac life support (no certification necessary) and to have current certification in basic life support;

(2) the operating dentist must ensure that the dentist/physician DS/GA permit holder/provider is responsible for the anesthetic management, adequacy of the facility, and the treatment of emergencies associated with the administration of parenteral sedation, including immediate access to pharmacologic antagonists, if any, and appropriately sized equipment for establishing a patent airway and providing positive pressure ventilation with oxygen. For DS/GA, advanced airway equipment, resuscitation medications and a defibrillator must also be immediately available. Appropriate pharmacologic agents must be immediately available if known triggering agents of malignant hyperthermia are part of the anesthesia plan;

(3) a dental facility utilizing a dentist or physician for deep sedation/general anesthesia, needs to be registered with the board and must submit verifying forms of the residency-trained dentist/physician’s general anesthesia training, hospital credentials, and current license and anesthesia permits to practice in the state of New Mexico.

B. Provided by certified registered nurse anesthetists (CRNA):

(1) administration by a qualified certified nurse anesthetist (CRNA) requires the operating dentist to have oversight of the CRNA to perform sedation. If the dentist of a facility approved for sedation utilizes a CRNA to provide the sedation, the CRNA may only administer sedation up to the permit level of the facility and the dentist.

(2) the operating dentist shall ensure that the CRNA is duly licensed in New Mexico to provide anesthesia and be a member in good standing of the staff of an accredited New Mexico hospital in the community in which the anesthesia occurs. The operating dentist shall be responsible for notifying the anesthesia committee of the New Mexico board of dental health care of all the anesthetists used.

(3) the operating dentist, working with a CRNA, is responsible for the adequacy of the facility, and aiding in the treatment of emergencies associated with the administration of parenteral sedation, including immediate access to pharmacologic antagonists, if any, and appropriately sized equipment for establishing a patent airway and providing positive pressure ventilation with oxygen. The CRNA is responsible for the sedation administration.

[16.5.15.16 NMAC - Rp, 16.5.15.13 NMAC, 3/18/2018]

16.5.15.17 REPORTING ADVERSE INCIDENTS:

A. Each licensed dentist must submit a written report to the board within thirty days after any significant morbidity or mortality or other incident which results in temporary or permanent physical or mental injury of a patient during, or as a result of, nitrous oxide inhalation analgesia, conscious sedation administered via oral, rectal, or parenteral routes, deep sedation, or general anesthesia.

B. The report is required regardless of the need for hospitalization after the incident and shall include the following:

(1) description of the dental procedure;

(2) description of the pre-operative physical condition of the patient;
(3) list of drugs and dosage administered and route of administration;
(4) description in detail of techniques utilized in administering the drugs utilized;
(5) the names of auxiliary personnel in attendance; and
(6) description of the adverse occurrence to include the following: detailed description of symptoms of any incident; treatment initiated on the patient; response of the patient to the treatment; description of the patient's condition on termination of treatment; and copies of the patient record, medical history and operative report.

[16.5.15.17 NMAC - Rp, 16.5.15.14 NMAC, 3/18/2018]

16.5.15.18 FAILURE TO REPORT: Failure to comply with the reporting requirements of Section 16.5.15.17 NMAC of this part shall be grounds for disciplinary action against the licensee. In accordance with the provisions of the Uniform Licensing Act, the board may take any actions enumerated in Section 16.5.16 NMAC, including revocation of the sedation/anesthesia permit.

[16.5.15.18 NMAC - Rp, 16.5.15.15 NMAC, 3/18/2018]

16.5.15.19 PERMIT APPLICATION PROCEDURE FOR MINIMAL AND MODERATE SEDATION, AND DEEP SEDATION/GENERAL ANESTHESIA:

A. Applications may be obtained from the board office. The completed application, accompanied by the required permit fee as defined in Section 16.5.5 NMAC, the application is forwarded to the anesthesia committee for evaluation. After review of the completed application and any other documentation, including a signed notarized affidavit of compliance (if required), the anesthesia committee may recommend a permit for minimal, moderate, or deep sedation/general anesthesia. An oral and written examination of the applicant applying for moderate parenteral sedation or deep sedation/general anesthesia may be required, as described in Subsection B of Section 16.5.15.19 NMAC.

B. Examination/evaluation: The anesthesia committee will require an oral and written examination of emergency protocols and practices from the applicant dentist for moderate parenteral sedation and deep sedation/general anesthesia, if the anesthesia committee or board determines an application is incomplete or is lacking information to make a final recommendation for approval. This may require travel by the applicant dentist to meet with an evaluator. This along with the original application, cases examples supplied, and affidavit of compliance will be used to evaluate the competency of the applicant. If an office inspection is needed, the evaluator may need to schedule a facility inspection with the applicant. The anesthesia committee uses the American association of oral and maxillofacial surgeon's office anesthesia evaluation manual as a guide for the examinations. Incomplete applications will be returned by the anesthesia committee to the board office with a clear indication of the deficient areas.

C. After receipt of proper documentation, completion of an affidavit of compliance, and the successful passing of the oral and written examination (if required), the anesthesia committee and the secretary-treasurer of the board may issue a permit to administer the level of sedation for which the applicant was approved. Ratification of this permit will occur at the next regular scheduled meeting, unless substantial subsequent evidence compels the board to deny or delay approval of the permit.

D. Final action: after final evaluation of the application and examination results, the anesthesia committee recommends final action on the application to the board. The board makes final determination on approval of the permit. If an application is determined incomplete for failure to meet the requirements of Section 16.5.15 NMAC, the areas of non-compliance will be identified and the applicant may re-apply when the requirements are met.

[16.5.15.19 NMAC - Rp, 16.5.15.16 NMAC, 3/18/2018]

16.5.15.20 PERMIT EXPIRATION AND RENEWAL:

A. Expiration: Sedation/anesthesia permits are issued for six years from the last day of the month in which the initial permit was issued. Nitrous oxide analgesia permits do not expire.

B. Renewal: Renewal applications will not be sent to each dentist prior to the expiration date of the sedation/anesthesia permit. It is the responsibility of the permit holder to start the renewal process within six months prior to the expiration date. The completed application, along with the required fee must be returned to the board office prior to permit expiration. The permit renewal application will be forwarded to the anesthesia committee, which will renew the permit holder's affidavits for administration and facility or examine the permit holder as required. The anesthesia committee may require the applicant applying for a renewal permit to pass another oral examination and the facility used by the dentist may be subject to another inspection. This decision will be based on credentials of the applicant or past experience with sedation treatments.

C. Education requirements:

(1) minimal sedation - holders of permits in minimal sedation must have a minimum of eight hours of continuing education every six-year renewal period in medical emergencies, air way management, pharmacology, or anesthesia related topics;

(2) moderate sedation (formerly conscious sedation I and II), deep sedation and general anesthesia - holders of permits for moderate sedation, deep sedation or general anesthesia must have a minimum of 16 hours of continuing education every six-year renewal period in medical emergencies, airway management, pharmacology, or anesthesia related topics.

D. New facility evaluation: a dentist who holds a moderate sedation, deep sedation or general anesthesia permit and who relocates his practice requires a new facility permit based on re-examination, or affidavit of compliance. A new permit fee will be charged.

E. Re-examination/evaluation: The board may require a re-examination or a re-evaluation of the credentials, facilities, equipment, personnel, and procedures of a permit holder to determine if the dentist is currently qualified to administer anesthesia. The board or its agents shall notify the dentist to be re-examined or re-evaluated 180 days in advance of permit expiration. The notification will indicate the content and format of the examination/evaluation.

F. Permit expiration: Failure of a dentist to renew his license and permit, or to schedule a required office re-evaluation within thirty days of receipt of the notification, or failure on the part of the licensee to successfully complete the examination/evaluation, will cause the permit to expire.

G. Verification of continuing education: The board requires verification of continuing education credits for sedation. The records identified in Subsection F of Section 16.5.1.15 NMAC are considered acceptable forms of documentation. Continuing education records must be maintained for 6 years following the renewal cycle in which they are earned. Additionally, and at renewal time, holders of any permit level may be requested to demonstrate competency in maintenance of airway patency to the anesthesia committee, it's designated examiner or the board either on a "board approved" simulator, or other device as may be acceptable to the board. There may be an announced audit of any permit holder by the anesthesia committee or by the board designated examiner during the permitted time for the purpose of demonstrating airway management and airway competency, either on the board designated model or other device approved by the board.

[16.5.15.20 NMAC - Rp, 16.5.15.17 NMAC, 3/18/2018]

HISTORY OF 16.5.15 NMAC:

Pre NMAC History:

Material in this part was derived from that previously filed with the commission of public records - state records center and archives as:

Article XIV, Administration Of Nitrous Oxide Inhalation Analgesia, Conscious Sedation, Deep Sedation, And General Anesthesia, filed 09/04/1986;

BOD Rule 13, Administration Of Nitrous Oxide Inhalation Analgesia, Conscious Sedation, Deep Sedation, And General Anesthesia, filed 02/09/1989;

BODHC Rule DS 8-95, Dentists, Analgesia Administration, filed 07/31/1995.

History of Repealed Material: 85-1, Repealer, filed 10/29/1985.

16.5.15 NMAC, Dentists, Anesthesia/Sedation Administration, filed 2/15/2005 - Repealed effective 3/18/2018.

NMAC History:

16.5.15 NMAC, Dentists, Anesthesia/Sedation Administration, (filed 2/15/2005) was replaced by 16.5.15 NMAC, Dentists, Anesthesia/Sedation Administration, effective 3/18/2018.

Other History:

BODHC Rule DS 8-95, Dentists, Analgesia Administration (filed 07/31/1995); renumbered, reformatted and replaced by 16 NMAC 5.15, Dentists, Analgesia Administration, effective 09/30/1996;

16 NMAC 5.15, Dentists, Analgesia Administration (filed 09/17/1996), replaced by 16.5.15 NMAC, Dentists, Analgesia Administration, effective 05/31/2002.

16.5.15 NMAC, Dentists, Anesthesia/Sedation Administration, (filed 2/15/2005) was replaced by 16.5.15 NMAC, Dentists, Anesthesia/Sedation Administration, effective 3/18/2018.

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING
CHAPTER 5 DENTISTRY (DENTISTS, DENTAL HYGIENISTS, ETC.)
PART 16 DENTISTS, DISCIPLINARY PROCEEDINGS, LICENSE REVOCATION OR
SUSPENSION FOR DISCIPLINARY ACTIONS

16.5.16.1 ISSUING AGENCY: New Mexico Board of Dental Health Care.
[16.5.16.1 NMAC - Rp, 16.5.16.1 NMAC, 12/14/2019]

16.5.16.2 SCOPE: The provisions of Section 16.5.16 NMAC apply to all active license holders and applicants for licensure. These provisions may also be of interest to anyone who may wish to file a complaint against a dentist licensed by the board.
[16.5.16.2 NMAC - Rp, 16.5.16.2 NMAC, 12/14/2019]

16.5.16.3 STATUTORY AUTHORITY: Section 16.5.16 NMAC is promulgated pursuant to the Dental Health Care Act, Section 61-5A-21 NMSA 1978 (1996 Repl. Pam.).
[16.5.16.3 NMAC - Rp, 16.5.16.3 NMAC, 12/14/2019]

16.5.16.4 DURATION: Permanent.
[16.5.16.4 NMAC - Rp, 16.5.16.4, 12/14/2019]

16.5.16.5 EFFECTIVE DATE: December 14, 2019, unless a later date is cited at the end of a section.
[16.5.16.5 NMAC - Rp, 16.5.16.5 NMAC, 12/14/2019]

16.5.16.6 OBJECTIVE: To establish the procedures for filing complaints against licensees, the disciplinary actions available to the board, the authority to issue investigative subpoenas and to further define actions by a licensee which are considered incompetent or unprofessional practice.
[16.5.16.6 NMAC - Rp, 16.5.16.6 NMAC, 12/14/2019]

16.5.16.7 DEFINITIONS:

A. “Addiction” means a neurobehavioral syndrome with genetic and environmental influences that result in psychological dependence on the use of substances for their psychic effects. It is characterized by behaviors that include one or more of the following: impaired control over drug use; compulsive use; continued use despite harm; and craving.

B. “Chronic pain” means a pain state which is persistent and in which the cause of the pain cannot be removed or otherwise treated.

C. “Direct reference” means a phone number or website where names and contact information of the licensee can be referenced.

D. “Drug abuser” means a person who takes a drug or drugs for other than legitimate medical purposes.

E. “Pain” means an unpleasant sensory and emotional experience associated with inflammation or with actual or potential tissue damage, or described in terms of such inflammation or damage.

F. “Patient abandonment” means withdrawing a patient from treatment without giving reasonable notice or providing a competent replacement provider.

G. “Physical dependence” means a state of adaptation that is manifested by a drug-specific withdrawal syndrome that can be produced by abrupt cessation, rapid dose reduction, decreasing blood level of the drug, administration of an antagonist, or a combination of these.

H. “Tolerance” means a state of adaptation in which exposure to a drug induces changes that result in a diminution of one or more of the drug’s effects over time.

[16.5.16.7 NMAC - Rp, 16.5.16.7 NMAC, 12/14/2019]

16.5.16.8 COMPLAINTS: Disciplinary proceedings may be instituted by sworn complaint of any person, including members of the board and committee. Any hearing held pursuant to the complaint shall conform with the provisions of the Uniform Licensing Act, the Dental Health Care Act or the Impaired Dentists and Dental Hygienists Act.

[16.5.16.8 NMAC - Rp, 16.5.16.8 NMAC, 12/14/2019]

16.5.16.9 ACTIONS:

A. The board may fine, deny, revoke, suspend, stipulate, or otherwise limit a license if the board determines the licensee is guilty of violating any of the provisions of the Act, the Uniform Licensing Act, the Impaired Dentists and Hygienists Act, or these rules.

B. The board may reprimand, censure, or require licensees to fulfill additional continuing education hours within limited time constraints for violations of the Act or Rules.

[16.5.16.9 NMAC - Rp, 16.5.16.9 NMAC, 12/14/2019]

16.5.16.10 GUIDELINES: The board shall use the following as guidelines for disciplinary action.

A. “Gross incompetence” or “gross negligence” means, but shall not be limited to, a significant departure from the prevailing standard of care in treating patients.

B. “Unprofessional conduct” means, but is not limited to because of enumeration:

- (1) performing, or holding oneself out as able to perform, professional services beyond the scope of one’s license and field or fields of competence as established by education, experience, training, or any combination thereof; this includes, but is not limited to, the use of any instrument or device in a manner that is not in accordance with the customary standards and practices of the dental profession;
- (2) failure to refer a patient, after emergency treatment, to his/her regular dentist and inform the latter of the conditions found and treated;
- (3) failure to release to a patient copy of that patient’s records and x-rays within 15 business days regardless whether patient has an outstanding balance;
- (4) failure to seek consultation whenever the welfare of the patient would be safeguarded or advanced by referral to individuals with special skills, knowledge, and experience, including:
 - (a) an owner dentist or supervisor causing an employee dentist to make a referral for dental treatment based on contractual obligations when, in the judgment of the treating dentist, the welfare of the patient would be safeguarded or advanced by referral to another practitioner, and failure to notify the patient of such contractual obligations for referrals;
 - (b) an owner dentist or supervisor causing an employee dentist to use a dental laboratory due to contractual obligations when, in the judgment of the treating dentist, the welfare of the patient would be safeguarded or advanced by the use of another dental laboratory.
- (5) failure to advise the patient in simple understandable terms of the proposed treatment, the anticipated fee, the expectations of success, and any reasonable alternatives;
- (6) failure of a dentist to comply with advertising and specialty recognition rules as defined in 16.5.1.29 NMAC.
- (7) failure to use appropriate infection control techniques and sterilization procedures;
- (8) deliberate and willful failure to reveal, at the request of the board, the incompetent, dishonest, or corrupt practices of another dentist licensed or applying for licensure by the board;
- (9) accept rebates, or split fees or commissions from any source associated with the service rendered to a patient; provided, however, the sharing of profits in a dental partnership, association, HMO or DMO, or similar association shall not be construed as fee-splitting, nor shall compensating dental hygienists or dental assistants on a basis of percentage of the fee received for the overall service rendered be deemed accepting a commission;
- (10) prescribe, dispense or administer drugs outside the scope of dental practice;
- (11) charge a patient a fee which is not commensurate with the skill and nature of services rendered, such as to be unconscionable;
- (12) sexual misconduct;
- (13) breach of ethical standards, an inquiry into which the board will begin by reference to the most current code of ethics of the American dental association;
- (14) the use of a false, fraudulent or deceptive statement in any document connected with the practice of dentistry;
- (15) employing abusive billing practices;
- (16) fraud, deceit or misrepresentation in any application;
- (17) violation of any order of the board, including any probation order;
- (18) injudicious prescribing, administration, or dispensing of any drug or medicine;
- (19) failure to report to the board any adverse action taken by any licensing board, peer review body, malpractice insurance carrier or any other entity as defined by the board or committee; the surrender of a license to practice in another state, surrender of membership on any medical staff or in any dental or professional association or society, in lieu of, and while under disciplinary investigation by any authority;
- (20) negligent supervision of a dental hygienist or dental assistant;
- (21) cheating on an examination for licensure; or
- (22) failure to comply with the terms of a signed collaborative practice agreement;

- (23) failure of a dentist of record, or consulting dentist, to communicate with a collaborative practice dental hygienist in an effective professional manner in regard to a shared patient's care as defined in Section 16.5.17 NMAC;
- (24) assisting a health professional, or being assisted by a health professional that is not licensed to practice by a New Mexico board, agency or commission;
- (25) failure to make available to current patients of record a reasonable method of contacting the treating dentist or on-call service for dental emergencies; dental practices may refer patients to an alternate urgent care or emergency facility if no other option is available at the time, or if the contacted dentist deems it necessary for the patient's well-being;
- (26) conviction of either a misdemeanor or a felony punishable by incarceration;
- (27) aiding and abetting a dental assistant, expanded function dental auxiliary or community dental health coordinator who is not properly certified;
- (28) patient abandonment;
- (29) habitually addicted as defined in Section 61.5A-21 4 & 6 or Subsection C and D of Section 61.5B-3 NMSA 1978 habitual or excessive use or abuse of drugs, as defined in the Controlled Substances Act, Section (30-31-1 NMSA 1978) or habitual or excessive use or abuse of alcohol;
- (30) failure of the licensee to furnish the board within 10 business days of request, its investigators or representatives with information requested by the board;
- (31) failure to appear before the board when requested by the board in any disciplinary proceeding;
- (32) failure to be in compliance with the Parental Responsibility Act Section 40-5A-3 NMSA 1978 seq.;
- (33) fraudulent record keeping;
- (34) failure to properly install amalgam separator as defined in Section 16.5.58 NMAC;
- (35) failure to properly operate and maintain amalgam separator as defined in 16.5.58 NMAC; and
- (36) failure to properly dispose of amalgam waste as defined in Section 16.5.58 NMAC. [16.5.16.10 NMAC - Rp, 16.5.16.10, 12/14/2019]

16.5.16.11 INVESTIGATIVE SUBPOENAS: The complaint committee of the board is authorized to issue investigative subpoenas and to employ experts with regard to pending investigations. [16.5.16.11 NMAC - Rp, 16.5.16.11 NMAC, 12/14/2019]

16.5.16.12 REVOCATION OF LICENSE FOR DISCIPLINARY ACTIONS: A licensee whose license is revoked for disciplinary actions shall:

- A. provide proof of written notification of practice closure to all patients currently under active treatment;
- B. notification to patients should include where and how dental treatment records may be obtained and contact information for dentists available; and
- C. provide to the board the location where all active dental treatment records will be maintained for a minimum of six years; active treatment records are records of patients treated in the two years previous to the date of closure; the notification to the board shall include the name, address, and telephone number of the person who is serving as the custodian of the records.

[16.5.16.12 NMAC - Rp, 16.5.16.12 NMAC, 12/14/2019]

16.5.16.13 REINSTATEMENT OF REVOKED LICENSE FOR DISCIPLINARY ACTIONS: A licensee whose license has been revoked for disciplinary actions may request reinstatement of the license after the terms of the settlement agreement have been met. Upon approval from the board and receipt of the request for reinstatement, board staff shall send an application for reinstatement of license.

- A. Along with the completed application, the request for reinstatement shall include the reinstatement fee, the triennial renewal fee, impairment fee, and proof of the following continuing education courses:
 - (1) 20 hours of approved continuing education courses related to the clinical practice of dentistry, per year of revocation; at least 20 of these hours shall be in the 12 months previous to the request;
 - (2) proof of current basic life support (BLS) or cardiac pulmonary resuscitation (CPR) certification accepted by the American heart association, the American red cross, or the American safety and health institute (ASHI); cannot be a self-study course;
 - (3) proof of infection control course within the past 12 months; and

(4) 60 hours of continuing education required for the last triennial renewal cycle of active licensure; these hours may include continuing education identified at the time of revocation as well as any continuing education taken during the revoked period.

B. Applicant shall authorize the following agencies to send verification of status directly to the board office:

- (1) drug enforcement administration (DEA); and
- (2) American association of dental examiners clearinghouse.

C. The board will obtain electronic verification of applicant status from the national practitioners' data bank.

D. Verification of licensure in all states where the applicant holds or has held a license to practice dentistry, or other health care profession. Verification shall be sent directly to the board office from the other state(s) board, shall include a raised seal, and shall attest to the status, issue date, expiration date, license number, and other information contained on the form.

E. The board at the next regularly scheduled meeting shall review the request for reinstatement, including a statement of the applicant's activities during the period of revocation and information on any existing impairment. If the board finds the application in order and is satisfied the applicant has fulfilled all required continuing education, the license may be reinstated and the previous license number reassigned. The reinstated license will expire as defined in Section 16.5.11 NMAC.

F. A dentist with a license in revocation status may not practice dentistry in New Mexico until proof of active licensure is received from the board office.

G. If reinstatement of a revoked license is not requested within three years after settlement agreement has been met, application for a new license shall be made by examination or credentials in order to practice dentistry in New Mexico.

[16.5.16.13 NMAC - Rp, 16.5.16.13, 12/14/2019]

16.5.16.14 REINSTATEMENT OF SUSPENDED LICENSE FOR DISCIPLINARY ACTIONS: For licenses suspended for greater than six months; a licensee whose license has been suspended for disciplinary actions in addition to meeting the terms of the settlement agreement shall also meet the following conditions before reinstatement of licensure:

A. verification of licensure in all states where the applicant holds or has held a license to practice dentistry, or other health care profession; verification shall be sent directly to the board office from the other state(s) board, shall include a raised seal, and shall attest to the status, issue date, expiration date, license number, and other information contained on the form;

B. the board at the next regularly scheduled meeting shall review the request for reinstatement, including a statement of the applicant's activities during the period of suspension and information on any existing impairment; the reinstated license will expire as defined in Section 16.5.11 NMAC; and

C. a dentist with a license in suspended status may not practice dentistry in New Mexico until proof of active licensure is approved by the board and issued by the board office.

[16.5.16.14 NMAC - Rp, 16.5.16.14 NMAC, 12/14/2019]

HISTORY OF 16.5.16 NMAC:

Pre-NMAC History:

Material in this part was derived from that previously filed with the commission of public records - state records center and archives as:

BDE 69-1, Rules and Regulations of the New Mexico Board of Dental Examiners, filed 08/14/1969;

BDE 70-1, Rules and Regulations of the New Mexico Board of Dental Examiners, filed 09/21/1970;

BDE 73-1, Rules and Regulations of the New Mexico Board of The New Mexico Board of Dentistry, filed 02/12/1973;

Article XIII, Disciplinary Proceedings, filed 03/11/1981;

Article XIII, Disciplinary Proceedings, filed 01/12/1982;

Article XIII, Disciplinary Proceedings, filed 03/30/1982;

BOD Rule 11, Disciplinary Proceedings, filed 02/09/1989;

BODHC Rule DS 9-95, Dentists, Disciplinary Proceedings, filed 05/05/1995.

History of Repealed Material:

Article XIV, Repeals BDE 73-1, Rules and Regulations of the New Mexico Board of Dentistry, filed 2/12/1973. 16.5.16 NMAC, Dentists, Disciplinary Proceedings filed 12/9/2011, Repealed 12/14/2019.

Other History:

16 NMAC 5.16, Dentists, Disciplinary Proceedings, filed 09/17/1996;
16 NMAC 5.16, Dentists, Disciplinary Proceedings, filed 09/17/1996- renumbered, reformatted and amended to
16.5.16 NMAC, Dentists, Disciplinary Proceedings, effective 12/14/2000.
16.5.16 NMAC, Dentists, Disciplinary Proceedings filed 12/9/2011 was replaced by 16.5.16 NMAC, Dentists,
Disciplinary Proceedings, effective 12/14/2019.

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING
CHAPTER 5 DENTISTRY (DENTISTS, DENTAL HYGIENISTS, ETC.)
PART 17 DENTISTS AND DENTAL HYGIENISTS, COLLABORATIVE PRACTICE

16.5.17.1 ISSUING AGENCY: New Mexico Board of Dental Health Care.
[2-14-00; 16.5.17.1 NMAC - Rn & A, 16 NMAC 5.17.1, 12-14-00]

16.5.17.2 SCOPE: The provisions of 16.5.17 NMAC apply to all dentists, dental hygienists and dental assistants who work in a collaborative practice arrangement.
[2-14-00; 16.5.17.2 NMAC - Rn, 16 NMAC 5.17.2, 12-14-00]

16.5.17.3 STATUTORY AUTHORITY: 16.5.17 NMAC is promulgated pursuant to the Dental Health Care Act, NMSA 1978 Section 61-5A-4 (1999 Repl. Pamp.).
[2-14-00; 16.5.17.3 NMAC - Rn, 16 NMAC 5.17.3, 12-14-00]

16.5.17.4 DURATION: Permanent.
[2-14-00; 16.5.17.4 NMAC - Rn, 16 NMAC 5.17.4, 12-14-00]

16.5.17.5 EFFECTIVE DATE: February 14, 2000, unless a different date is cited at the end of a section.
[2-14-00; 16.5.17.5 NMAC - Rn, 16 NMAC 5.17.5, 12-14-00; A, 4/16/08]

16.5.17.6 OBJECTIVE: To regulate the collaborative practice of dental hygiene in New Mexico.
[2-14-00; 16.5.17.6 NMAC - Rn, 16 NMAC 5.17.6, 12-14-00]

16.5.17.7 DEFINITIONS:

A. "Acting consulting dentist" means a dentist who meets the qualifications of a consulting dentist who agrees to act as the consulting dentist when that dentist will be away from his/her practice for more than two weeks. An approved collaborative agreement shall be signed by the acting consulting dentist and the licensed dental hygienist prior to the consulting dentist leaving.

B. "Collaborative practice agreement" means a written agreement between a dentist who meets the qualifications of 16.5.17.9 NMAC to be a consulting dentist as defined in 16.5.17 NMAC of these rules, and a collaborative practice dental hygienist. This agreement shall follow the format as determined by the board and committee. A new agreement shall be signed and submitted to the board for approval each renewal period.

C. "Collaborative practice of dental hygiene" means the science of the prevention and treatment of oral disease through the provision of educational, assessment, preventive, clinical and other therapeutic services as specified in Section 61-5A 4(B) in a cooperative working relationship with a consulting dentist but without general supervision, as set forth by the rules jointly established by the board and committee.

D. "Consulting (collaborative) dentist" means a dentist who meets the qualifications specified in 16.5.17.9 NMAC of this rule and who agrees to serve or continues to serve as a patient's dentist of record in collaboration and consultation with the practice dental hygienist as specified in the rules.

E. "Non-participating dentist" is a dentist who does not wish to collaborate with a collaborative practice dental hygienist.

F. "Standard collaborative practice protocols" is the protocol to be used by the collaborative practice dental hygienist to treat a patient, as specified in 16.5.17.13 NMAC of this part.

G. "Verbal prescription or orders" means instructions not communicated in written form, shall be recorded in the patient's record or the protocol agreement by both the collaborative hygienist and the consulting dentist when given.

H. "Written prescription orders" means instructions from the consulting dentist to the collaborative hygienist to perform those allowable treatments requiring diagnosis and treatment plan, subject to the limitations of 16.5.17.12 NMAC of these rules, or directions written to modify the standard collaborative practice protocols, or the collaborative practice agreement.

[2-14-00; 16.5.17.7 NMAC - Rn & A, 16 NMAC 5.17.7, 12-14-00; A, 01-09-12]

16.5.17.8 CERTIFICATION FOR THE COLLABORATIVE PRACTICE OF DENTAL HYGIENE:
The board, based on the recommendation of the dental hygienists committee, will certify qualified dental hygienists for collaborative practice.

A. Prerequisite requirements for certification. Each applicant for certification as a collaborative practice dental hygienist shall possess the following qualifications:

- (1) possess a current New Mexico dental hygiene license in good standing;

(2) have been engaged in the active practice of dental hygiene as defined in 61-5A-4(B) of the act for not less than:

- (a) 2400 hours of active practice for the past eighteen months; or
- (b) a total of 3,000 hours of active practice and has been engaged in active practice for two of the past three years;

(3) meet the educational criteria for licensure in Section 61-5A 13 (A) of the act; and

(4) have 15 hours of continuing education in clinical dental hygiene in the 12 months prior to certification, which includes courses in infection control and medical emergencies.

B. Documentation requirements. Each applicant for certification as a collaborative practice dental hygiene shall submit a completed application, the required fees and following documentation:

- (1) verification of a current active license;
- (2) proof of the active practice of dental hygiene as defined in 16.5.17.8 NMAC of this part; this proof may be in the form of notarized letters from employers, supervisors of dental clinics of one of the uniformed services of the United States, or faculty administrators of accredited schools; if this documentation cannot be obtained, the applicant may request to provide other proof of the required hours to the committee for consideration;

- (3) basic life support (BLS) or cardiac pulmonary resuscitation (CPR): proof of current certification accepted by the American heart association, the American red cross, or the American safety and health institute (ASHI); cannot be a self-study course;

- (4) proof of 15 hours of continuing education related to the clinical practice of dental hygiene; and

- (5) a copy of a signed collaborative practice agreement between a dental hygienist and a consulting dentist.

C. Renewal requirements. Each dental hygienist certified for collaborative practice shall:

- (1) submit a completed renewal application for certification for collaborative practice, along with the triennial renewal application for their license, accompanied by the required fees as defined in 16.5.18 NMAC;

- (2) complete 60 hours of continuing education every triennial renewal period; if the initial certification period is less than three years, the required continuing education will be prorated at 20 hours per full year of certification; 60 hours to include:

- (a) basic life support (BLS) or cardiac pulmonary resuscitation (CPR): proof of current certification accepted by the American heart association, the American red cross, or the American safety and health institute (ASHI); cannot be a self-study course;

- (b) infection control: as further defined in 16.5.1.16 NMAC, a course in infection control techniques and sterilization procedures per renewal period; and

- (c) medical emergencies: as for new certification defined in Paragraph (4) of Subsection A of 16.5.17.8 NMAC;

- (3) submit a current list of all consulting dentists to the board with each renewal application; and

- (4) submit a copy of the signed collaborative practice agreement(s) and protocols between a dental hygienist and a consulting dentist per renewal period.

[2-14-00; 16.5.17.8 NMAC - Rn, 16 NMAC 5.17.8, 12-14-00; A, 04-16-08; A, 07-19-10; A, 01-09-12]

16.5.17.9 QUALIFICATIONS FOR CONSULTING DENTISTS: A consulting dentist shall meet the following qualifications:

- A. possess a current New Mexico dental license in good standing;

- B. maintains an active clinical general dentistry or public health practice within the state and within a reasonable referral distance from the collaborative practice dental hygiene practice as determined by the board upon recommendation of the dental hygienists committee.

[2-14-00; 16.5.17.9 NMAC - Rn & A, 16 NMAC 5.17.9, 12-14-00; A, 01-09-12]

16.5.17.10 RESPONSIBILITIES OF A CONSULTING DENTIST: The consulting dentist shall:

- A. in collaboration with the dental hygienist, provide for the patient's additional needed dental care;
- B. be available to provide consultation to the collaborative practice dental hygienist;
- C. make provisions for a qualified acting consulting dentist to act in his/her place should he/she be away from his practice for more than two weeks;

- D. maintain an appropriate level of contact and communication with the collaborative practice dental hygienist;

- E. in conjunction with the collaborative practice dental hygienist, be responsible and liable for acts and omissions in the collaborative dental hygiene practice;
- F. assure that each collaborative practice dental hygienist is duly licensed and certified for collaborative practice by the board of dental health care;
- G. maintain a separate and distinct collaborative practice agreement with each collaborative practice dental hygienist for whom he/she serves as a consulting dentist;
- H. provide verbal or written prescriptions to the collaborative practice dental hygienist for those procedures requiring a diagnosis;
- I. provide verbal or written prescriptions to the collaborative practice dental hygienist when the consulting dentist deems it appropriate to provide exception to the standardized protocols;
- J. provide a written prescription within seven business days following a verbal prescription or order;
- K. maintain in the patients record a duplicate of the written prescriptions or orders as described in Subsection H through Subsection J of 16.5.17.10 NMAC;
- L. provide a written diagnosis and treatment recommendations from the records provided by the collaborative practice dental hygienist to the patient and the hygienist within 30 days of receipt of such records;
- M. each collaborative agreement will be kept on file by the collaborative practice dental hygienist and the consulting dentist, the basic format of the agreement will be provided with the application by the board. [2-14-00; 16.5.17.10 NMAC - Rn & A, 16 NMAC 5.17.10, 12-14-00; A, 04-16-08; A, 01-09-12]

16.5.17.11 RESPONSIBILITIES OF A COLLABORATIVE PRACTICE DENTAL HYGIENIST:

The collaborative practice dental hygienist shall:

- A. refer each patient for a dental examination every 12 months, as well as anyone who may require further dental services, to the patient's consulting dentist or to a dental specialist in the case of an emergency;
- B. in conjunction with the consulting dentist, be responsible and liable for acts and omissions in the collaborative dental hygiene practice;
- C. assure that each consulting dentist is duly licensed by the board of dental health care; by verification with the board office;
- D. maintain a collaborative practice agreement with each consulting dentist; and
- E. maintain an appropriate level of contact and communication with the consulting dentist;
- F. contact the patient's dentist of record, if not a consulting dentist, prior to treating the patient to give the dentist the option of becoming a consulting dentist;
- G. offer the patient a choice of the collaborative practice dental hygienist's consulting dentists if the patient's dentist of record chooses to be a non-participating dentist;
- H. not to perform any treatment if the patient does not have an active consulting dentist on record with the collaborative practice dental hygienist;
- I. follow the standardized protocol unless modified by the consulting dentist by prescription or order;
- J. follow the verbal and written prescriptions and orders of the consulting dentist for those treatments requiring a diagnosis;
- K. forward all records and x-rays, or duplicates, to the consulting dentist within 14 days;
- L. assure that each consulting dentist meets the requirements of a consulting dentist as stated in

16.5.17.9 NMAC;

M. a copy of the collaborative agreement shall be on file with the board office; any changes to this agreement shall be filed with the board office within 60 days.

N. the collaborative dental hygienist shall be subject to provisions of 16.5.58 NMAC. [2-14-00; 16.5.17.11 NMAC - Rn & A, 16 NMAC 5.17.11, 12-14-00; A, 01-09-12; A, 01-15-15]

16.5.17.12 COLLABORATIVE DENTAL HYGIENE PRACTICE AND LIMITATIONS:

- A. A dental hygienist in a collaborative practice may perform the procedures in a dental hygienist's scope of practice listed in 16.5.29 NMAC without general supervision while the hygienist is in a cooperative working relationship with a consulting dentist, pursuant to rules promulgated by the board and the committee.
- B. A collaborative practice dental hygienist may have more than one consulting dentist.
- C. A dentist shall have a consulting agreement with no more than three collaborative practice dental hygienists. The board may grant exception to this limitation for public health settings on a case-by-case basis.
- D. The collaborative practice dental hygienist may own and manage a dental hygiene practice, or enter into a contractual arrangement, in any location or setting in New Mexico.
- E. The committee, through the board, may take any disciplinary action allowed by the Uniform Licensing Act, against a dental hygienist certified in collaborative practice.

F. Collaborative dental hygienist can administer local anesthesia under general supervision as defined in 16.5.28.8 NMAC and 16.5.28.12 NMAC.

G. A collaborative dental hygienist may assess for pit and fissure sealants without a dentist's evaluation as provided in Subsection D of 16.5.29.8 NMAC.

H. A collaborative dental hygienists may prescribe, administer and dispense topically applied fluoride and topically applied antimicrobials as provided for in 16.5.29.11 NMAC.

I. Perform dental hygiene focused assessment.

J. A collaborative practice dental hygienist shall not:

(1) administer local anesthesia except under the general supervision of a dentist; and only if certified to do so through the committee and ratified by the board;

(2) administer a drug or medication, except those directly indicated as dental topical therapeutic or preventive agents; other therapeutic agents may only be dispensed if the collaborative practice dental hygienist holds a class C clinic license; any drugs dispensed as a class C clinic (as designated and defined by the New Mexico board of pharmacy) shall be on the specific individual authorization of a dentist:

(a) all non-controlled substance medications requiring a prescription or order from the dentist may only be dispensed for immediate use in the collaborative practice dental hygienist office, and only on the specific order or protocol from the consulting dentist; a log of these dispensing shall be kept and a copy of this log shall be sent to the corresponding consulting dentist every six months; collaborative practice dental hygienists may not dispense or administer any controlled substance;

(b) prescription drugs, which are kept in bulk at the collaborative practice dental hygienist's office, to be dispensed or used by the collaborative practice dental hygienist as in 16.5.17.12 NMAC, shall be purchased on an order or prescription by a consulting dentist;

(3) diagnose dental disease, but may advise the patient of suspected pathology and periodontal status;

(4) perform oral hygiene procedures on any patient identified as having a significant health risk from the procedures; unless the patients' current health history has been reviewed by the patient's dentist of record or the consulting dentist; or for patients who reside in residential or long term care facilities, the patient's dentist or physician;

(5) perform treatments requiring the diagnosis of a dentist without a prescription/order from the consulting dentist; such treatments include but are not limited to, root planing, sealant application in presence of cavitation, administration of therapeutic agents and other services defined in Section 61-5A-4(B) NMSA 1978 as within the scope of dental hygiene practice but which require a dentist's diagnosis;

(6) modify the standard collaborative practice protocol without a prescription or order from the consulting dentist;

(7) take impressions for bleaching trays, deliver bleaching materials or provide systems of home bleaching, or provide instructions to patients on using bleaching materials unless it is authorized on a case by case basis by prescription from a consulting dentist;

(8) provide in office bleaching systems unless under indirect supervision of a consulting dentist.

K. Effective July 1, 2015, a collaborative practice hygienist who owns a dental practice shall register with the board as a non-dentist owner. No additional license or fee is required for this registration. A collaborative practice hygienist who owns a dental practice must notify the board, in writing, if the dental practice has been sold or has closed.

[2-14-00; 16.5.17.12 NMAC - Rn & A, 16 NMAC 5.17.12, 12-14-00; A, 06-14-01; A, 04-16-08; A, 07-19-10; A, 01-09-12; A, 01-15-15; A, 04-16-15; A, 12-16-15]

16.5.17.13 STANDARD COLLABORATIVE PRACTICE PROTOCOLS: All protocols will include but are not limited to: review of health history charting of existing teeth and restorations, periodontal charting as necessary, and notations of potential pathology. Protocols may be amended upon written order of the consulting dentist. Time intervals for these protocols shall be established in the collaborative practice agreement as provided in Subsection G of 16.5.17.13 NMAC.

A. Protocols for children 12 and under:

- (1) appropriate panoramic or occlusal x-rays;
- (2) two bitewing x-rays;
- (3) prophylaxis/scaling;
- (4) topical fluoride treatment;
- (5) other radiographs as indicated by consultation with the dentist.

B. Protocols for teenagers:

- (1) appropriate panoramic or full mouth radiographs;

- (2) two or four bitewing x-rays;
 - (3) prophylaxis/scaling;
 - (4) topical fluoride treatment;
 - (5) other radiographs as indicated by consultation with the dentist.
- C. Protocols for adults:
- (1) full mouth or panoramic radiograph;
 - (2) bitewing radiographs annually;
 - (3) complete periodontal charting;
 - (4) prophylaxis/scaling or gross debridement and consultation with the consulting dentist if periodontal assessment suggests periodontal involvement.
- D. All other procedures not listed in the protocols shall require a prescription from the consulting dentist as stated in Subsections H and N of 16.5.17.10 NMAC.
- E. Guidelines for patient release forms, to include a disclaimer signed by the patient or legal guardian that the dental hygiene services rendered do not preclude the need for routine examinations by a dentist.
- F. Both the consulting dentist and the collaborative practice dental hygienist shall sign a copy of this or amended protocol and keep on file.
- G. Changes to practice protocol and agreements shall be prescribed in writing by the consulting dentist and recorded by both the consulting dentist and the collaborative practice dental hygienist.
[2-14-00; 16.5.17.13 NMAC - Rn, & A, 16 NMAC 5.17.13, 12-14-00; A, 01-09-12]

16.5.17.14 DENTAL ASSISTANTS IN COLLABORATIVE DENTAL HYGIENE PRACTICE:
Collaborative practice dental hygienists may work with and supervise dental assistants, including dental assistants certified to perform functions as defined in 16.5.39 NMAC of these rules.
[2-14-00; 16.5.17.14 NMAC - Rn, 16 NMAC 5.17.14, 12-14-00]

HISTORY OF 16.5.17 NMAC:
Pre-NMAC History: None.

History of Repealed Material: [Reserved]

Other History:
16 NMAC 5.17, Dentists and Dental Hygienists, Collaborative Practice, filed 01-28-00;
16 NMAC 5.17, Dentists and Dental Hygienists, Collaborative Practice, filed 01-28-00 - renumbered, reformatted and amended to 16.5.17 NMAC, Dentists and Dental Hygienists, Collaborative Practice, effective 12-14-00.

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING
CHAPTER 5 DENTISTRY (DENTISTS, DENTAL HYGIENISTS, ETC.)
PART 18 DENTAL HYGIENISTS, FEES

16.5.18.1 ISSUING AGENCY: New Mexico Board of Dental Health Care.
[9-30-96; 16.5.18.1 NMAC - Rn & A, 16 NMAC 5.18.1, 06-14-01]

16.5.18.2 SCOPE: The provisions of 16.5.18 NMAC apply to all applicants for licensure; to active, retired, expired and suspended licenses; to anyone who requests a list or labels of licensed dental hygienists, multiple copies of the law or rules, or copies of public records.
[9-30-96; 16.5.18.2 NMAC - Rn, 16 NMAC 5.17.2, 06-14-01]

16.5.18.3 STATUTORY AUTHORITY: 16.5.18 NMAC is promulgated pursuant to the Dental Health Care Act, NMSA 1978 Section 61-5A-14 (1996 Repl. Pamp.).
[9-30-96; 16.5.18.3 NMAC - Rn, 16 NMAC 5.18.3, 06-14-01]

16.5.18.4 DURATION: Permanent.
[9-30-96; 16.5.18.4 NMAC - Rn, 16 NMAC 5.18.4, 06-14-01]

16.5.18.5 EFFECTIVE DATE: September 30, 1996, unless a later date is cited at the end of a section.
[9-30-96; 16.5.18.5 NMAC - Rn, 16 NMAC 5.18.5, 06-14-01; A, 12-30-02]

16.5.18.6 OBJECTIVE: To establish fees to generate revenue to support the cost of program administration.
[9-30-96; 16.5.18.6 NMAC - Rn, 16 NMAC 5.18.6, 06-14-01]

16.5.18.7 DEFINITIONS: [RESERVED]
[9-30-96; 16.5.18.7 NMAC - Rn, 16 NMAC 5.18.7, 06-14-01]

16.5.18.8 FEES:

- A. All fees are non-refundable.
- B. Application fee for licensure by examination is \$350, which includes the initial licensing period.
- C. Application fee for licensure by credentials is \$400, which includes the initial licensing period.
- D. An applicant who does not obtain a passing score on the jurisprudence exam must submit an additional fee of \$50 to re-take the exam.
- E. Triennial renewal fee for all dental hygienist licensees is \$325:
 - (1) impaired fee is \$15 per triennial renewal period plus renewal fee;
 - (2) late renewal fee of \$100 after July 1 through September 1, plus renewal and impaired fees;
 - (3) cumulative late fee of \$5 per day from August 1 to the date of the postmark or hand-delivery to the board office plus renewal, late and impaired fees.
- F. Fees for collaborative practice:
 - (1) application for certification for collaborative practice fee is \$150;
 - (2) renewal of certification for collaborative practice fee is \$50 at the time of each triennial license renewal; the initial fee will be prorated at \$20 per full year of certification.
- G. Fees for temporary licenses and application:
 - (1) forty-eight hour license, application fee of \$50, license fee of \$50;
 - (2) six month license, application fee of \$100, license fee of \$100;
 - (3) twelve month license, application fee of \$100, license fee of \$150.
- H. Application for certification in local anesthesia fee:
 - (1) by examination - \$40;
 - (2) by credentials - \$100 for application and credential review.
- I. Reinstatement fee is \$200.
- J. Application for licensure for inactive status is \$50.
- K. Administrative fees:
 - (1) duplicate license fee is \$25;
 - (2) multiple copies of the statute or rules are \$10 each;
 - (3) copies cost \$0.25 per page;
 - (4) list of current dental hygiene licensees is \$300; an annual list of current licensees is available to the professional association upon request at no cost; and

(5) mailing labels of current dental hygiene licensees is \$300.
[3-14-73, 4-11-81, 3-7-88, 3-28-91, 5-31-95, 12-15-97, 8-16-99; 16.5.18.8 NMAC - Rn & A, 16 NMAC 5.18.8, 06-14-01; A, 9-30-02; A, 12-30-02; A, 03-06-05; A, 04-17-06; A, 04-16-08; A, 07-17-08; A, 06-10-09]

History of 16.5.18 NMAC:

Pre-NMAC History:

Material in this part was derived from that previously filed with the commission of public records - state records center and archives as:

Article VIII, Licensing of Dental Hygienists, filed 03-12-81;
Article VIII, Licensing of Dental Hygienists, filed 01-12-82;
Article, VIII, Licensing of Dental Hygienists, filed 03-30-82;
BOD Rule 7, Licensing of Dental Hygienists, filed 02-09-89;
BODHC Rule DH 6-95, Dental Hygienists, Fees, filed 05-05-95.

History of Repealed Material: [Reserved]

Other History:

16 NMAC 5.18, Dental Hygienists, Fees, filed 09-17-96;
16 NMAC 5.18, Dental Hygienists, Fees, filed 09-17-96 - **renumbered, reformatted and amended to 16.5.18**
NMAC, Dental Hygienists, Fees, effective 06-14-01.

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING
CHAPTER 5 DENTISTRY (DENTISTS, DENTAL HYGIENISTS, ETC.)
PART 19 DENTAL HYGIENISTS, LICENSURE BY EXAMINATION

16.5.19.1 ISSUING AGENCY: New Mexico Board of Dental Health Care.
[9-30-96; 16.5.19.1 NMAC - Rn & A, 16 NMAC 5.19.1, 12-30-02]

16.5.19.2 SCOPE: The provisions of Part 19 of Chapter 5 apply to all applicants for licensure as a dental hygienist by examination. Part 19 also applies to dental hygienists previously licensed in New Mexico who have allowed their license to expire and do not qualify for licensure by credentials.
[9-30-96; 16.5.19.2 NMAC - Rn, 16 NMAC 5.19.2, 12-30-02]

16.5.19.3 STATUTORY AUTHORITY: Part 19 of Chapter 5 is promulgated pursuant to the Dental Health Care Act, NMSA 1978 61-5A-13 (1996 Repl. Pamp.).
[9-30-96; 16.5.19.3 NMAC - Rn, 16 NMAC 5.19.3, 12-30-02]

16.5.19.4 DURATION: Permanent.
[9-30-96; 16.5.19.4 NMAC - Rn, 16 NMAC 5.19.4, 12-30-02]

16.5.19.5 EFFECTIVE DATE: September 30, 1996, unless a later date is cited at the end of a section.
[9-30-96; 16.5.19.5 NMAC - Rn & A, 16 NMAC 5.19.5, 12-30-02]

16.5.19.6 OBJECTIVE: To establish the requirements for application for licensure by examination.
[9-30-96; 16.5.19.6 NMAC - Rn, 16 NMAC 5.19.6, 12-30-02]

16.5.19.7 DEFINITIONS: [RESERVED]
[9-30-96; 16.5.19.7 NMAC - Rn, 16 NMAC 5.19.7, 12-30-02]

16.5.19.8 PREREQUISITE REQUIREMENTS FOR LICENSE: Each applicant for licensure as a dental hygienist by examination must possess the following qualifications:

- A. graduated and received a diploma from an accredited dental hygiene program consisting of at least two academic years of dental hygiene curriculum as defined in Section 61-5A-13 of the act;
- B. passed the dental hygiene national board examination as defined in Section 61-5A-13 A;
- C. passed a clinical examination approved by the committee and ratified by the board; the results of the clinical examination are valid in New Mexico for a period not to exceed five years:
 - (1) the applicant shall apply directly to a board accepted examining agent for examination,

and

- (2) results of the clinical examination must be sent directly to the board office; and
- D. passed the jurisprudence examination with a score of at least 75 percent;
- E. the committee requires a level III background status report from a board designated professional background service for new graduates, and a level II background status report from a board designated professional background service for any other applicant; application for this service will be included with other application materials; the applicant will apply and pay fees directly to a board designated professional background service to initiate this service.

[3-14-73, 10-4-86, 3-7-88, 5-31-95; A, 12-15-97, A, 8-16-99; 16.5.19.8 NMAC - Rn & A, 16 NMAC 5.19.8, 12-30-02; A, 07-17-08; A, 07-19-10; A, 01-09-12; A, 07-17-13]

16.5.19.9 DOCUMENTATION REQUIREMENTS: Each applicant for a dental hygiene license by examination must submit the required fees and following documentation:

- A. completed application, signed and notarized with a passport quality photo taken within six months affixed to the application; applications are valid for one year from the date of receipt;
- B. official transcripts or an original letter on letterhead with an embossed seal verifying successfully passing all required courses from the dental hygiene program, to be sent directly to the board office from the accredited program;
- C. copy of clinical examination score card or certificate;
- D. copy of national board examination certificate or score card;
- E. proof of having taken a course in infection control technique or graduation from dental hygiene school within the past 12 months;

F. proof of current basic life support (BLS) or cardiac pulmonary resuscitation (CPR) certification accepted by the American heart association, the American red cross, or the American safety and health institute (ASHI); cannot be a self-study course;

G. verification of licensure in all states where the applicant holds or has held a license to practice dental hygiene or a related profession; verification must be sent directly to the board office from the other state(s) board, must include an embossed seal, and must attest to the status, issue date, expiration date, license number, and other information contained on the form; and

H. the appropriate status report from a board designated professional background service must be received by the board office directly from a board designated professional background service; the results of the background check must either indicate no negative findings, or if there are negative findings, those findings will be considered by the committee.

[3-14-73, 3-7-88, 10-4-86, 5-31-95, 9-30-96, 12-15-97; 16.5.19.9 NMAC - Rn & A, 16 NMAC 5.19.9, 12-30-02; A, 04-16-08; A, 07-17-08; A, 07-19-10; A, 01-09-12; A, 01-15-15]

16.5.19.10 RE-EXAMINATION PROCEDURE: An applicant who does not obtain a passing score on the jurisprudence exam must submit the re-examination fee as defined in Subsection D of 16.5.18.8 NMAC to re-take the exam.

[8-11-89...9-30-96; 16.5.19.10 NMAC - Rn, 16 NMAC 5.19.10, 12-30-02; A, 04-16-08]

16.5.19.11 LICENSURE PROCEDURE: Upon receipt of a completed application, including all required documentation and fees, and successful completion of the examination requirements, a committee member will review the application and may approve for licensure. The recommendation of the committee will be given to the board to formally accept the approval of the application at the next scheduled meeting.

A. Initial dental hygiene licenses are issued for a period not to exceed three years, as defined in Part 24.

B. Any application that cannot be approved by the committee member will be reviewed by the entire committee at the next scheduled meeting.

[3-16-94...9-30-96; A, 8-16-99; 16.5.19.11 NMAC - Rn & A, 16 NMAC 5.19.11, 12-30-02]

HISTORY OF 16.5.19 NMAC: [RESERVED]

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING
CHAPTER 5 DENTISTRY (DENTISTS, DENTAL HYGIENISTS, ETC.)
PART 20 DENTAL HYGIENISTS, LICENSURE BY CREDENTIALS

16.5.20.1 ISSUING AGENCY: New Mexico Board of Dental Health Care.
[9-30-96; 16.5.20.1 NMAC - Rn, & A, 16 NMAC 5.20.1, 06-14-01]

16.5.20.2 SCOPE: The provisions of 16.5.20 NMAC apply to all applicants for licensure as a dental hygienist who are currently licensed in another state by examination.
[9-30-96; 16.5.20.2 NMAC - Rn, 16 NMAC 5.20.2, 06-14-01]

16.5.20.3 STATUTORY AUTHORITY: 16.5.20 NMAC is promulgated pursuant to the Dental Health Care Act, NMSA 1978 Section 61-5A-13 (1996 Repl. Pamp.).
[9-30-96; 16.5.20.3 NMAC - Rn, 16 NMAC 5.20.3, 06-14-01]

16.5.20.4 DURATION: Permanent.
[9-30-96; 16.5.20.4 NMAC - Rn, 16 NMAC 5.20.4, 06-14-01]

16.5.20.5 EFFECTIVE DATE: September 30, 1996, unless a later date is cited at the end of a section.
[9-30-96; 16.5.20.5 NMAC - Rn, 16 NMAC 5.20.5, 06-14-01; A, 04-17-06]

16.5.20.6 OBJECTIVE: To establish the requirements for applicants for dental hygiene licensure based on their licensure and practice in another state.
[9-30-96; 16.5.20.6 NMAC - Rn, 16 NMAC 5.20.6, 06-14-01]

16.5.20.7 DEFINITIONS: [RESERVED]
[9-30-96; 16.5.20.7 NMAC - Rn, 16 NMAC 5.20.7, 06-14-01]

16.5.20.8 PREREQUISITE REQUIREMENTS FOR LICENSE: Each applicant for licensure as a dental hygienist by credentials must possess the following qualifications:

- A. graduated and received a diploma from an accredited dental hygiene program consisting of at least two academic years of dental hygiene curriculum as defined in Section 61-5A-13, NMSA 1978 of the act;
- B. completed 15 hours of continuing education during the past year; these hours must meet the qualifications as defined in 16.5.1.15 NMAC;
- C. passed the dental hygiene national board examination as defined in Section 61-5A-13 A., NMSA 1978;
- D. passed the jurisprudence examination with a score of at least 75 percent;
- E. holds a current active license in good standing obtained through a clinical examination in another state or territory of the United States;
- F. the committee requires a level II background status report from a board designated professional background service; application for this service will be included with other application materials; the applicant will apply and pay fees directly to a board designated professional background service to initiate this service;
- G. all licenses held by the applicant must have been in good standing for two years prior to application;
- H. the committee may deny, stipulate, or otherwise limit a license if it is determined the applicant is guilty of violating any of the provisions of the act, the Uniform Licensing Act, the Impaired Dentists and Hygienists Act, or these rules.

[3-28-91, 5-31-95, 9-30-96, 8-16-99; 16.5.20.8 NMAC - Rn, & A, 16 NMAC 5.20.8, 06-14-01; A, 03-06-05, A, 04-16-08; A, 7-17-08; A, 01-09-12]

16.5.20.9 DOCUMENTATION REQUIREMENTS: Each applicant for licensure by credentials must submit the required fees and following documentation:

- A. completed application, signed and notarized with a passport quality photo taken within six months affixed to the application; applications are valid for one year from the date of receipt;
- B. official transcripts or an original letter on letterhead with an embossed seal verifying successfully passing all required courses from the dental hygiene program, to be sent directly to the board office from the accredited program;
- C. copy of national board examination certificate or score card;

- D. proof of having taken a course in infection control technique within the past 12 months;
- E. proof of current basic life support (BLS) or cardiac pulmonary resuscitation (CPR) certification accepted by the American heart association, the American red cross, or the American safety and health institute (ASHI); cannot be a self-study course;
- F. proof of 15 hours of continuing education during the 12 months prior to application;
- G. a status report must be received at the board office directly from a board designated professional background service; the results of the board designated professional background service background check must either indicate no negative findings or, if there are negative findings, those findings will be considered by the committee:
 - (1) the committee may deny, stipulate, or otherwise limit a license if it is determined the applicant is guilty of violating any of the provisions of the act, the Uniform Licensing Act, the Impaired Dentists and Hygienists Act, or the rules;
 - (2) supplemental information may be requested by the committee; and
- H. verification of licensure in all states where the applicant holds or has held a license to practice dental hygiene or a related profession; verification must be sent directly to the board office from the other state(s) board, must include an embossed seal, and must attest to the status, issue date, expiration date, license number, and other information contained on the form.
[3-28-91, 5-31-95, 9-30-96, 8-16-99; 16.5.20.9 NMAC - Rn & A, 16 NMAC 5.20.9, 06-14-01; A, 04-16-08; A, 07-19-10; A, 01-09-12; A, 01-15-15]

16.5.20.10 RE-EXAMINATION PROCEDURE: An applicant who does not obtain a passing score on the jurisprudence examination must submit the re-examination fee as defined in Subsection D of 16.5.18 NMAC to re-take the exam.

[9-30-96; 16.5.20.10 NMAC - Rn, 16 NMAC 5.20.10, 06-14-01; A, 01-09-12]

16.5.20.11 LICENSURE PROCEDURE: Upon receipt of a completed application, including all required documentation and fees, and successful completion of the Jurisprudence Examination, a designee of the Committee will review the application and may approve for licensure. The recommendation of the Committee will be given to the Board to formally accept the approval of the application at the next scheduled meeting.

A. Initial dental hygiene licenses are issued for a period not to exceed three years as defined in 16.5.24 NMAC.

B. Any application which cannot be approved by the delegate of the Committee will be reviewed by the entire Committee at the next scheduled meeting.

[5-31-95, 9-30-96, A, 8-16-99; 16.5.20.11 NMAC - Rn, 16 NMAC 5.20.11, 06-14-01]

HISTORY OF 16.5.20 NMAC:

Pre-NMAC History:

Material in this part was derived from that previously filed with the commission of public records - state records center and archives as:

Article VIII, Licensing of Dental Hygienists, filed 03-12-81;

Article VIII, Licensing of Dental Hygienists, filed 01-12-82;

Article, VIII, Licensing of Dental Hygienists, filed 03-30-82;

BOD Rule 7, Licensing of Dental Hygienists, filed 02-09-89;

BODHC Rule DH 2-95, Dental Hygienists, Requirements for Licensure by Credentials, filed 05-05-95.

History of Repealed Material: [Reserved]

Other History:

16 NMAC 5.20, Dental Hygienists, Licensure by Credentials, filed 09-17-96;

16 NMAC 5.20, Dental Hygienists, Licensure by Credentials, filed 09-17-96 - renumbered, reformatted and amended to 16.5.20 NMAC, Dental Hygienists, Licensure by Credentials, effective 06-14-01.

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING
CHAPTER 5 DENTISTRY (DENTISTS, DENTAL HYGIENISTS, ETC.)
PART 21 DENTAL HYGIENISTS, TEMPORARY OR PUBLIC SERVICE LICENSURE:

16.5.21.1 ISSUING AGENCY: New Mexico Board of Dental Health Care
[9-30-96; 16.5.21.1 NMAC - Rn & A, 16 NMAC 5.21.1, 12-30-02]

16.5.21.2 SCOPE: The provisions of Part 21 of Chapter 5 apply to all dental hygienists applying for a temporary or public service license to practice in New Mexico.
[9-30-96; 16.5.21.2 NMAC - Rn, 16 NMAC 5.21.2, 12-30-02; A, 01-09-12]

16.5.21.3 STATUTORY AUTHORITY: Part 21 of Chapter 5 is promulgated pursuant to the Dental Health Care Act, NMSA 1978 61-5A-14 (1996 Repl. Pamp.).
[9-30-96; 16.5.21.3 NMAC - Rn, 16 NMAC 5.21.3, 12-30-02]

16.5.21.4 DURATION: Permanent
[9-30-96; 16.5.21.4 NMAC - Rn, 16 NMAC 5.21.4, 12-30-02]

16.5.21.5 EFFECTIVE DATE: September 30, 1996, unless a later date is cited at the end of a section.
[9-30-96; 16.5.21.5 NMAC - Rn & A, 16 NMAC 5.21.5, 12-30-02]

16.5.21.6 OBJECTIVE: To establish the requirements for application for temporary or public service licensure as a dental hygienist.
[9-30-96; 16.5.21.6 NMAC - Rn, 16 NMAC 5.21.6, 12-30-02; A, 01-09-12]

16.5.21.7 DEFINITIONS:

A. "Entity" means a dental or dental hygiene organization, foundation or officially recognized study club, which has a constitution, bylaws and whose officers or board of trustees are dentists or dental hygienists licensed in good standing in the state.

B. "Good standing" means having an active dental hygiene license in a jurisdiction for a period of at least two consecutive years immediately preceding the date of application. The committee as ratified by the board shall consider stipulations, disciplinary, or administrative actions taken against a licensee by the issuing agency, within the previous two years, when determining whether a license is in good standing.

C. "In the state" or "in this state" means that a program has a physical presence in New Mexico in the form of a facility and a permanent faculty.

[9-30-96; 16.5.21.7 NMAC - Rn, 16 NMAC 5.21.7, 12-30-02; A, 01-09-12]

16.5.21.8 CATEGORIES OF TEMPORARY OR PUBLIC SERVICE LICENSES: Temporary or public service dental hygiene licenses may be issued in the following categories for specific purposes, if education and experience requirements are met.

A. Clinical educator.

(1) Dental hygienists, not currently licensed in New Mexico, who provide continuing education or training that includes clinical demonstrations on live subjects must apply for temporary licensure. The temporary license is issued for 48 hours (two days). If the course lasts longer than two days, additional 48 hour licenses may be requested upon payment of the applicable fees.

(2) Dental hygienists, not currently licensed in New Mexico, who intend to serve as a faculty member of an accredited dental hygiene program must apply for a temporary or public service license. The temporary or public service license is issued for 12 months and may be renewed one time. Temporary or public service licensees must be granted a license under the provisions of 16.5.19 NMAC or 16.5.21.15 NMAC prior to the expiration date of the temporary or public service license to continue uninterrupted practice of dental hygiene in New Mexico.

B. Public health dental hygiene. A dental hygienist may be granted temporary or public service licensure to practice in a state institution, public health clinic or public health program approved or maintained by the New Mexico department of health. The temporary or public service license holder is restricted to work exclusively in the institution or program named on the application. A temporary or public service license may be issued for six or 12 months and may be renewed one time. Temporary or public service licensees must be granted a license under the provisions of 16.5.19 NMAC or 16.5.21.15 NMAC prior to the expiration date of the temporary or public service license to continue uninterrupted practice of dental hygiene in New Mexico.

C. Presumptive public service licensure for charitable dental hygiene projects: A dental hygienist not holding a license in the state may be granted a presumptive public service license for up to 72 hours to participate in a committee approved, and ratified by the board, charitable project. Except as noted in this section the dental hygienist shall otherwise be subject to the provisions of the dental practice act and the rules and regulations of the board. The presumptive public service license is valid only when:

- (1) the charitable project is approved by the committee and ratified by the board 45 days prior to the scheduled event;
- (2) the dental hygienist receives no compensation for participating in the project;
- (3) the project is sponsored by an entity as defined in 16.5.21.7 NMAC and that entity has been approved by the committee, and ratified by the board, to undertake the charitable project;
- (4) the dental hygienist holds a license in good standing in another jurisdiction and the license is verified by the sponsoring entity;
- (5) the dental hygienist has graduated from and holds a diploma from a dental hygiene school accredited by the commission on dental accreditation and a copy of the diploma is on file with the sponsoring entity;
- (6) upon request of the out-of-state dental hygienist shall produce copies of their diploma and license in another jurisdiction;
- (7) the dental hygiene care provided is within the scope and limits of the license the dental hygienist holds in the other jurisdiction;
- (8) the out-of-state dental hygienist works under the indirect supervision of a dentist licensed in this state who is present at the charitable project;
- (9) patients who receive dental hygiene care during the charitable project will be given a list of dentists whom they can contact if post-operative care is needed;
- (10) a charitable public service license is not eligible for conversion to any other temporary or public service, regular license, or license by credentials, and
- (11) no fee shall be required by the board for the presumptive public service license for a charitable project.

[3-14-73, 5-31-95, 9-30-96; 16.5.21.8 NMAC - Rn & A, 16 NMAC 5.21.8, 12-30-02; A, 09-18-10; A, 01-09-12; A, 12-15-12]

16.5.21.9 REQUIREMENTS FOR TEMPORARY OR PUBLIC SERVICE LICENSURE:

Presumptive public service dental hygienist as defined in Subsection C of 16.5.21.8 NMAC are not required to comply with Subsection C of this section. All other applicants for temporary or public service licensure must possess each of the following qualification:

- A. graduated and received a diploma from an accredited dental hygiene program consisting of at least two academic years of dental hygiene curriculum as defined in Section 61-5A-13; and
- B. hold a valid license obtained through a clinical examination in another state or territory of the United States;
- C. applicants requesting a six or 12 month temporary or public service license are required to successfully complete the jurisprudence examination.

[3-14-73, 5-31-95, 9-30-96; 16.5.21.9 NMAC - Rn, 16 NMAC 5.21.9, 12-30-02; A, 09-18-10; A, 01-09-12]

16.5.21.10 DOCUMENTATION REQUIREMENTS: Except as otherwise required by Subsection C of 16.5.21.8 NMAC, presumptive public service dental hygienist do not need to comply with the following for presumptive public service licensure. All other applicants for temporary or public service licensure must submit the required fees and following documentation:

- A. completed application, signed and notarized with a passport quality photo taken within six months affixed to the application; applications are valid for one year from the date of receipt;
- B. proof of current basic life support (BLS) or cardiac pulmonary resuscitation (CPR) certification accepted by the American heart association, the American red cross, or the American safety and health institute (ASHI); cannot be a self-study course;
- C. copies of all valid licenses and a letter from the applicant attesting to the status of each license;
- D. an affidavit from the New Mexico licensed dental hygienist or dentist who will sponsor the applicant, attesting to the qualifications of the applicant and the activities the applicant will perform;
- E. a list of activities to be practiced and the time period for which the temporary or public service license is requested;
- F. in addition, applicants requesting temporary or public service licensure in public health must submit the following documentation:

(1) official transcripts or an original letter on letterhead with a raised embossed seal verifying successfully passing all required courses from the dental hygiene program, to be sent directly to the board office from the accredited program;

(2) copy of national board examination certificate or score card; and

(3) proof of having taken a course in infection control technique within the past 12 months.

[3-14-73, 5-31-95, 9-30-96; 16.5.21.10 NMAC - Rn, 16 NMAC 5.21.10, 12-30-02; A, 04-16-08; A, 09-18-10; A, 01-09-12]

16.5.21.11 RE-EXAMINATION PROCEDURE: An applicant who does not obtain a passing score on the jurisprudence examination must submit the re-examination fee as defined in Subsection D of 16.5.18.8 NMAC to re-take the exam.

[9-30-96; 16.5.21.11 NMAC - Rn, 16 NMAC 5.21.11, 12-30-02; A, 09-18-10; A, 01-09-12]

16.5.21.12 LICENSURE PROCEDURE:

A. Clinical Educator: Upon receipt of a completed application, including all required documentation and fees, a Committee member will review the application and may approve for licensure. The license will be read into the Committee and Board records at the next scheduled meeting.

B. Public Health Dental Hygiene: Upon receipt of a completed application, including all required documentation and fees, and successful completion of the jurisprudence examination, a Committee member will review the application and may approve for licensure. The license will be read into the Committee and Board records at the next scheduled meeting.

[3-14-73, 9-30-96; 16.5.21.12 NMAC - Rn & A, 16 NMAC 5.21.12, 12-30-02]

16.5.21.13 LIMITATION ON LICENSE:

A. Temporary or public service licensees shall engage in only those activities specified on the temporary or public service license for the time period designated.

B. Temporary or public service licensees shall only practice under the sponsorship, or in association with, a licensed New Mexico dental hygienist or dentist.

C. Temporary or public service licensees and the approved sponsor or associate are responsible for compliance with the act and these rules.

[3-14-73, 5-31-95; 16.5.21.13 NMAC - Rn, 16 NMAC 5.21.13, 12-30-02; A, 01-09-12]

16.5.21.14 RE-ISSUE PROCEDURES: To remain eligible for temporary or public service licensure; temporary or public service license holders who are eligible for reissue per Paragraph (2) of Subsection A and Subsection B of 16.5.21.8 NMAC must contact the board office three months prior to the expiration date to begin the re-issue process. All requirements regarding re-issue are the same as the initial application as defined in 16.5.21.8 NMAC. The application, fee and proof of 15 hours of continuing education must be post-marked on or before the expiration date.

[16.5.21.14 NMAC - N, 12-30-02; A, 09-18-10; A, 01-09-12]

16.5.21.15 CONVERSION OF TEMPORARY LICENSE TO LICENSE BY CREDENTIALS OR EXAMINATION: Temporary licenses may be renewed once for a 12 month time period. After that renewal the license is no longer eligible for re-issue. If uninterrupted practice of dental hygiene in New Mexico is desired after two years, then a temporary licensee must convert to a dental hygiene license by credentials or examination. Only temporary licenses previously issued for 12 months are eligible for conversion to a permanent license by credential or examination.

A. Following the completion of the requirements for licensure, some of which were submitted with the temporary application, the applicant will complete an application for licensure by credentials.

B. Any additional licenses acquired during the time practicing under a temporary license must be reported on the application for licensure by credentials or examination.

C. Any actions taken against the applicant's license in any other jurisdiction while licensed in New Mexico under a temporary license must be reported on the application for license by credentials or examination.

D. Upon receipt of a complete application a committee member shall approve a New Mexico license by credential or examination unless there is any action pending against the temporary license. Then at the discretion of the committee or its agent, the temporary license may be extended until pending action is settled. If action is taken against the temporary license, conversion to a license by credentials or examination will be halted and the temporary license will no longer be renewed.

[16.5.21.15 NMAC - N, 12-30-02; A, 09-18-10; A, 01-09-12]

HISTORY OF 16.5.21 NMAC:

Pre-NMAC History:

Material in this part was derived from that previously filed with the commission of public records - state records center and archives as:

BODHC Rule DH 3-95, Dental Hygienists, Temporary License, filed 05-05-95.

History of Repealed Material: [Reserved]

Other History:

BODHC Rule DH 3-95, Dental Hygienists, Temporary License, filed 05-05-95 was renumbered, reformatted and amended into the first version of NMAC as 16 NMAC 5.21, Dental Hygienists, Temporary Licensure, filed 09-17-96.

16 NMAC 5.21, Dental Hygienists, Temporary Licensure, filed 09-17-96 - renumbered, reformatted and amended to 16.5.21 NMAC, Dental Hygienists, Temporary Licensure, effective 12-30-02.

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING
CHAPTER 5 DENTISTRY (DENTISTS, DENTAL HYGIENISTS, ETC.)
PART 23 DENTAL HYGIENISTS, CONTINUING EDUCATION REQUIREMENTS

16.5.23.1 ISSUING AGENCY: New Mexico Board of Dental Health Care.
[9/30/96; 16.5.23.1 NMAC - Rn & A, 16 NMAC 5.23.1, 04/17/06]

16.5.23.2 SCOPE: The provisions of Part 23 of Chapter 5 apply to all licensed dental hygienists who are applying to renew their license.
[9/30/96; 16.5.23.2 NMAC - Rn, 16 NMAC 5.23.2, 04/17/06]

16.5.23.3 STATUTORY AUTHORITY: Part 23 of Chapter 5 is promulgated pursuant to the Dental Health Care Act, Section 61-5A-10 NMSA 1978 (1996 Repl. Pamp.).
[9/30/96; 16.5.23.3 NMAC - Rn, 16 NMAC 5.23.3, 04/17/06]

16.5.23.4 DURATION: Permanent
[9/30/96; 16.5.23.4 NMAC - Rn, 16 NMAC 5.23.4, 04/17/06]

16.5.23.5 EFFECTIVE DATE: September 30, 1996, unless a later date is cited at the end of a section.
[9/30/96; 16.5.23.5 NMAC - Rn & A, 16 NMAC 5.23.5, 04/17/06]

16.5.23.6 OBJECTIVE: To establish criteria for continuing education for dental hygienists licensed in New Mexico.
[9/30/96; 16.5.23.6 NMAC - Rn, 16 NMAC 5.23.6, 04/17/06]

16.5.23.7 DEFINITIONS: [RESERVED]
[9/30/96; 16.5.23.7 NMAC - Rn, 16 NMAC 5.23.7, 04/17/06]

16.5.23.8 HOURS REQUIRED: 45 hours of continuing education, a maximum of 30 hours can be on-line, webinars or self-study are required during each triennial renewal cycle as defined in 16.5.1 NMAC. Continuing education received after submission of renewal materials but prior to actual expiration date may be used for the requirements of the next renewal cycle. Continuing education requirements are pro-rated at 15 hours per full year of the initial licensing period. Initial licenses issued for less than a full year do not require continuing education for the first renewal.
[11/21/75, 5/31/95; 16.5.23.8 NMAC - Rn, 16 NMAC 5.23.8, 04/17/06; A, 01/09/12]

16.5.23.9 COURSES REQUIRED: Continuing education coursework must contribute directly to the practice of dental hygiene and must comply with the requirements of 16.5.1.15 NMAC of these rules. The following courses are required for license renewal:

- A. basic life support (BLS) or cardiac pulmonary resuscitation (CPR): proof of current certification accepted by the American heart association, the American red cross, or the American safety and health institute (ASHI); cannot be a self-study course;
- B. infection control: as further defined in 16.5.1.16 NMAC, a course in infection control techniques and sterilization procedures per renewal period.

[11/21/75, 4/12/92, 5/21/93, 5/31/95, 9/30/96; 16.5.23.9 NMAC - Rn & A, 16 NMAC 5.23.9, 04/17/06; A, 04/16/08; A, 07/19/10; A, 01/09/12]

16.5.23.10 VERIFICATION OF CONTINUING EDUCATION: The committee will select renewal applications for verification of continuing education. Audit requests will be included with the renewal notice and those selected individuals will be asked to submit proof of compliance with the continuing education requirements. Continuing education records may be audited by the committee at any time. The records identified in Subsection F of 16.5.1.15 NMAC are considered acceptable forms of documentation. Continuing education records must be maintained for one year following the renewal cycle in which they are earned.
[5/21/93, 9/30/96; 16.5.23.10 NMAC - Rn, 16 NMAC 5.23.10, 04/17/06]

16.5.23.11 EMERGENCY DEFERRAL:

- A. A licensee unable to fulfill the continuing education requirements may apply to the committee for an emergency deferral of the requirements due to extenuating circumstances as defined in 16.5.1.7 NMAC. Deferrals of up to four months may be granted by a designee of the committee.

B. A licensee practicing or residing outside the United States shall not be required to fulfill the continuing education requirements for the period of the absence.

(1) The committee must be notified prior to license expiration that the licensee will be outside the US, including the period of the absence.

(2) Upon return to the US, the licensee shall complete the continuing education required for the years of practice within the US during the renewal cycle, or apply for an emergency deferral.

[3/11/89, 9/30/96; 16.5.23.1 NMAC - Rn, 16 NMAC 5.23.1, 04/17/06; A, 01/09/12]

HISTORY OF 16.5.23 NMAC:

Pre-NMAC History: The material in this part was derived from that previously filed with the commission of public records - state records center and archives as:

Article XIII, Disciplinary Proceedings, filed 3/12/81.

Article XIII, Disciplinary Proceedings, filed 1/12/82.

Article XIII, Disciplinary Proceedings, filed 3/30/82.

That applicable portion of Article XIII, Disciplinary Proceedings replaced by BOD Rule 12, Continuing Education Requirements, filed 2/9/89.

That applicable portion of BOD Rule 12, Continuing Education Requirements replaced by BODHC Rule DH 5-95, Dental Hygienists, Continuing Education Requirements, filed 5/5/95.

History of Repealed Material: [RESERVED]

Other History:

BODHC Rule DH 5-95, Dental Hygienists, Continuing Education Requirements (filed 5/5/95) was renumbered, reformatted, amended and replaced by 16 NMAC 5.23, Dental Hygienists, Continuing Education Requirements, effective 9/30/96.

16 NMAC 5.23, Dental Hygienists, Continuing Education Requirements (filed 9/17/96) renumbered, reformatted, amended and replaced by 16.5.23 NMAC, Dental Hygienists, Continuing Education Requirements effective 04/17/06.

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING
CHAPTER 5 DENTISTRY (DENTISTS, DENTAL HYGIENISTS, ETC.)
PART 24 DENTAL HYGIENISTS, LICENSE EXPIRATION AND RENEWAL

16.5.24.1 ISSUING AGENCY: New Mexico Board of Dental Health Care.
[9/30/96; 16.5.24.1 NMAC - Rn & A, 16 NMAC 5.24.1, 04/17/06]

16.5.24.2 SCOPE: The provisions of Part 24 of Chapter 5 apply to all dental hygienists with a license to practice in New Mexico.
[9/30/96; 16.5.24.2 NMAC - Rn, 16 NMAC 5.24.2, 04/17/06]

16.5.24.3 STATUTORY AUTHORITY: Part 24 of Chapter 5 is promulgated pursuant to the Dental Health Care Act, Section 61-5A-16 NMSA 1978 (1996 Repl. Pam.).
[9/30/96; 16.5.24.3 NMAC - Rn, 16 NMAC 5.24.3, 04/17/06]

16.5.24.4 DURATION: Permanent
[9/30/96; 16.5.24.4 NMAC - Rn, 16 NMAC 5.24.4, 04/17/06]

16.5.24.5 EFFECTIVE DATE: September 30, 1996, unless a later date is cited at the end of a section.
[9/30/96; 16.5.24.5 NMAC - Rn & A, 16 NMAC 5.24.5, 04/17/06]

16.5.24.6 OBJECTIVE: To establish procedures for license issuance, expiration and renewal.
[9/30/96; 16.5.24.6 NMAC - Rn, 16 NMAC 5.24.6, 04/17/06]

16.5.24.7 DEFINITIONS: [RESERVED]
[9/30/96; 16.5.24.7 NMAC - Rn, 16 NMAC 5.24.7, 04/17/06]

16.5.24.8 LICENSE EXPIRATION: Initial licenses expire on July 1 in the third year of licensure. No license will be issued for longer than 36 months or less than 25 months.
[11/6/83, 9/30/96, 12/15/97, 8/16/99; 16.5.24.8 NMAC - Rn, 16 NMAC 5.24.8, 04/17/06]

16.5.24.9 RENEWAL PERIOD AND EXPIRATION: After the initial license period, dental hygiene licenses expire every three years on June 30. Dental hygiene licenses not renewed by July 1 are considered expired.
[3/14/73, 9/30/96, 8/16/99; 16.5.24.9 NMAC - Rn & A, 16 NMAC 5.24.9, 04/17/06]

16.5.24.10 RENEWAL PROCESS: A completed renewal application, accompanied by the required fee as set forth in 16.5.18.8 NMAC, along with the required proof of completion of 45 hours of continuing education as set forth in 16.5.1.15 NMAC. The completed renewal application must be post-marked on or before July 1, of the renewal year.
[3/14/73, 9/30/96, 8/16/99; 16.5.24.10 NMAC - Rn & A, 16 NMAC 5.24.10, 04/17/06]

16.5.24.11 LICENSEE RESPONSIBILITY: The board assumes no responsibility for renewal applications not received by the licensee for any reason. It is the licensee's responsibility to make timely request for the renewal form if one has not been received thirty days prior to license expiration. Incomplete renewal applications shall be returned to the licensee for completion and may result in the assessment of a late renewal fee as set forth in 16.5.18.8 NMAC.
[5/31/95; 16.5.24.11 NMAC - Rn & A, 16 NMAC 5.24.11, 04/17/06]

16.5.24.12 RENEWAL AFTER JUNE 30: Renewal applications post-marked after July 1, and prior to August 1, of the renewal year must be accompanied by the completed renewal application with the required proof of completion of 45 hours of continuing education as set forth in 16.5.23.8 NMAC, along with the triennial renewal fee, impairment fee and the late fee as set forth in 16.5.18.8 NMAC.
[3/14/73, 9/30/96, 8/16/99; 16.5.24.12 NMAC - Rn & A, 16 NMAC 5.24.12, 04/17/06]

16.5.24.13 RENEWAL AFTER AUGUST 1 AND BEFORE SEPTEMBER 1: Renewal applications post-marked on or after August 1, but before September 1, of the renewal year, must be accompanied by the completed renewal application with the required proof of completion of 45 hours of continuing education as set

forth in 16.5.23.8 NMAC, along with the triennial renewal fee, impairment fee, late fee and the cumulative late fee as set forth in 16.5.18.8 NMAC.

[3/14/73, 5/31/95; 16.5.24.13 NMAC - Rn & A, 16 NMAC 5.24.13, 04/17/06]

16.5.24.14 RENEWAL APPLICATION UNDELIVERABLE: If the notice of renewal is returned to the office and the licensee has not sent a change of address, the revocation order will be considered undeliverable and will not be mailed.

[5/31/95; 16.5.24.14 NMAC - Rn, 16 NMAC 5.24.14, 04/17/06]

HISTORY OF 16.5.24 NMAC:

Pre-NMAC History: The material in this part was derived from that previously filed with the commission of public records - state records center and archives as:

Article VIII, Licensing of Dental Hygienists, filed 3/12/81.

Article VIII, Licensing of Dental Hygienists, filed 1/12/82.

Article VIII, Licensing of Dental Hygienists, filed 3/30/82.

BOD Rule 7, Licensing of Dental Hygienists, filed 2/9/89.

BODHC Rule DH 4-95, Dental Hygienists, Initial Licensing Period, Renewal, filed 5/5/95.

History of Repealed Material: [RESERVED]

Other History:

BODHC Rule DH 4-95, Dental Hygienists, Initial Licensing Period, Renewal (filed 5/5/95) was renumbered, reformatted, amended and replaced by 16 NMAC 5.24, Dental Hygienists, License Expiration and Renewal, effective 9/30/96.

16 NMAC 5.24, Dental Hygienists, License Expiration and Renewal (filed 9/17/96) renumbered, reformatted, amended and replaced by 16.5.24 NMAC, Dental Hygienists, License Expiration and Renewal, effective 04/17/06.

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING
CHAPTER 5 DENTISTRY (DENTISTS, DENTAL HYGIENISTS, ETC.)
PART 25 DENTAL HYGIENISTS, RETIREMENT, INACTIVE AND REINSTATEMENT

16.5.25.1 ISSUING AGENCY: New Mexico Board of Dental Health Care.
[9-30-96; 16.5.25.1 NMAC - Rn & A, NMAC 5.25.1, 12-14-00]

16.5.25.2 SCOPE: The provisions of 16.5.25 NMAC apply to all licensed dental hygienists who plan to retire or reinstate an active license to practice dental hygiene in New Mexico.
[9-30-96; 16.5.25.2 NMAC - Rn, 16 NMAC 5.25.2, 12-14-00]

16.5.25.3 STATUTORY AUTHORITY: 16.5.25 NMAC is promulgated pursuant to the Dental Health Care Act, NMSA 1978, Section 61-5A-17 (1996 Repl. Pamp.)
[9-30-96; 16.5.25.3 NMAC - Rn, 16 NMAC 5.25.3, 12-14-00]

16.5.25.4 DURATION: Permanent.
[9-30-96; 16.5.25.4 NMAC - Rn, 16 NMAC 5.25.4, 12-14-00]

16.5.25.5 EFFECTIVE DATE: September 30, 1996, unless a later date is cited at the end of a section.
[9-30-96; 16.5.25.5 NMAC - Rn, 16 NMAC 5.25.5, 12-14-00; A, 12-30-02]

16.5.25.6 OBJECTIVE: To establish the requirements and procedures to place an active dental hygiene license in retirement status, inactive status or to reinstate the license to active status.
[9-30-96; 16.5.25.6 NMAC - Rn, 16 NMAC 5.25.6, 12-14-00; A, 03-06-05]

16.5.25.7 DEFINITIONS: [RESERVED]
[9-30-96; 16.5.25.7 NMAC - Rn, 16 NMAC 5.25.7, 12-14-00]

16.5.25.8 RETIREMENT: A license to practice dental hygiene may be placed in retirement status one time through the following procedures.

A. The request for retirement status must be made in writing to the board office prior to the expiration of the current license. The written request must include the following information:

- (1) the actual date of retirement; and
- (2) a list of any continuing education courses taken since the last active and/or inactive license renewal, including documentation required in section 16.5.1.15 NMAC.

B. Board staff shall acknowledge receipt of the request for retirement status and at the next meeting of the committee the request for retirement will be placed on the agenda. Upon committee recommendation and board approval of retirement status the licensee will be exempt from payment of the triennial renewal fees during the period of retirement.

C. The committee may recommend denial of a request for retirement status if there are any current or pending complaints or disciplinary actions against the licensee.

D. A licensee desiring to go from active to inactive must sign a waiver and stipulation provided by the board foregoing the three year retirement.

[3-14-73...3-16-94, 5-31-95, 9-30-96; 16.5.25.8 NMAC - Rn, 16 NMAC 5.25.8, 12-14-00; A, 03-06-05]

16.5.25.9 INACTIVE: A license to practice dental hygiene may be placed in inactive status one time through the following procedures.

A. The request for inactive status must be made by an application obtained from the board office prior to the expiration of the current license or the three-year eligibility of retirement status. The written request must include the following information:

- (1) the actual date of inactivation request; and
- (2) a list of any continuing education courses taken since the last license renewal, including documentation set forth in 16.5.1.15 NMAC.

B. Board staff shall acknowledge receipt of application for inactive status and at the next meeting of the committee the request for inactivation will be placed on the agenda.

C. The committee may recommend denial of a request for inactive status if there are any current or pending complaints or disciplinary actions against the licensee.

[3-14-73, 3-11-89, 5-31-95, 9-30-96, 1-1-99; 16.5.25.9 NMAC - Rn & A, 16 NMAC 5.25.9, 12-14-00; A, 12-30-02; N, 03-06-05; A, 04-17-06]

16.5.25.10 REINSTATEMENT FROM RETIREMENT STATUS: A licensee whose license has been placed in retirement status may request reinstatement of the retired license within three years of the date of retirement as indicated in 16.5.25.8 NMAC. Upon receipt of the request for reinstatement, board staff shall send an application for reinstatement of license.

A. Along with the completed application, the request for reinstatement must include the reinstatement fee, the triennial renewal fee, impairment fee, a completed application, and proof of the following continuing education courses.

(1) There will be 10 CE hours/year of retirement, up to 30 hours, required for reinstatement.

(2) The requirements of the infection control hours and the basic life support hours taken in the past 12 months may be included toward these required hours:

(a) proof of infection control course within the past 12 months;

(b) proof of current basic life support (BLS) or cardiac pulmonary resuscitation (CPR) certification accepted by the American heart association, the American red cross, or the American safety and health institute (ASHI); cannot be a self-study course;

(c) 45 hours of continuing education required for the last triennial renewal cycle of active licensure; these hours may include continuing education identified at the time of retirement request as well as any continuing education taken during the retirement period.

(3) Verification of licensure in all states where the applicant holds or has held a license to practice dental hygiene, or other health care profession. Verification must be sent directly to the board office from the other state boards, must include a raised seal, and must attest to the status, issue date, expiration date, license number, and other information contained on the form.

B. The request for reinstatement from retirement status, including a statement of the applicant's activities during the period of retirement and any existing impairments, shall be reviewed by a subcommittee as designated by the chair. If the subcommittee finds the application in order and is satisfied the applicant has fulfilled all required continuing education and submitted the fees, the subcommittee may approve the license reinstatement and the previous license number reassigned. The license will be read into the committee and board records at the next scheduled meeting. If the subcommittee finds that the application is not in order, the application will go to the entire committee for review. The reinstated license will expire as defined in 16.5.24 NMAC.

C. A dental hygienist with a license in retirement status may not practice dental hygiene in New Mexico until proof of active licensure is received from the board office.

D. If reinstatement of a retired license is not requested within three years of retirement and if the licensee does not apply for inactive status, application for a new license must be made by examination or credentials in order to practice dental hygiene in New Mexico.

[16.5.25.10 NMAC - Rn, 16.5.25.9 NMAC, 03-06-05 & A, 03-06-05; A, 04-16-08; A, 07-19-10; A, 01-09-12]

16.5.25.11 REINSTATEMENT FROM INACTIVE STATUS: A licensee whose license has been placed in inactive status may request reinstatement of the inactive license to active license status within nine years of the date of inactive status as indicated in 16.5.25.8 NMAC. Upon receipt of the request for reinstatement, board staff shall send an application for reinstatement of license.

A. Along with the completed application, the request for reinstatement must include the reinstatement fee, the triennial renewal fee, impairment fee, and proof of the following continuing education courses:

(1) there will be 10 CE hours for each year of inactive status required for reinstatement; the hours may be accumulated at any time during the year(s) of inactivation; the requirements of the infection control hours and the basic life support hours, and medical emergency course taken in the past 12 months may be included toward these required hours;

(2) proof of infection control course within the past 12 months;

(3) proof of current basic life support (BLS) or cardiac pulmonary resuscitation (CPR) certification accepted by the American heart association, the American red cross, or the American safety and health institute (ASHI); cannot be a self-study course;

(4) proof of medical emergency course during the past 12 months;

(5) 45 hours of continuing education required for the last triennial renewal cycle of active licensure; these hours may include continuing education identified at the time of retirement request as well as any continuing education taken during the retirement period; and

(6) verification of licensure in all states where the applicant holds or has held a license to practice dental hygiene, or other health care profession; verification must be sent directly to the board office from the other states boards, must include a raised seal, and must attest to the status, issue date, expiration date, license number, and other information contained on the form.

B. The request for reinstatement from inactive status, including a statement of the applicant's activities during the period of inactivation and any existing impairment, shall be reviewed by a subcommittee as designated by the chair. If the subcommittee finds the application in order and is satisfied the applicant has fulfilled all required continuing education and submitted the fees, the subcommittee may approve the license reinstatement and the previous license number reassigned. The license will be read into the committee and board records at the next scheduled meeting. If the subcommittee finds that the application is not in order, the application will go to the entire committee for review. The reinstated license will expire as defined in 16.5.24 NMAC.

C. A dental hygienist with a license in inactive status may not practice dental hygiene in New Mexico until proof of active licensure is received from the board office.

D. If reinstatement of an inactive license is not requested within nine years of inactivation, application for a new license must be made by examination or credentials in order to practice dental hygiene in New Mexico or the license must be permanently retired.

[16.5.25.11 NMAC - N, 03-06-05; A, 04-17-06; A, 04-16-08; A, 07-19-10; A, 01-09-12]

History of 16.5.25 NMAC:

Pre-NMAC History:

Material in this part was derived from that previously filed with the commission of public records - state records center and archives as:

BDE 69-1, Rules and Regulations of the New Mexico Board of Dental Examiners, filed 08-14-69;

BDE 70-1, Rules and Regulations of the New Mexico Board of Dental Examiners, filed 09-21-70;

BDE 73-1, Rules and Regulations of the New Mexico Board of The New Mexico Board of Dentistry, filed 02-12-73;

Article IX, Reinstatement of Dental Hygienist, filed 03-12-81;

Article X, Retirement of Dental Hygienist, filed 03-12-81;

BOD Rule 8, Retirement and Reinstatement of Dental Hygienists, filed 02-09-89;

BODHC Rule DH 7-95, Dental Hygiene, Retirement and Reinstatement, filed 05-05-95.

History of Repealed Material:

BDE 73-1, Rules and Regulations of the New Mexico Board of Dentistry (filed 2-12-73) repealed by Article XIV, filed 3/12/1981.

Other History:

BODHC Rule DH 7-95, Dental Hygiene, Retirement and Reinstatement (filed 05-05-95) was renumbered, reformatted, amended and replaced by 16 NMAC 5.25, Dental Hygienists, Retirement and Reinstatement, effective 09-30-96.

16 NMAC 5.25, Dental Hygienists, Retirement and Reinstatement (filed 09-17-96) was renumbered, reformatted, amended and replaced by 16.5.25 NMAC, Dental Hygienists, Retirement and Reinstatement, effective 12-14-00.

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING
CHAPTER 5 DENTISTRY (DENTAL HYGIENISTS, ETC.)
PART 26 DENTAL HYGIENISTS, LICENSE REVOCATION FOR NON-RENEWAL

16.5.26.1 ISSUING AGENCY: New Mexico Board of Dental Health Care.
[9/30/96; 16.5.26.1 NMAC - Rn & A, 16 NMAC 5.26.1, 04/17/06]

16.5.26.2 SCOPE: The provisions of Part 26 of Chapter 5 apply to all dental hygienists licensed in New Mexico who do not submit an application for license renewal within 60 days of the license expiration date.
[9/30/96; 16.5.26.2 NMAC - Rn, 16 NMAC 5.26.2, 04/17/06]

16.5.26.3 STATUTORY AUTHORITY: Part 26 of Chapter 5 is promulgated pursuant to the Dental Health Care Act, Section 61-5A-16 NMSA 1978 (1996 Repl. Pamp.).
[9/30/96; 16.5.26.3 NMAC - Rn, 16 NMAC 5.26.3, 04/17/06]

16.5.26.4 DURATION: Permanent
[9/30/96; 16.5.26.4 NMAC - Rn, 16 NMAC 5.26.4, 04/17/06]

16.5.26.5 EFFECTIVE DATE: September 30, 1996, unless a later date is cited at the end of a section.
[9/30/96; 16.5.26.5 NMAC - Rn & A, 16 NMAC 5.26.5, 04/17/06]

16.5.26.6 OBJECTIVE: To establish the procedures and policies for revocation of expired licenses and the reinstatement of a license revoked for non-renewal.
[9/30/96; 16.5.26.6 NMAC - Rn, 16 NMAC 5.26.6, 04/17/06]

16.5.26.7 DEFINITIONS: [RESERVED]
[9/30/96; 16.5.26.7 NMAC - Rn, 16 NMAC 5.26.7, 04/17/06]

16.5.26.8 REVOCATION OF LICENSE FOR NON-RENEWAL: Unless an application for license renewal is received by the board office, or post-marked, before September 1, the license shall be revoked for non-renewal.
[3/14/73, 5/31/95; 16.5.26.8 NMAC - Rn, 16 NMAC 5.26.8, 04/17/06; A, 7/17/08]

16.5.26.9 REINSTATEMENT OF REVOKED LICENSE FOR NON-RENEWAL:

A. Within one year of the revocation notice, the license may be reinstated by payment of renewal and reinstatement fees, compliance with continuing education for the previous renewal cycle and for the year of the revocation. Applicants for reinstatement after one year of revocation shall apply as a new applicant and meet all requirements for initial licensure.

B. Applicants for reinstatement shall provide for verification of licensure in all states where the applicant holds or has held a license to practice dental hygiene, or other health care profession within the previous year. Verification shall be sent directly to the board office from the other state(s) board, shall include a raised seal, and shall attest to the status, issue date, expiration date, license number, and other information contained on the form.

C. Upon receipt of a completed reinstatement of revoked license application, including all documentation and fees, a dental hygienists committee member, will review and may approve the application. The committee may formally accept the approval of the application at the next scheduled meeting.
[3/14/73...5/31/95, 1/1/99; 16.5.26.9 NMAC - Rn, 16 NMAC 5.26.9, 04/17/06; A, 04/16/08; A, 01/09/12]

HISTORY OF 16.5.26 NMAC:

Pre-NMAC History: The material in this part was derived from that previously filed with the State Records Center:

Article VIII, Licensing of Dental Hygienists, filed 3/12/81.

Article VIII, Licensing of Dental Hygienists, filed 1/12/82.

Article VIII, Licensing of Dental Hygienists, filed 3/30/82.

BOD Rule 7, Licensing of Dental Hygienists, filed 2/9/89.

BODHC Rule DH 4-95, Dental Hygienists, Initial Licensing Period, Renewal, filed 5/5/95.

History of Repealed Material: [RESERVED]

Other History:

That applicable portion of BODHC Rule DH 4-95, Dental Hygienists, Initial Licensing Period, Renewal (filed 5/5/95) was renumbered, reformatted and replaced by 16 NMAC 5.26, Dental Hygienists, License Revocation for Non-Renewal, effective 9/30/96.

16 NMAC 5.26, Dental Hygienists, License Revocation for Non-Renewal (filed 9/17/96) renumbered, reformatted, amended and replaced by 16.5.26 NMAC, Dental Hygienists, License Revocation for Non-Renewal, effective 04/17/06.

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING
CHAPTER 5 DENTISTRY (DENTISTS, DENTAL HYGIENISTS, ETC.)
PART 28 DENTAL HYGIENISTS, LOCAL ANESTHESIA CERTIFICATION

16.5.28.1 ISSUING AGENCY: New Mexico Board of Dental Health Care.
[9/30/1996; 16.5.28.1 NMAC - Rn & A, 16 NMAC 5.28.1, 4/17/2006]

16.5.28.2 SCOPE: The provisions of Part 28 of Chapter 5 apply to all dental hygienist who hold or who are applying for certification to administer local anesthesia.
[9/30/1996; 16.5.28.2 NMAC - Rn, 16 NMAC 5.28.2, 4/17/2006]

16.5.28.3 STATUTORY AUTHORITY: Part 28 of Chapter 5 is promulgated pursuant to the Dental Health Care Act, Section 61-5A-6 NMSA 1978 (1996 Repl. Pamp.).
[9/30/1996; 16.5.28.3 NMAC - Rn, 16 NMAC 5.28.3, 4/17/2006]

16.5.28.4 DURATION: Permanent.
[9/30/1996; 16.5.28.4 NMAC - Rn, 16 NMAC 5.28.4, 4/17/2006]

16.5.28.5 EFFECTIVE DATE: September 30, 1996, unless a later date is cited at the end of a section.
[9/30/1996; 16.5.28.5 NMAC - Rn & A, 16 NMAC 5.28.5, 4/17/2006]

16.5.28.6 OBJECTIVE: To establish guidelines and procedures for the regulation of dental hygienists who administer local anesthesia in an office located in New Mexico.
[9/30/1996; 16.5.28.6 NMAC - Rn, 16 NMAC 5.28.6, 4/17/2006]

16.5.28.7 DEFINITIONS: “Two consecutive years” means at least 1200 hours per year for two consecutive year.
[9/30/1996; 16.5.28.7 NMAC - Rn, 16 NMAC 5.28.7, 4/17/2006; A, 01/09/2012]

16.5.28.8 REQUIREMENT TO BE CERTIFIED: Local anesthesia administration is not included as a function of dental hygiene licensure; it may only be performed by dental hygienists who have been separately certified by the committee to perform the expanded function. The administration of local anesthesia requires the indirect supervision of a dentist. Local anesthesia may only be administered by a dental hygienist under general supervision as outlined in Section 16.5.28.11 NMAC.
[3/14/1973, 5/31/1995; 16.5.28.8 NMAC - Rn, 16 NMAC 5.28.8, 4/17/2006; A, 01/09/2012; A, 01/15/2015; A, 12/16/2015]

16.5.28.9 CERTIFICATION BY CURRICULUM OR EXAMINATION: Applicants for certification in local anesthesia by curriculum or exam must possess the following qualifications and submit the required fees and documentation, along with a completed application.

A. Qualifications:

(1) a current active license in good standing to practice dental hygiene in New Mexico;
(2) certification by curriculum: successful completion of an educational program in local anesthesia of at least 24 didactic hours and 10 hours of clinical training given in an accredited dental hygiene program as part of the regular curriculum for the dental hygiene degree, and successfully pass a board approved written local anesthesia exam. The results of the approved written exam are valid in New Mexico for a period not to exceed five years; or

(3) certification by examination: successful completion of a board approved educational program in local anesthesia of at least 24 didactic hours and 10 hours of clinical training, and successfully pass a board approved written and clinical local anesthesia examination. The results of the board approved written and clinical exam are valid in New Mexico for a period not to exceed five years.

B. Documentation:

(1) copy of current basic life support (BLS) or cardiac pulmonary resuscitation (CPR) certification accepted by the American heart association, the American red cross or the American safety and health institute (ASHI); cannot be a self-study course;

(2) transcript from an accredited dental hygiene program documenting successful completion of an approved educational program in local anesthesia as required per Paragraph (9) of Subsection A of Section 16.5.28 NMAC; and

(3) certificate or score card from WREB or other board approved exam indicating successful completion and date of local anesthesia exam, as required per Paragraph (9) of Subsection A of Section 16.5.28 NMAC.

[3/14/1973, 4/10/1981, 5/31/1995, 12/15/1997; 16.5.28.9 NMAC - Rn, 16 NMAC 5.28.9, 04/17/2006; A, 04/16/2008; A, 07/17/2008; A, 09/18/2010; A, 01/09/2012; A, 3/15/2017; A, 3/18/2018]

16.5.28.10 CERTIFICATION BY CREDENTIALS: Applicants for certification in local anesthesia by credentials must possess the following qualifications and submit the required fees and documentation, along with a completed application.

A. Qualifications:

(1) a current active license in good standing to practice dental hygiene in New Mexico;
(2) successful completion of educational coursework in local anesthesia; and
(3) administration of local anesthesia in the practice of dental hygiene for at least three of the past five years.

B. Documentation:

(1) copy of current basic life support (BLS) or cardiac pulmonary resuscitation (CPR) certification accepted by the American heart association, the American red cross or the American safety and health institute (ASHI); cannot be a self-study course;

(2) proof of successful completion of educational coursework in local anesthesia;
(3) proof of certification by examination to practice local anesthesia in another state;
(4) a letter of verification from each jurisdiction where the applicant holds a certificate for administering local anesthesia, sent directly from the board in each jurisdiction, describing any disciplinary action taken against the applicant; and

(5) proof of administration of local anesthesia while engaged in the practice of dental hygiene in at least three of the past five consecutive years; proof may be by notarized letters from employers, supervisors of dental clinics of the uniformed services of the United States, or faculty administrators of schools of dental hygiene or dentistry.

[3/16/1994, 5/31/1995, 12/15/1997; 16.5.28.10 NMAC - Rn, 16 NMAC 5.28.10, 4/17/2006; A, 04/16/2008; A, 07/17/2008; A, 09/18/2010; A, 01/09/2012]

16.5.28.11 CERTIFICATION OF LOCAL ANESTHESIA UNDER GENERAL SUPERVISION: An applicant for certification in local anesthesia under general supervision must possess the following qualifications and submit the following documentation along with a completed application.

A. An applicant must possess the following qualifications:

(1) have a current active license in good standing to practice dental hygiene in New Mexico;
(2) possess a New Mexico certification to administer local anesthesia under the indirect supervision of a licensed dentist; and
(3) have administered 20 cases of local anesthesia under the indirect supervision of a dentist during two consecutive years.

B. An applicant must provide the board office with the following documentation:

(1) a copy of a current New Mexico dental hygiene license;
(2) a copy of the applicant's certificate to administer local anesthesia under indirect supervision; and

(3) a signed affidavit, on a board-approved form, from the supervising dentist attesting to the applicant's qualifications for a certificate to administer local anesthesia under general supervision. The affidavit is valid for subsequent or additional locations in which the applicant may practice.

[16.5.28.11 NMAC - N, 12/16/2015]

16.5.28.12 CERTIFICATION PROCEDURE: Upon receipt of a completed local anesthesia application, including all required documentation and fees, a committee member or designee of the committee will review the application and determine eligibility for certification.

[3/16/1994, 5/31/1995, 12/15/1997; 16.5.28.11 NMAC - Rn, 16 NMAC 5.28.11, 4/17/2006; Rn, 16.5.28.12 NMAC, 12/16/2015]

16.5.28.13 LIMITATIONS OF LOCAL ANESTHESIA ADMINISTRATION: Administration of local anesthetic under general supervision may occur when:

A. certification has been received as defined in Section 16.5.28.11 NMAC and meets the following requirements:

(1) the supervising or consulting dentist has written or verbally ordered local anesthetic for the specific patient; and
(2) verbal orders shall be converted to written record or electronic record in the patient's dental record; and

B. emergency medical services are available by:

(1) local 911 service with a response time of less than 10 minutes; or
(2) by arrangement with a local physician(s), oral surgeon, or other medical or dental professional holding an advanced cardiovascular life support (ACLS) certification; this arrangement to provide emergency services shall be in writing and on file in the board office with the dental hygienists license; and

C. indirect supervision is required for continuing education and clinical examinations.
[16.5.28.12 NMAC - N, 01/09/2012; Rn, 16.5.28.13 NMAC, 12/16/2015]

HISTORY OF 16.5.28 NMAC:

Pre-NMAC History: The material in this part was derived from that previously filed with the commission of public records - state records center and archives as:

Article XI, Practice of Dental Hygiene, filed 3/12/1981.

Article XI, Practice of Dental Hygiene, filed 1/12/1982.

Article XI, Practice of Dental Hygiene, filed 3/30/1982.

Article XI, Practice of Dental Hygiene, filed 2/5/1988.

BOD Rule 9, Practice of Dental Hygiene, filed 2/9/1989.

That applicable portion of BOD Rule 9, Practice of Dental Hygiene replaced by BODHC Rule DH 8-95, Dental Hygienists, Local Anesthesia Certification, filed 5/5/1995.

History of Repealed Material: [RESERVED]

Other History:

BODHC Rule DH 8-95, Dental Hygienists, Local Anesthesia Certification (filed 5/5/1995) was renumbered, reformatted, amended and replaced by 16 NMAC 5.28, Dental Hygienists, Local Anesthesia Certification, effective 9/30/1996.

16 NMAC 5.28, Dental Hygienists, Local Anesthesia Certification (filed 9/17/1996) renumbered, reformatted, amended and replaced by 16.5.28 NMAC, Dental Hygienists, Local Anesthesia Certification, effective 04/14/

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING
CHAPTER 5 DENTISTRY (DENTISTS, DENTAL HYGIENISTS, ETC.)
PART 29 DENTAL HYGIENISTS, PRACTICE

16.5.29.1 ISSUING AGENCY: New Mexico Board of Dental Health Care.
[9/30/96; 16.5.29.1 NMAC - Rn & A, 16 NMAC 5.29.1, 04/17/06]

16.5.29.2 SCOPE: The provisions of Part 29 of Chapter 5 apply to all active license holders and all dental hygienists working in New Mexico.
[9/30/96; 16.5.29.2 NMAC - Rn, 16 NMAC 5.29.2, 04/17/06]

16.5.29.3 STATUTORY AUTHORITY: Part 29 of Chapter 5 is promulgated pursuant to the Dental Health Care Act, Sections 61-5A-3 and 61-5A-4 NMSA 1978 (1996 Repl. Pamp.).
[9/30/96; 16.5.29.3 NMAC - Rn, 16 NMAC 5.29.3, 04/17/06]

16.5.29.4 DURATION: Permanent.
[9/30/96; 16.5.29.4 NMAC - Rn, 16 NMAC 5.29.4, 04/17/06]

16.5.29.5 EFFECTIVE DATE: September 30, 1996, unless a later date is cited at the end of a section.
[9/30/96; 16.5.29.5 NMAC - Rn & A, 16 NMAC 5.29.5, 04/17/06]

16.5.29.6 OBJECTIVE: To establish allowable practice settings, scope of practice and limitations on dental hygiene practice in New Mexico.
[9/30/96; 16.5.29.6 NMAC - Rn, 16 NMAC 5.29.6, 04/17/06]

16.5.29.7 DEFINITIONS:

A. "Cavitation" means a break in the continuous, solid surface of the enamel of a tooth, created either by genetic formation or demineralization.

B. "Dental hygiene-focused assessment" means the documentation of existing oral and relevant systemic conditions and the identification of potential oral disease to develop, communicate, implement and evaluate a plan of oral hygiene care and treatment.

C. "Laser" means light amplification by stimulated emission of radiation used for the therapeutic treatment of the head and neck or oral cavity.

D. "Topical therapeutic agents" means agents applied to the teeth or gingiva that have a therapeutic effect locally with limited or no systemic effect.

[9/30/96; 16.5.29.7 NMAC - Rn, 16 NMAC 5.29.7, 04/17/06; A, 01/09/12; A, 01/04/14]

16.5.29.8 SCOPE OF PRACTICE: A dental hygienist may perform dental hygiene services as defined in NMSA 1978, Section 61-5A-4 B thru F NMSA 1978 of the act with the supervision defined. In addition, a licensed hygienist may:

A. prescribe, administer or dispense therapeutic agents as per the formulary as defined in Subsection C of 16.5.29.11 NMAC;

B. function as an expanded function dental auxiliary after passing the certifying exam and completing the apprenticeship accepted by the board;

C. function as a community dental health coordinator after completing a program certified by the board;

D. except in cases where a tooth exhibits cavitation of the enamel surface, assessing without a dentist's evaluation whether the application of pit and fissure sealants is indicated;

E. except in cases where a tooth exhibits cavitation of the enamel surface, applying pit and fissure sealants without mechanical alteration of the tooth;

F. administration of local anesthesia as defined in 16.5.28 NMAC; and

G. such other closely related services as permitted by the rules of the committee and the board.

H. Effective July 1, 2015, a dental hygienist who owns a dental practice must register as a non-dentist owner. No additional license or fee is required for this registration. A dental hygienist who owns a dental practice must notify the board, in writing, if the dental practice has been sold or has closed.

[10-21-70, 5-31-95; 16.5.29.8 NMAC - Rn, 16 NMAC 5.29.8, 04-17-06; A, 01-09-12; A, 12-15-12; A, 01-04-14; A, 01-15-15; A, 04-16-15; A, 12-16-15]

16.5.29.9 LIMITATIONS ON PRACTICE: Dental hygienists shall not perform, or attempt to perform, the following services or procedures:

- A.** removal of, or addition to, the hard or soft tissues of the oral cavity, other than diseased crevicular tissue;
- B.** placement or insertion of any permanent filling material;
- C.** diagnosis and dental treatment planning;
- D.** the final fitting, adaptation, seating and cementation of any fixed or removable dental appliance or restoration, including but not limited to inlays, crowns, bands, space maintainers, habit devices or splints;
- E.** final impressions for restorations or prosthetic appliances;
- F.** irrigation and medication of canal, cone try-in, reaming, filing, or filling of root canals;
- G.** other services defined as the practice of dentistry in Section 61-5A-4 (A) of the act and not specifically listed in Section 61-5A-4 (B) and (C) NMSA 1978, unless exempted by regulation; and
- H.** apply pit and fissure sealants without a dentist evaluation in cases where the tooth does exhibit cavitation of the enamel surface.

[3/14/73, 4/10/81, 3/11/89, 5/31/95; 16.5.29.9 NMAC - Rn, 16 NMAC 5.29.9, 04/17/06; A, 01/09/12]

16.5.29.10 [RESERVED]

[5/31/95, 12/15/97; 16.5.29.10 NMAC - Rn, 16 NMAC 5.29.10, 04/17/06; A, 04/16/08; A, 01/09/12; Repealed, 12/15/12]

16.5.29.11 DENTAL HYGIENISTS PRESCRIPTIVE AUTHORITY: A dental hygienist may prescribe, administer and dispense a fluoride supplement, topically applied fluoride, and topically applied antimicrobials from the following formulary under the following stipulations.

A. A New Mexico licensed dentist shall supervise, at least by general supervision the prescribing, administration or dispensing by the hygienist. In a collaborative hygiene practice the formulary used by the dental hygienist and situations for each therapeutic agent must be set forth in the collaborative practice agreement. Dental hygienists shall keep as part of the patient record a clear documentation of the therapeutic agent prescribed, administered or dispensed, the date and reason.

B. Under no circumstances shall a dental hygienist be allowed to prescribe, dispense or administer:
(1) drugs whose primary effect is systemic; and
(2) dangerous drugs or controlled substances as defined in the pharmacy act (NMSA 1978, Section 61-11-1 et seq.) controlled substances act (NMSA 1978, Sections 31-30-1 et seq.) or Drug Device and Cosmetic Act (NMSA 1978, Sections 26-1-1 et seq.).

C. Dental hygienists may prescribe from the following list:
(1) fluoride supplements (all using sodium fluoride);
(a) tablets - 0.5 mg, 1.1 mg, 2.2 mg;
(b) lozenges - 2.21 mg;
(c) drops - 1.1 mg/mL;
(2) topical anti-caries treatments (all using sodium fluoride unless otherwise stated);
(a) toothpastes - 1.1% or less (or stannous fluoride 0.4%);
(b) topical gels - 1.1% or less (or stannous fluoride 0.4%);
(c) oral rinses - 0.05%, 0.2%, 0.44%, 0.5%;
(d) oral rinse concentrate (used in periodontal disease) - 0.63% stannous fluoride;
(e) fluoride varnish - 5 %;
(f) prophy pastes (containing approximately 1.23% sodium fluoride and used for cleaning and polishing procedures as part of professional dental prophylaxis treatment);
(3) topical anti-infectives:
(a) chlorhexidine gluconate ;
(i) rinses - 0.12%;
(ii) periodontal chips (for insertion into the periodontal pocket);
(b) tetracycline impregnated fibers (inserted subgingivally into the periodontal sulcus);
(c) doxycycline hyclate periodontal gel (inserted subgingivally into the periodontal sulcus); and
(d) minocycline hydrochloride periodontal paste (inserted subgingivally into the periodontal sulcus).

[16.5.29.11 NMAC - N, 01/09/12; A, 01/04/14]

16.5.29.12 THERAPEUTIC USE OF LASERS: The board does not issue permits for the use of lasers by hygienists in soft tissue curettage, sulcular debridement and tissue disinfection in periodontal therapy. Due to the rising utilization of lasers by dental hygienists, the committee and board sets forth the following requirements:

A. a New Mexico licensed dental hygienist may use laser devices that are approved by the U.S. food and drug administration under the indirect supervision of a New Mexico licensed dentist;

B. the hygienist must successfully complete an educational program on laser use that is a minimum of 6 hours and includes hand-on clinical simulation training; the course shall comply with current guidelines as outlined in 16.5.1.15 NMAC for continuing education;

C. a certificate of successful course completion from the dental laser training entity shall be posted in a conspicuous location within the dental facility;

D. all promotion or advertising of dental laser treatment shall comply with current requirements as outlined in Subsection B of 16.5.30.10.NMAC, identifying the "supervising dentist" as responsible for the provision of or the supervision of the laser procedure;

E. dental laser treatment shall not be designated to a dental assistant.

[16.5.29.12 NMAC - N, 01/04/14]

HISTORY OF 16.5.29 NMAC:

Pre-NMAC History: The material in this part was derived from that previously filed with the commission of public records - state records center and archives as:

Article XI, Practice of Dental Hygiene, filed 3/12/81.

Article XI, Practice of Dental Hygiene, filed 1/12/82.

Article XI, Practice of Dental Hygiene, filed 3/30/82.

Article XI, Practice of Dental Hygiene, filed 2/5/88.

BOD Rule 9, Practice of Dental Hygiene, filed 2/9/89.

BODHC Rule DH 9-95, Dental Hygiene, Practice, filed 5/5/95.

History of Repealed Material: [RESERVED]

Other History:

BODHC Rule DH 9-95, Dental Hygiene, Practice (filed 5/5/95) was renumbered, reformatted, amended and replaced by 16 NMAC 5.29, Dental Hygienists, Practice, effective 9/30/96.

16 NMAC 5.29, Dental Hygienists, Practice (filed 9/17/96) renumbered, reformatted, amended and replaced by 16.5.29 NMAC, Dental Hygienists, Practice, effective 04/17/06.

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING
CHAPTER 5 DENTISTRY (DENTISTS, DENTAL HYGIENISTS, ETC.)
PART 30 DENTAL HYGIENISTS, DISCIPLINARY PROCEEDINGS, LICENSE REVOCATION
OR SUSPENSION FOR DISCIPLINARY ACTIONS

16.5.30.1 ISSUING AGENCY: New Mexico Board of Dental Health Care.
[16.5.30.1 NMAC - Rp, 16.5.30.1 NMAC, 12/14/2019]

16.5.30.2 SCOPE: The provisions of 16.5.30 NMAC apply to all active license holders and applicants for licensure. These provisions may also be of interest to anyone who may wish to file a complaint against a licensed dental hygienist.
[16.5.30.2 NMAC - Rp, 16.5.30.2 NMAC, 12/14/2019]

16.5.30.3 STATUTORY AUTHORITY: 16.5.30 NMAC is promulgated pursuant to the Dental Health Care Act, Section 61-5A-21, NMSA 1978, (Repl. Pamp. 1996).
[16.5.30.3 NMAC - Rp, 16.5.30.3 NMAC, 12/14/2019]

16.5.30.4 DURATION: Permanent.
[16.5.30.4 NMAC - Rp, 16.5.30.4 NMAC, 12/14/2019]

16.5.30.5 EFFECTIVE DATE: December 14, 2019, unless a later date is cited at the end of a section.
[16.5.30.5 NMAC - Rp, 16.5.30.5 NMAC, 12/14/2019]

16.5.30.6 OBJECTIVE: To establish the procedures for filing complaints against licensees, the disciplinary actions available to the board, the authority to issue investigative subpoenas and to further define actions by a licensee which are considered incompetent or unprofessional practice.
[16.5.30.6 NMAC - Rp, 16.5.30.6 NMAC, 12/14/2019]

16.5.30.7 DEFINITIONS:

A. “Addiction” means a neurobehavioral syndrome with genetic and environmental influences that result in psychological dependence on the use of substances for their psychic effects. It is characterized by behaviors that include one or more of the following: impaired control over drug use; compulsive use; continued use despite harm; and craving.

B. “Chronic pain” means a pain state which is persistent and in which the cause of the pain cannot be removed or otherwise treated.

C. “Direct reference” means a phone number or website where names and contact information of the dental hygienists(s) can be referenced.

D. “Drug abuser” means a person who takes a drug or drugs for other than legitimate medical purposes.

E. “Pain” means an unpleasant sensory and emotional experience associated with inflammation or with actual or potential tissue damage, or described in terms of such inflammation or and damage.

F. “Patient abandonment” means withdrawing a patient from treatment without giving reasonable notice or providing a competent replacement provider.

G. “Physical dependence” means a state of adaptation that is manifested by a drug-specific withdrawal syndrome that can be produced by abrupt cessation, rapid dose reduction, decreasing blood level of the drug, administration of an antagonist, or a combination of these.

H. “Tolerance” means a state of adaptation in which exposure to a drug induces changes that result in a diminution of one or more of the drug’s effects over time.

[16.5.30.7 NMAC - Rp, 16.5.30.7 NMAC, 12/14/2019]

16.5.30.8 COMPLAINTS: Disciplinary proceedings may be instituted by sworn complaint of any person, including members of the board and committee. Any hearing held pursuant to the complaint shall conform with the provisions of the Uniform Licensing Act, the Dental Health Care Act and the Impaired Dentists and Dental Hygienists Act.

[16.5.30.8 NMAC - Rp, 16.5.30.8 NMAC, 12/14/2019]

16.5.30.9 ACTIONS:

A. The committee may assess fines, deny, revoke, suspend, stipulate, or otherwise limit a license if it is determined the licensee is guilty of violating any of the provisions outlined in the act, the Uniform Licensing Act, the Impaired Dentists and Hygienists Act, or these rules.

B. The committee may reprimand, censure, or require licensees to fulfill additional continuing education hours within limited time constraints for violations of the act or rules.

C. The committee shall take into consideration the dual role of dental hygienists as professionals and employees when taking disciplinary action against a licensee. In the event the complaint is ruled to be based primarily in the role of employee, the committee may share the findings with the board so appropriate action may be considered for the employer/dentist.

[16.5.30.9 NMAC - Rp, 16.5.30.9, 12/14/2019]

16.5.30.10 GUIDELINES: The committee shall define the following as guidelines for disciplinary action.

A. “Gross incompetence” or “gross negligence” means, but shall not be limited to, a significant departure from the prevailing standard of care in patient treatment.

B. “Unprofessional conduct” means, but is not limited to because of enumeration:

- (1) performing, or holding oneself out as able to perform, professional services beyond the scope of one’s license and field or fields of competence as established by education, experience, training, or any combination thereof; this includes, but is not limited to, the use of any instrument or device in a manner that is not in accordance with the customary standards and practices of the dental hygiene profession;
- (2) failure to advise the patient in simple understandable terms of the treatment rendered, the expectations for success, and the responsibility the patient must assume;
- (3) failure to inform dentist or patient of periodontal assessment;
- (4) failure to provide patient education of oral health care regimens which assist in maintaining good oral health throughout life;
- (5) sexual misconduct;
- (6) failure to use appropriate infection control techniques and sterilization procedures;
- (7) breach of ethical standards, an inquiry into which the committee will begin by reference to the most recent version of the American dental hygienists association’s code of ethics;
- (8) fraud, deceit or misrepresentation in any application;
- (9) violation of any order of the committee, and ratified by the board, including any probation order;
- (10) injudicious administration of any drug or medicine;
- (11) failure to report to the committee or board any adverse action taken by any licensing board, peer review body, malpractice insurance carrier or any other entity as defined by the board or committee, the surrender of a license to practice in another state, surrender of membership on any medical staff or in any dental hygiene or professional association or society, in lieu of, and while under disciplinary investigation by any authority;
- (12) deliberate and willful failure to reveal, at the request of the committee, the incompetent, dishonest, or corrupt practices of a dentist or dental hygienist licensed or applying for licensure by the committee or board; and
- (13) cheating on an examination for licensure;
- (14) failure of a dental hygienist to comply with advertising rules in 16.5.1.29 NMAC;
- (15) failure of a collaborative practice dental hygienists to refer a patient for dental care; or
- (16) failure of a collaborative practice dental hygienist to comply with the terms of a signed collaborative practice agreement;
- (17) failure of a collaborative practice dental hygienist to professionally and effectively communicate with a patient’s dentist of record, or consulting dentist, in a professional manner in regard to a shared patient’s care under 16.5.17 NMAC of these rules;
- (18) failure of a collaborative dental hygienist to comply with the advertisement rules as defined in 16.5.1.29 NMAC;
- (19) failure to practice dental hygiene under the name of a corporation, company, association, limited liability company, or trade name without full and outward disclosure of his/her full name, which shall be the name used in his/her license or renewal certificate as issued by the board;
- (20) failure to practice dental collaborative hygiene without displaying his/her full name as it appears on the license issued by the board on the entrance door of each office;
- (21) assisting a health professional, or be assisted by a health professional that is not licensed to practice by a New Mexico board, agency or commission;
- (22) conviction of either a misdemeanor or a felony punishable by incarceration;
- (23) aiding and abetting a dental auxiliary who is not properly certified;

- (24) patient abandonment;
 - (25) habitually addicted as defined in Paragraph (4) & (6) of Subsection A of Section 61.5A-21 and Subsections C and D of Section 61.5B-3 NMSA 1978 habitual or excessive use or abuse of drugs, as defined in the Controlled Substances Act, Section 30-31-1 NMSA 1978 or habitual or excessive use or abuse of alcohol;
 - (26) failure of the licensee to furnish the committee within 10 business days of request; its investigators or representatives with information requested by the committee, and ratified by the board;
 - (27) failure to appear before the board when requested by the committee, and ratified by the board, in any disciplinary proceeding; and
 - (28) failure to be in compliance with the Parental Responsibility Act Section 40-5A-3 seq., NMSA1978.
- [16.5.30.10 NMAC - Rp, 16.5.30.10 NMAC, 12/14/2019]

16.5.30.11 INVESTIGATIVE SUBPOENAS: The complaint committee of the committee is authorized to issue action investigative subpoenas and to employ experts with regard to pending investigations.
[16.5.30.11 NMAC - Rp, 16.5.30.11 NMAC, 12/14/2019]

16.5.30.12 REVOCATION OF COLLABORATIVE LICENSE FOR DISCIPLINARY ACTIONS: A collaborative practice licensee whose license is revoked for disciplinary actions shall:

- A. provide proof of written notification of practice closure to all patients currently under active treatment;
- B. notification to patients should include where and how dental treatment records may be obtained and contact information for dentists available; and
- C. provide to the board the location where all active dental treatment records will be maintained for a minimum of six years; active treatment records are records of patients treated in the two years previous to the date of closure; the notification to the board shall include the name, address, and telephone number of the person who is serving as the custodian of the records.

[16.5.30.12 NMAC - Rp, 16.5.30.12 NMAC, 12/14/2019]

16.5.30.13 REINSTATEMENT OF REVOKED LICENSE FOR DISCIPLINARY ACTIONS: A licensee whose license has been revoked for disciplinary actions may request reinstatement of the license after the terms of the settlement agreement have been met. Upon approval from the committee, and ratified by the board, and receipt of the request for reinstatement, board staff shall send an application for reinstatement of license.

- A. Along with the completed application, the request for reinstatement shall include the reinstatement fee, the triennial renewal fee, impairment fee, and proof of the following continuing education courses:
 - (1) 20 hours of approved continuing education courses related to the clinical practice of dental hygiene, per year of revocation; at least 20 of these hours shall be in the 12 months previous to the request;
 - (2) proof of current basic life support (BLS) or cardiac pulmonary resuscitation (CPR) certification accepted by the American heart association, the American red cross, or the American safety and health institute (ASHI); cannot be a self-study course;
 - (3) proof of infection control course within the past 12 months; and
 - (4) 45 hours of continuing education required for the last triennial renewal cycle of active licensure; these hours may include continuing education identified at the time of revocation as well as any continuing education taken during the revoked period.
- B. Applicant shall authorize the American association of dental examiners clearinghouse to send verification of status directly to the board office.
- C. The board will obtain electronic verification of applicant status from the national practitioners' data bank.
- D. Verification of licensure in all states where the applicant holds or has held a license to practice dental hygiene, or other health care profession. Verification shall be sent directly to the board office from the other state(s) board, shall include a raised seal, and shall attest to the status, issue date, expiration date, license number, and other information contained on the form.
- E. The board at the next regularly scheduled meeting shall review the request for reinstatement, including a statement of the applicant's activities during the period of revocation and information on any existing impairment. If the board finds the application in order and is satisfied the applicant has fulfilled all required continuing education, the license may be reinstated and the previous license number reassigned. The reinstated license will expire as defined in 16.5.11 NMAC.

F. A dental hygienist with a license in revocation status may not practice dental hygiene in New Mexico until proof of active licensure is received from the board office.

G. If reinstatement of a revoked license is not requested within three years after settlement agreement has been met, application for a new license shall be made by examination or credentials in order to practice dental hygiene in New Mexico.

[16.5.30.13 NMAC - Rp, 16.5.30.13 NMAC, 12/14/2019]

16.5.30.14 REINSTATEMENT OF SUSPENDED LICENSE FOR DISCIPLINARY ACTIONS: For licenses suspended for greater than six months; a licensee whose license has been suspended for disciplinary actions in addition to meeting the terms of the settlement agreement shall also meet the following conditions before reinstatement of licensure:

A. verification of licensure in all states where the applicant holds or has held a license to practice dental hygiene, or other health care profession; verification shall be sent directly to the board office from the other state(s) board, shall include a raised seal, and shall attest to the status, issue date, expiration date, license number, and other information contained on the form;

B. the board at the next regularly scheduled meeting shall review the request for reinstatement, including a statement of the applicant's activities during the period of suspension and information on any existing impairment; the reinstated license will expire as defined in 16.5.11 NMAC; and

C. a dental hygienist with a license in suspended status may not practice dental hygiene in New Mexico until proof of active licensure is approved by the board and issued by the board office.

[16.5.30.14 NMAC - Rp, 16.5.30.14 NMAC, 12/14/2019]

HISTORY OF 16.5.30 NMAC:

Pre-NMAC History:

Material in this part was derived from that previously filed with the commission of public records - state records center and archives as:

BDE 69-1, Rules and Regulations of the New Mexico Board of Dental Examiners, filed 8/14/1969;

BDE 70-1, Rules and Regulations of the New Mexico Board of Dental Examiners, filed 9/21/1970;

BDE 73-1, Rules and Regulations of the New Mexico Board of The New Mexico Board of Dentistry, filed 2/12/1973;

Article XIII, Disciplinary Proceedings, filed 3/11/1981;

Article XIII, Disciplinary Proceedings, filed 1/12/1982;

Article XIII, Disciplinary Proceedings, filed 3/30/1982;

BOD Rule 11, Disciplinary Proceedings, filed 2/9/1989;

BODHC Rule DH 10-95, Dental Hygienists, Disciplinary Proceedings, filed 5/5/1995.

History of Repealed Material:

BDE 73-1, Rules and Regulations of the New Mexico Board of Dentistry (filed 2/12/1973) repealed by Article XIV, filed 3/12/1981.

16.5.30 NMAC, Dental Hygienists, Disciplinary Proceedings, License Revocation or Suspension for Disciplinary Actions filed 12/9/2011, Repealed effective 12/14/2019.

Other History:

BODHC Rule DH 10-95, Dental Hygienists, Disciplinary Proceedings (filed 5/5/1995) was renumbered, reformatted and amended into the first version of NMAC as 16 NMAC 5.30, Dental Hygienists, Disciplinary Proceedings, effective 9/30/1996.

16 NMAC 5.30, Dental Hygienists, Disciplinary Proceedings (filed 9/17/1996) was renumbered, reformatted and amended to 16.5.30 NMAC, Dental Hygienists, Disciplinary Proceedings, effective 12/14/2000.

16.5.30 NMAC, Dental Hygienists, Disciplinary Proceedings, License Revocation or Suspension for Disciplinary Actions filed 12/9/2011 was replaced by 16.5.30 NMAC, Dental Hygienists, Disciplinary Proceedings, License Revocation or Suspension for Disciplinary Actions, effective 12/14/2019.

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING
CHAPTER 5 DENTISTRY (DENTISTS, DENTAL HYGIENISTS, ETC.)
PART 32 DENTAL ASSISTANTS, FEES

16.5.32.1 ISSUING AGENCY: New Mexico Board of Dental Health Care.
[9/30/96; 16.5.32.1 NMAC - Rn & A, 16 NMAC 5.32.1, 04/17/06]

16.5.32.2 SCOPE: The provisions of Part 32 of Chapter 5 apply to all applicants for certification; to active, expired and suspended certificate holders; and to anyone who requests a list of certified dental assistants or other public records.
[9/30/96; 16.5.32.2 NMAC - Rn, 16 NMAC 5.32.2, 04/17/06]

16.5.32.3 STATUTORY AUTHORITY: Part 32 of Chapter 5 is promulgated pursuant to the Dental Health Care Act, Section 61-5A-20 NMSA 1978 (1996 Repl. Pamp.).
[9/30/96; 16.5.32.3 NMAC - Rn, 16 NMAC 5.32.3, 04/17/06]

16.5.32.4 DURATION: Permanent
[9/30/96; 16.5.32.4 NMAC - Rn, 16 NMAC 5.32.4, 04/17/06]

16.5.32.5 EFFECTIVE DATE: September 30, 1996, unless a later date is cited at the end of a section.
[9/30/96; 16.5.32.5 NMAC - Rn & A, 16 NMAC 5.32.5, 04/17/06]

16.5.32.6 OBJECTIVE: To establish fees to generate revenue to support the cost of program administration.
[9/30/96; 16.5.32.6 NMAC - Rn, 16 NMAC 5.32.6, 04/17/06]

16.5.32.7 DEFINITIONS: [RESERVED]
[9/30/96; 16.5.32.7 NMAC - Rn, 16 NMAC 5.32.7, 04/17/06]

16.5.32.8 FEES:

- A. all fees are non-refundable;
- B. application fee: \$50;
- C. examination fee not to exceed \$100 per exam;
- D. triennial renewal fee: \$50;
- E. late penalty fee: \$25.00;
- F. duplicate certificate fee: \$10.00;
- G. list of current certificate holders: \$300; an annual list of current certificate holders is available to the professional association upon request at no cost;
- H. labels of current certificate holders: \$300;
- I. reinstatement fee: \$15.00;
- J. DXTR rental fee, per day: \$15.00;
- K. copies cost \$0.25 per page.

[9/7/84, 3/7/88, 4/12/92, 5/31/95, 9/30/96; 16.5.32.8 NMAC - Rn, 16 NMAC 5.32.8, 04/17/06; A, 07-16-07; A, 07-17-08; A, 06-10-09]

HISTORY OF 16.5.32 NMAC:

Pre-NMAC History: The material in this part was derived from that previously filed with the commission of public records - state records center and archives as:

Article XII, Dental Assistants, filed 3/12/81.

Article XII, Dental Assistants, filed 1/12/82.

Article XII, Dental Assistants, filed 8/8/84.

Article XII, Dental Assistants, filed 2/5/88.

BOD Rule 10, Dental Assistants, filed 2/9/89.

BODHC Rule DA 1-95, Dental Assistant, Practice and Certification, filed 5/5/95.

BODHC Rule DA 2-95, Dental Assistants, Renewal of Certificates, filed 5/5/95.

History of Repealed Material: [RESERVED]

Other History:

That applicable portion of BODHC Rule DA 1-95, Dental Assistant, Practice and Certification, filed 5/5/95 and that applicable portion of BODHC Rule DA 2-95, Dental Assistants, Renewal of Certificates (filed 5/5/95) were renumbered, reformatted, amended and replaced by 16 NMAC 5.32, Dental Assistants, Fees, effective 9/30/96. 16 NMAC 5.32, Dental Assistants, Fees (filed 9/17/96) renumbered, reformatted, amended and replaced by 16.5.32 NMAC, Dental Assistants, Fees, effective 04/17/06.

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING
CHAPTER 5 DENTISTRY (DENTISTS, DENTAL HYGIENISTS, ETC.)
PART 33 DENTAL ASSISTANTS, REQUIREMENTS FOR CERTIFICATION

16.5.33.1 ISSUING AGENCY: New Mexico Board of Dental Health Care.
[9-30-96; 16.5.33.1 NMAC - Rn & A, 16 NMAC 5.33.1, 12-14-00]

16.5.33.2 SCOPE: The provisions of 16.5.33 NMAC apply to all applicants for certification as a dental assistant in New Mexico. 16.5.33 NMAC also applies to dental assistants previously certified in New Mexico who have allowed their certificate to expire.
[9-30-96; 16.5.33.2 NMAC - Rn, 16 NMAC 5.33.2, 12-14-00]

16.5.33.3 STATUTORY AUTHORITY: 16.5.33 NMAC is promulgated pursuant to the Dental Health Care Act, NMSA 1978 Section 61-5A-5 and Section 61-5A-6 (1996 Repl. Pamp.).
[9-30-96; 16.5.33.3 NMAC - Rn, 16 NMAC 5.33.3, 12-14-00]

16.5.33.4 DURATION: Permanent.
[9-30-96; 16.5.33.4 NMAC - Rn, 16 NMAC 5.33.4, 12-14-00]

16.5.33.5 EFFECTIVE DATE: September 30, 1996, unless a later date is cited at the end of a Section.
[9-30-96; 16.5.33.5 NMAC - Rn, 16 NMAC 5.33.5, 12-14-00; A, 12-30-02]

16.5.33.6 OBJECTIVE: To establish the requirements for certification for dental assistants to perform expanded functions. These rules address applicants being certified via the following tracks:

- A. Independent preparation for the requirements;
- B. Attendance in a dental assisting program;
- C. Attendance in an accredited dental hygiene school; and
- D. New residents of New Mexico with current certificates in expanded functions in their previous state (credentials).

[9-30-96; 16.5.33.6 NMAC - Rn, 16 NMAC 5.33.6, 12-14-00; A, 12-30-02]

16.5.33.7 DEFINITIONS:

- A. "DANB" means the dental assisting national board.
- B. "Direct supervision" means the process under which an act is performed when a dentist licensed pursuant to the Dental Health Care Act:
 - (1) is physically present throughout the performance of the act;
 - (2) orders, controls and accepts full professional responsibility for the act performed;
 - (3) evaluates and approves the procedure performed before the patient departs the care setting; and
 - (4) is capable of responding immediately if any emergency should arise.
- C. "General supervision" means the authorization by a dentist of the procedures to be used by a dental hygienist, dental assistant, expanded function dental auxiliary, dental student, or community dental health coordinator and the execution of the procedures in accordance with a dentist's diagnosis and treatment plan at a time the dentist is not physically present and in facilities as designated by the rules of the board.
- D. "Indirect supervision" means that a dentist, or in certain settings a dental hygienist or dental assistant certified in expanded functions, is present in the treatment facility while authorized treatments are being performed by a dental hygienist, dental assistant or dental student as defined in 61-5A-3.
- E. "Limited certificate" means a radiographic certificate that limits the holder to take only extra oral dental films.
- F. "Rubber cup coronal polishing" means the use of a rubber cup or a bristle brush to remove soft debris and stain from above the gingival margin.
- G. "Supervision" means the dentist shall adequately monitor the performance of all personnel, licensed or unlicensed, that he or she supervises. The dentist is ultimately responsible for quality patient care and may be held accountable for all services provided by administrative and clinical individuals that the dentist supervises.
- H. "Training program" means a course of study resulting in applicant eligibility for expanded function certification.

[10-21-70...5-31-95, 9-30-96, 2-14-00; 16.5.33.7 NMAC - Rn, 16 NMAC 5.33.7, 12-14-00; A, 3-29-02; A, 12-30-02; A, 07-19-10; A, 01-09-12]

16.5.33.8 REQUIREMENTS:

A. A licensee shall not allow dental assistants to perform oral radiography under any level of supervision that are not certified or in authorized training by the New Mexico board of dental health care

B. A licensee shall not allow dental assistants to perform coronal polishing, topical fluoride application, or application of pit and fissure sealants under general supervision without certification by the board;

C. Dental assistants who perform oral radiography under any level of supervision are required to be certified by the board. Dental assistants who perform coronal polishing, application of topical fluoride or, application of pit and fissure sealants both intra and extra oral radiography under general supervision are required to be certified by the board except those enrolled in a recognized dental assisting program and complying with the following:

- (1) have completed the didactic portion of the radiography curriculum;
- (2) are exposing radiographs with supervision of a licensee or an assistant certified in radiography; and

- (3) if exposing x-rays on a human must have a written prescription from a dentist.

D. Expanded function certification offered by the board is distinct from certification offered by DANB. DANB certification gives the individual the right to use the initials C.D.A after their name, but does not qualify the individual to perform expanded functions without being certified by the board.

[9-7-84...9-30-96; 16.5.33.8 NMAC - Rn, 16 NMAC 5.33.8, 12-14-00; A, 3-29-02; A, 9-30-02; A, 12-30-02; A, 03-06-05; A, 07-16-07; A, 01-09-12]

16.5.33.9 EDUCATION AND EXAMINATION REQUIREMENTS FOR DENTAL RADIOGRAPHY:

A. Education requirements:

- (1) study by independent preparation or in a training course on radiation health and safety within the past 36 months; and
- (2) have assisted with or observed five cases of full mouth intra oral radiographic series or five extra oral radiographs if applying for a limited certificate.

B. Examination requirements:

- (1) Pass the board or DANB written examination on radiation health and safety.
- (2) After passing the board or DANB written exam must apply to the board for a training permit which allows the dental assistant to perfect radiography technique. The permit is valid for six months after passing the written exam.
- (3) Pass the technique test demonstrating proficiency in the exposure of a full-mouth intra oral radiographic series or panoramic film as established by the board within six months of passing the written exam.
- (4) If an applicant chooses to provide only a panoramic film the certificate holder is limited to taking only extra oral films.
- (5) The technique test will be taken on a phantom or human patient. The applicant shall expose a full mouth intra oral radiographic series of radiographs or a panoramic film, develop, mount, and label the films. The exam must be done independently and submitted to the board office with an affidavit signed by the dentist, dental hygienist, or dental assistant certified in radiography attesting to the independent exam. The radiographs must be of diagnostic quality and will be graded by at least two board or committee members and serve as the technique test required for certification.
- (6) Pass the take home jurisprudence examination.
- (7) When extenuating circumstances exist as defined in 16.5.1.7 NMAC, and the dental assistant cannot submit to the board exposed radiographs, the dental assistant may request an extension of time. The request must be put in writing and submitted to the board office prior to the deadline.

C. Exemptions:

- (1) A dental hygiene student enrolled in an accredited school of dental hygiene who having passed a curriculum in dental radiography, may be granted a certificate to expose radiographs without an examination.
- (2) A dental assistant certified to perform dental radiography in another state with requirements not less stringent than those in New Mexico may be certified based on credentials.

[9-7-84, 5-31-95, 9-30-96, 1-1-98, 2-14-00; 16.5.33.9 NMAC - Rn & A, 16 NMAC 5.33.9, 12-14-00; 16.3.33.9 NMAC - A, 2-28-02; A, 12-30-02; A, 03-06-05; A, 07-16-07; A, 01-09-12; A, 06-14-12]

16.5.33.10 EDUCATION AND EXAMINATION REQUIREMENTS FOR RUBBER CUP CORONAL POLISHING AND APPLICATION OF TOPICAL FLUORIDE CERTIFICATION:

A. Education requirements: Study by independent preparation or in a training course on rubber cup coronal polishing and application of topical fluoride and have assisted with or observed five cases of rubber cup coronal polishing on children and adults and five applications of topical fluoride.

B. Examination requirements:

- (1) Pass a board or DANB written examination on rubber cup coronal polishing and application of topical fluoride;
- (2) Perform the technique while being personally observed by a dentist, dental hygienist, or dental assistant certified in rubber cup coronal polishing and application of topical fluoride on five adults and children and five applications of topical fluoride on children; and
- (3) Pass the take home jurisprudence examination.

C. Exemptions:

- (1) A dental hygiene student enrolled in an accredited school of dental hygiene having passed a curriculum for rubber cup coronal polishing and application of topical fluoride may be granted a certificate without meeting the other requirements of this section.
- (2) A dental assistant who is certified to perform rubber cup coronal polishing and application of topical fluoride in another state with requirements not less stringent than those in New Mexico may be certified based on credentials.
- (3) A dental assistant who holds a current CDA certification issued by DANB may be issued a certificate for rubber cup coronal polishing and application of topical fluoride without meeting the other requirements of this section.

[8-11-89...9-30-96, 1-1-98, 2-14-00; 16.5.33.10 NMAC - Rn, 16 NMAC 5.33.10, 12-14-00; A, 3-29-02; A, 12-30-02; A, 01-09-12]

16.5.33.11 EDUCATION, EXPERIENCE AND EXAMINATION REQUIREMENTS FOR APPLICATION OF PIT AND FISSURE SEALANTS CERTIFICATION:

A. Experience requirements: The applicant must have 2080 hours of clinical chair side dental assisting within the two years prior to applying for certification.

B. Education requirements:

- (1) Study by independent preparation or a training course on pit and fissure sealant application; and
- (2) Assisted with and observed application of 12 pit and fissure sealants.

C. Examination requirements:

- (1) Pass a board or DANB examination on the application of pit and fissure sealants.
- (2) Following successful completion of the examination, apply pit and fissure sealants while being personally observed by a licensed dentist or dental hygienist on five patients.
- (3) Pass the take home jurisprudence examination.

D. Exemptions:

- (1) A dental hygiene student enrolled in an accredited school of dental hygiene having passed a curriculum for pit and fissure sealants and rubber cup coronal polishing, may be granted a certificate without meeting the other requirements of this section.
- (2) A dental assistant who is certified to perform application of pit and fissure sealants in another state with requirements not less stringent than those in New Mexico may be certified based on credentials.

[5-31-95, 9-30-95, 2-14-00; 16.5.33.11 NMAC - Rn, 16 NMAC 5.33.11, 12-14-00; A, 3-29-02; 16.5.33.11 NMAC - Rn, 16.5.33.12 NMAC & A, 12-30-02; A, 01-09-12]

16.5.33.12 REQUIRED DOCUMENTATION: Each applicant for an expanded function dental assistant certificate must submit to the board or its agent the required fees and following documentation.

A. Completed application with a passport quality photo taken within six months affixed to the application and the completed jurisprudence take home exam. Applications are valid for one year from the date of receipt.

B. Dental radiography:

- (1) proof of passing the board or DANB written examination on radiation health and safety;
- (2) an affidavit from a supervising dentist, dental hygienist, or dental assistant certified in radiography verifying the applicant has:
 - (a) assisted with and observed five cases of full-mouth intra oral radiographic series or five panoramic films if applying for a limited certification; and

(b) that upon reaching competency, the applicant independently exposed the radiographs submitted for technique examination;
(3) the completed full mouth intra oral radiographic series or a panoramic film as required for the technique exam described in 16.5.33.9 NMAC.

C. Rubber cup coronal polishing and application of topical fluoride:

(1) proof of passing the board or DANB written examination for rubber cup coronal polishing and application of topical fluoride;
(2) an affidavit from a supervising dentist, dental hygienist, or dental assistant certified in rubber cup coronal polishing and topical fluoride application that the applicant has:
(a) assisted with and observed five cases of rubber cup coronal polishing on adults and children and five applications of topical fluoride on children; and
(b) while being personally observed by a dentist, dental hygienist, or dental assistant certified in rubber cup coronal polishing, application of topical fluoride provided rubber cup coronal polishing on five adults and five children; and, provide applications of topical fluoride on five children.

D. Pit and fissure sealants:

(1) Proof of passing the board approved examination on application of pit and fissure sealants.
(2) An affidavit from a supervising dentist or dental hygienist verifying that the applicant has:
(a) assisted with and observed placement of 12 pit and fissure sealants; and
(b) while being personally observed by a dentist or dental hygienist, the applicant successfully place pit and fissure sealants on six patients.
(3) Proof of 2080 hours of chair side dental assisting experience within two years immediately prior to application for certification.
(4) The completed jurisprudence exam.

[9-30-96, 1-1-98, 2-14-00; 16.5.33.12 NMAC - Rn, 16 NMAC 5.33.12, 12-14-00; 16.5.33.12 NMAC - Rn, 16.5.33.13 NMAC & A, 12-30-02; A, 07-16-07; A, 01-09-12]

16.5.33.13 CERTIFICATION BY CREDENTIALS: Applicants for certification by credentials must possess the following qualifications:

A. verification of certification in all states where the applicant holds or has held a certificate to practice dental assisting; verification must be sent directly to the board office from the other state(s) board, must include a seal, and must attest to the status, issue date, expiration date, certification number, and other information contained on the form;

B. an official letter from the director of an accredited dental hygiene program indicating the applicant has completed coursework in the requested expanded function; or

C. proof of current, valid, certification as a CDA issued by DANB; and

D. all certifications, letters and validations must be received directly by the board office from the state, institution, or DANB;

E. the board may deny, stipulate, or otherwise limit a certification if it is determined the applicant is guilty of violating any of the provisions of the act, the Uniform Licensing Act, the Impaired Dentists and Hygienists Act, or the rules;

F. pass the jurisprudence exam with a score of at least 75%;

G. all certificates held by the applicant must have been in good standing for two years prior to application; and

I. the board may deny, stipulate, or otherwise limit a certification if it is determined the applicant holds or has held a certification in another jurisdiction that is not in good standing, if proceedings are pending against the applicant in another jurisdiction, or information is received indicating the applicant is of danger to patients or is guilty of violating any of the provisions of the act, the Uniform Licensing Act or these rules.

[8-11-89... 5-31-95, 9-30-96, 1-1-98, 2-14-00; 16.5.33.13 NMAC - Rn & A, 16 NMAC 5.33.13, 12-14-00; 16.5.33.13 NMAC - Rn, 16.5.33.14 NMAC & A, 12-30-02; A, 07-17-08; A, 01-09-12; A, 01-15-15]

16.5.33.14 RE-EXAMINATION PROCEDURE:

A. An applicant who does not obtain a passing score on the required written exam must re-apply and pay the required fees in order to retake the examination.

B. Applicants for certification in radiography will be allowed to submit radiographs for the technique exam three times. With each failure the supervising dentist, dental hygienist, or dental assistant certified in dental radiography will be notified of their responsibility for training the applicant.

C. After a third failure, the applicant and supervising dentist, dental hygienist, or dental assistant certified in radiography will be required to submit to the board a plan for remediation, including steps that will be taken to assure clinical competency.

[1-1-98, A, 8-16-99; 16.5.33.14 NMAC - Rn, 16 NMAC 5.33.14, 12-14-00; A, 3-29-02; 16.5.33.14 NMAC - Rn, 16.5.33.15 NMAC & A, 12-30-02; A, 01-09-12]

16.5.33.15 CERTIFICATION PROCEDURE: Upon receipt of a completed application, including all required documentation and fees the Secretary-Treasurer or delegate of the board will review the application and determine eligibility for certification. The certificate must be displayed so that it is visible to the public.
[9-30-96, 2-14-00; 16.5.33.15 NMAC - Rn & A, 16 NMAC 5.33.15, 12-14-00; 16.5.33.15 NMAC - Rn, 16.5.33.16 NMAC & A, 12-30-02]

16.5.33.16 [RESERVED]
[5-31-95, 1-1-98; 16.5.33.16 NMAC - Rn, 16 NMAC 5.33.16, 12-14-00; A, 12-30-02]

HISTORY OF 16.5.33 NMAC:

Pre-NMAC History: Material in this part was derived from that previously filed with the commission of public records - state records center and archives as:

BDE 69-1, Rules and Regulations of the New Mexico Board of Dental Examiners, filed 08-14-69;
BDE 70-1, Rules and Regulations of the New Mexico Board of Dental Examiners, filed 09-21-70;
BDE 73-1, Rules and Regulations of the New Mexico Board of The New Mexico Board of Dentistry, filed 02-12-73;
Article XII, Dental Assistants, filed 03-12-81;
Article XII, Dental Assistants, filed 01-12-82;
Article XII, Dental Assistants, filed 08-08-84;
Article XII, Dental Assistants, filed 02-05-88;
BOD Rule 10, Dental Assistants, filed 02-09-89;
BODHC Rule DA 1-95, Dental Assistants, Practice and Certification, filed 05-05-95.

History of Repealed Material:

Article XIV, Repeals BDE 73-1, Rules and Regulations of the New Mexico Board of Dentistry, filed 2-12-73.

Other History:

16 NMAC 5.33, Dental Assistants, Requirements for Certification, filed 09-17-96;
16 NMAC 5.33, Dental Assistants, Requirements for Certification, filed 09-17-96 - renumbered, reformatted and amended to 16.5.33 NMAC, Dental Assistants, Requirements for Certification, effective 12-14-00.

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING
CHAPTER 5 DENTISTRY (DENTISTS, DENTAL HYGIENISTS, ETC.)
PART 35 DENTAL ASSISTANTS, CERTIFICATE EXPIRATION AND RENEWAL

16.5.35.1 ISSUING AGENCY: New Mexico Board of Dental Health Care.
[9/30/96; 16.5.35.1 NMAC - Rn & A, 16 NMAC 5.35.1, 04/17/06]

16.5.35.2 SCOPE: The provisions of Part 35 of Chapter 5 apply to all dental assistants with a certificate to practice expanded functions in New Mexico.
[9/30/96; 16.5.35.2 NMAC - Rn, 16 NMAC 5.35.2, 04/17/06]

16.5.35.3 STATUTORY AUTHORITY: Part 35 of Chapter 5 is promulgated pursuant to the Dental Health Care Act, Section 61-5A-16 NMSA 1978 (1996 Repl. Pamp.).
[9/30/96; 16.5.35.3 NMAC - Rn, 16 NMAC 5.35.3, 04/17/06]

16.5.35.4 DURATION: Permanent
[9/30/96; 16.5.35.4 NMAC - Rn, 16 NMAC 5.35.4, 04/17/06]

16.5.35.5 EFFECTIVE DATE: September 30, 1996, unless a later date is cited at the end of a section.
[9/30/96; 16.5.35.5 NMAC - Rn & A, 16 NMAC 5.35.5, 04/17/06]

16.5.35.6 OBJECTIVE: To establish the requirements and procedures for renewal and expiration of expanded function certificates for dental assistants.
[9/30/96; 16.5.35.6 NMAC - Rn, 16 NMAC 5.35.6, 04/17/06]

16.5.35.7 DEFINITIONS: [RESERVED]
[9/30/96; 16.5.35.7 NMAC - Rn, 16 NMAC 5.35.7, 04/17/06]

16.5.35.8 CERTIFICATE EXPIRATION: Initial certificates will expire on July 1 following the second year of certification. No certificate will be issued for longer than 36 months or less than 25 months.
[5/31/95, 12/15/97, 8/16/99, 9/30/96; 16.5.35.8 NMAC - Rn, 16 NMAC 5.35.8, 04/17/06]

16.5.35.9 RENEWAL PERIOD AND EXPIRATION: After the initial license period, certifications for expanded function expire every three years on June 30. Certificates that are not renewed by July 1 are considered expired.
[9/7/84...9/30/96, 8/16/99; 16.5.35.9 NMAC - Rn & A, 16 NMAC 5.35.9, 04/17/06]

16.5.35.10 RENEWAL PROCESS: A completed renewal application, accompanied by the required fee as set forth in 16.5.32.8 NMAC, along with the required proof of completion of 30 hours of continuing education as set forth in 16.5.1.15 NMAC. The completed renewal application must be post-marked on or before July 1 of the renewal year.
[5/31/95, 9/30/96, 8/16/99, 2/14/00; 16.5.35.10 NMAC - Rn & A, 16 NMAC 5.35.10, 04/17/06]

16.5.35.11 CERTIFICATE HOLDER RESPONSIBILITY: The board assumes no responsibility for renewal applications not received for any reason. It is the certificate holders responsibility to make timely request for the renewal form if one has not been received thirty days prior to certificate expiration.
[5/31/95, 9/30/96; 16.5.35.11 NMAC - Rn, 16 NMAC 5.35.11, 04/17/06]

16.5.35.12 RENEWAL AFTER JUNE 30: Renewal applications post-marked after July 1 and prior to August 1 of the renewal year must be accompanied by the completed renewal application with the required proof of completion of 30 hours of continuing education as set forth in 16.5.36.8 NMAC, along with the triennial renewal fee and late fee as set forth in 16.5.32.8 NMAC.
[5/31/95, 9/30/96, 8/16/99; 16.5.35.12 NMAC - Rn & A, 16 NMAC 5.35.12, 04/17/06]

16.5.35.13 RENEWAL AFTER AUGUST 1 AND BEFORE SEPTEMBER 1: Renewal applications post-marked on or after August 1, but before September 1, of the renewal year, must be accompanied by the completed renewal application with the required proof of completion of 30 hours of continuing education as set forth in 16.5.36.8 NMAC, along with the triennial renewal fee and late fee as set forth in 16.5.32.8 NMAC.
[5/31/95, 9/30/96, 8/16/99; 16.5.35.13 NMAC - Rn & A, 16 NMAC 5.35.13, 04/17/06]

16.5.35.14 RENEWAL APPLICATION UNDELIVERABLE: If the notice of renewal is returned to the office and the certificate holder has not sent a change of address, the revocation order will be considered undeliverable and will not be mailed.

[5/31/95; 16.5.35.14 NMAC - Rn, 16 NMAC 5.35.14, 04/17/06]

HISTORY OF 16.5.35 NMAC:

Pre-NMAC History: The material in this part was derived from that previously filed with the commission of public records - state records center and archives as:

Article XII, Dental Assistants, filed 3/12/81.

Article XII, Dental Assistants, filed 1/12/82.

Article XII, Dental Assistants, filed 8/8/84.

Article XII, Dental Assistants, filed 2/5/88.

BOD Rule 10, Dental Assistants, filed 2/9/89.

BODHC Rule DA 2-95, Dental Assistants, Renewal of Certificates, filed 5/5/95.

History of Repealed Material: [RESERVED]

Other History:

That portion of BODHC Rule DA 2-95, Dental Assistants, Renewal of Certificates (filed 5/5/95) was renumbered, reformatted, amended and replaced by 16 NMAC 5.35, Dental Assistants, Certificate Expiration and Renewal, effective 9/30/96.

16 NMAC 5.35, Dental Assistants, Certificate Expiration and Renewal (filed 9/17/96) renumbered, reformatted, amended and replaced by 16.5.35 NMAC, Dental Assistants, Certificate Expiration and Renewal, effective 04/17/06.

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING
CHAPTER 5 DENTISTRY (DENTISTS, DENTAL HYGIENISTS, ETC.)
PART 36 DENTAL ASSISTANTS, CONTINUING EDUCATION REQUIREMENTS

16.5.36.1 ISSUING AGENCY: New Mexico Board of Dental Health Care.
[9/30/96; 16.5.36.1 NMAC - Rn & A, 16 NMAC 5.36.1, 04/17/06]

16.5.36.2 SCOPE: The provisions of Part 36 of Chapter 5 apply to all dental assistants with current expanded function certification who are applying to renew their certificate.
[9/30/96; 16.5.36.2 NMAC - Rn, 16 NMAC 5.36.2, 04/17/06]

16.5.36.3 STATUTORY AUTHORITY: Part 36 of Chapter 5 is promulgated pursuant to the Dental Health Care Act, Section 61-5A-10 NMSA 1978 (1996 Repl. Pamp.).
[9/30/96; 16.5.36.3 NMAC - Rn, 16 NMAC 5.36.3, 04/17/06]

16.5.36.4 DURATION: Permanent
[9/30/96; 16.5.36.4 NMAC - Rn, 16 NMAC 5.36.4, 04/17/06]

16.5.36.5 EFFECTIVE DATE: September 30, 1996, unless a later date is cited at the end of a section.
[9/30/96; 16.5.36.5 NMAC - Rn & A, 16 NMAC 5.36.5, 04/17/06]

16.5.36.6 OBJECTIVE: To establish the requirements for the renewal of expanded function certificates for dental assistants.
[9/30/96; 16.5.36.6 NMAC - Rn, 16 NMAC 5.36.6, 04/17/06]

16.5.36.7 DEFINITIONS: [RESERVED]
[9/30/96; 16.5.36.7 NMAC - Rn, 16 NMAC 5.36.7, 04/17/06]

16.5.36.8 HOURS REQUIRED: 30 hours of continuing education are required during each triennial renewal cycle. Continuing education received after submission of renewal materials but prior to actual expiration date may be used for the requirements of the next renewal cycle. Continuing education requirements are pro-rated at 10 hours per year for individuals licensed for less than three years.
[8/11/89, 9/30/96, 12/15/97; 16.5.36.8 NMAC - Rn, 16 NMAC 5.36.8, 04/17/06; A, 01/09/12]

16.5.36.9 COURSES REQUIRED: Continuing education coursework must contribute directly to the practice of dental assisting. The following courses are required for license renewal:

- A. three hours of radiographic technique or safety and protection;
- B. as further defined in 16.5.1.16 NMAC, a course in infection control techniques and sterilization procedures per renewal period; and
- C. proof of current certification in basic life support (BLS) or cardiac pulmonary resuscitation (CPR) accepted by the American heart association the American red cross or the American safety and health institute (ASHI); cannot be a self-study course.

[8/11/89, 5/21/93, 5/31/95, 9/30/96; 16.5.36.9 NMAC - Rn & A, 16 NMAC 5.36.9, 04/17/06; A, 07/16/07; A, 07/19/10; A, 01/09/12]

16.5.36.10 VERIFICATION OF CONTINUING EDUCATION: The board will select renewal applications for verification of continuing education. Audit requests will be included with the renewal notice and those selected individuals will be asked to submit proof of compliance with the continuing education requirements. Continuing education records may be audited by the board at any time. The records identified in Subsection F of 16.5.1.15 NMAC are considered acceptable forms of documentation. Continuing education records must be maintained for one year following the renewal cycle in which they are earned.
[5/31/95, 9/30/96; 16.5.36.10 NMAC - Rn, 16 NMAC 5.36.10, 04/17/06; A, 01/09/12]

16.5.36.11 EMERGENCY DEFERRAL: A certificate holder who is unable to fulfill the continuing education requirements may apply to the board for an emergency deferral of the requirements due to extenuating circumstances as defined in 16.5.1.7 NMAC. Deferrals of up to four months may be granted by a designee of the board.
[5/31/95, 9/30/96; 16.5.36.11 NMAC - Rn, 16 NMAC 5.36.11, 04/17/06; A, 01/09/12]

HISTORY OF 16.5.36 NMAC:

Pre-NMAC History: The material in this part was derived from that previously filed with the commission of public records - state records center and archives as:

Article XII, Dental Assistants, filed 3/12/81.

Article XII, Dental Assistants, filed 1/12/82.

Article XII, Dental Assistants, filed 8/8/84.

Article XII, Dental Assistants, filed 2/5/88.

BOD Rule 10, Dental Assistants, filed 2/9/89.

That applicable portion of BOD Rule 10 replaced by BODHC Rule DA 2-95, Dental Assistants, Renewal of Certificates, filed 5/5/95.

History of Repealed Material: [RESERVED]

Other History:

BODHC Rule DA 2-95, Dental Assistants, Renewal of Certificates (filed 5/5/95) was renumbered, reformatted, amended and replaced by 16 NMAC 5.36, Dental Assistants, Continuing Education Requirements, effective 9/30/96.

16 NMAC 5.36, Dental Assistants, Continuing Education Requirements (filed 9/17/96) renumbered, reformatted, amended and replaced by 16.5.36 NMAC, Dental Assistants, Continuing Education Requirements, effective 04/17/06.

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING
CHAPTER 5 DENTISTRY (DENTISTS, DENTAL HYGIENISTS, ETC.)
PART 37 DENTAL ASSISTANTS, CERTIFICATE REVOCATION FOR NON-RENEWAL

16.5.37.1 ISSUING AGENCY: New Mexico Board of Dental Health Care.
[9/30/96; 16.5.37.1 NMAC - Rn & A, 16 NMAC 5.37.1, 04/17/06]

16.5.37.2 SCOPE: The provisions of Part 37 of Chapter 5 apply to all dental assistants with expanded function certification who do not submit an application for certificate renewal within 60 days of the expiration date.
[9/30/96; 16.5.37.2 NMAC - Rn, 16 NMAC 5.37.2, 04/17/06]

16.5.37.3 STATUTORY AUTHORITY: Part 13 of Chapter 5 is promulgated pursuant to the Dental Health Care Act, Section 61-5A-16 NMSA 1978 (1996 Repl. Pamp.).
[9/30/96; 16.5.37.3 NMAC - Rn, 16 NMAC 5.37.3, 04/17/06]

16.5.37.4 DURATION: Permanent
[9/30/96; 16.5.37.4 NMAC - Rn, 16 NMAC 5.37.4, 04/17/06]

16.5.37.5 EFFECTIVE DATE: September 30, 1996, unless a later date is cited at the end of a section.
[9/30/96; 16.5.37.5 NMAC - Rn & A, 16 NMAC 5.37.5, 04/17/06]

16.5.37.6 OBJECTIVE: To establish the procedures and policies for revocation of expired expanded function dental assisting certificates and the reinstatement of certificates revoked for non-renewal.
[9/30/96; 16.5.37.6 NMAC - Rn, 16 NMAC 5.37.6, 04/17/06]

16.5.37.7 DEFINITIONS: [RESERVED]
[9/30/96; 16.5.37.7 NMAC - Rn, 16 NMAC 5.37.7, 04/17/06]

16.5.37.8 REVOCATION OF CERTIFICATE FOR NON-RENEWAL: Unless an application for certificate renewal is received by the board office, or post-marked, before September 1, the certificate shall be revoked for non-renewal.
[5/31/95, 9/30/96; 16.5.37.8 NMAC - Rn, 16 NMAC 5.37.8, 04/17/06; A, 07/17/08]

16.5.37.9 REINSTATEMENT OF REVOKED CERTIFICATE: Within one year of the revocation notice, the certificate may be reinstated by payment of renewal, late and reinstatement fees, compliance with continuing education for the previous renewal cycle and for the year of the revocation. Applicants for reinstatement after one year of revocation must re-apply as a new applicant and meet all requirements for initial certification.

A. Applicants for reinstatement must provide in all states where the applicant holds or has held a license to practice dental assisting, or other health care profession within the previous year. Verification must be sent directly to the board office from the other state(s) board, must include a raised seal, and must attest to the status, issue date, license number, and other information contained on the form.

B. Upon receipt of a completed reinstatement of revoked license application, including all documentation and fees, the secretary-treasurer or delegate of the board, will review and may approve the application. The board may formally accept the approval of the application at the next scheduled meeting.
[5/31/95, 9/30/96, 1/1/99; 16.5.37.9 NMAC - Rn, 16 NMAC 5.37.9, 04/17/06; A, 07/16/07]

HISTORY OF 16.5.37 NMAC:

Pre-NMAC History: The material in this part was derived from that previously filed with the commission of public records - state records center and archives as:

Article XII, Dental Assistants, filed 3/12/81.

Article XII, Dental Assistants, filed 1/12/82.

Article XII, Dental Assistants, filed 8/8/84.

Article XII, Dental Assistants, filed 2/5/88.

BOD Rule 10, Dental Assistants, filed 2/9/89.

That applicable portion of BOD Rule 10 replaced by BODHC Rule DA 2-95, Dental Assistants, Renewal of Certificates, filed 5/5/95.

History of Repealed Material: [RESERVED]

Other History:

BODHC Rule DA 2-95, Dental Assistants, Renewal of Certificates (filed 5/5/95) was renumbered, reformatted, amended and replaced by 16 NMAC 5.37, Dental Assistants, Certificate Revocation for Non-Renewal, effective 9/30/96.

16 NMAC 5.37, Dental Assistants, Certificate Revocation for Non-Renewal (filed 9/17/96) renumbered, reformatted, amended and replaced by 16.5.37 NMAC, Dental Assistants, Certificate Revocation for Non-Renewal, effective 04/17/06.

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING
CHAPTER 5 OCCUPATIONAL AND PROFESSIONAL LICENSING GENERAL PROVISIONS
PART 39 DENTAL ASSISTANTS, PRACTICE AND SUPERVISION

16.5.39.1 ISSUING AGENCY: New Mexico Board of Dental Health Care.
[9-30-96; 16.5.39.1 NMAC - Rn & A, 16 NMAC 5.39.1, 9-30-02]

16.5.39.2 SCOPE: The provisions of Part 39 of Chapter 5 apply to all dental assistants with current expanded function certification.
[9-30-96; 16.5.39.2 NMAC - Rn, 16 NMAC 5.39.2, 9-30-02]

16.5.39.3 STATUTORY AUTHORITY: Part 39 of Chapter 5 is promulgated pursuant to the Dental Health Care Act, NMSA 1978, 61-5A-5 and 61-5A-6 (1996 Repl. Pamp.).
[9-30-96; 16.5.39.3 NMAC - Rn, 16 NMAC 5.39.3, 9-30-02]

16.5.39.4 DURATION: Permanent.
[9-30-96; 16.5.39.4 NMAC - Rn, 16 NMAC 5.39.4, 9-30-02]

16.5.39.5 EFFECTIVE DATE: September 30, 1996, unless a later date is cited at the end of a Section.
[9-30-96; 16.5.39.5 NMAC - Rn & A, 16 NMAC 5.39.5, 9-30-02]

16.5.39.6 OBJECTIVE: To establish those procedures, which may be provided by dental assistants, the procedures which require expanded function certification, and the procedures which may not be performed by dental assistants, regardless of certification or supervision.
[9-30-96; 16.5.39.6 NMAC - Rn, 16 NMAC 5.39.6, 9-30-02]

16.5.39.7 DEFINITIONS: [RESERVED]

- A. Repealed
- B. Repealed
- C. Repealed

[10-21-70...5-31-95; R, 12-15-97; 16.5.39.7 NMAC - Rn, 16 NMAC 5.39.7, 9-30-02]

16.5.39.8 PRACTICE AND REQUIRED SUPERVISION: Dental assistants may provide any basic supportive dental procedure, not excluded elsewhere in rule or in statute if the procedure is performed under the indirect supervision of a dentist. The following expanded function procedures may be performed without certification under indirect supervision as long as the procedure is approved by the dentist or dental hygienist upon completion:

- A. rubber cup coronal polishing (not to be represented as a prophylaxis);
- B. application of topical fluoride;
- C. pit and fissure sealant application.

[10-21-70...9-30-96; 16.5.39.8 NMAC - Rn & A, 16 NMAC 5.39.8, 9-30-02; A, 07-17-13]

16.5.39.9 PROCEDURES REQUIRING CERTIFICATION: The following procedures are allowable under general supervision if the dental assistant is certified by the Board:

- A. Place and expose dental radiographs;
- B. Rubber cup coronal polishing;
- C. Application of topical fluoride; and
- D. Pit and fissure sealants.

[10-21-70...5-31-95; 9-30-96, A, 12-15-97, A, 1-1-99; 16.5.39.9 NMAC - Rn & A, 16 NMAC 5.39.9, 9-30-02]

16.5.39.10 NON-ALLOWABLE PROCEDURES: Licensees may not delegate the performance of the following procedures to auxiliary personnel:

- A. removal of, or addition to, the hard or soft tissue of the oral cavity;
- B. diagnosis and treatment planning;
- C. final impressions, to include physical and digital impressions, for restorations or prosthetic appliances;
- D. initial fitting and adaptation of prostheses;

- E. final fitting, adaptation, seating and cementation of any fixed or removable dental appliance or restoration, including but not limited to inlays, crowns, space maintainers, habit devices, anti-snoring or sleep apnea appliances or splints;
 - F. irrigation and medication of canals, cone try-in, reaming, filing or filling of root canals;
 - G. other services defined as the practice of dentistry or dental hygiene in Section 61-5A-4, A, B, and C;
 - H. bleaching or whitening teeth without direct or indirect supervision of a dentist; and
 - I. laser-assisted non-surgical periodontal treatment.
- [10-21-70...5-31-95; 9-30-96; 16.5.39.10 NMAC - Rn & A, 16 NMAC 5.39.10, 9-30-02; A, 07-17-13; A, 01-04-14]

HISTORY OF 16.5.39 NMAC:

Pre-NMAC History:

Material in this part was derived from that previously filed with the commission of public records - state records center and archives as:

Article XII, Dental Assistants, 3-12-81;

Article XII, Dental Assistants, 1-12-82;

Article XII, Dental Assistants, 8-8-84;

Article XII, Dental Assistants, 2-5-88;

BOD Rule 10, Dental Assistants, 2-9-89;

BODHC Rule DA 1-95, Dental Assistant, Practice and Certification, 5-5-95.

History of Repealed Material: [Reserved]

Other History:

BODHC Rule DA 1-95, Dental Assistant, Practice and Certification, filed 5-5-95 was renumbered, reformatted to and replaced by 16 NMAC 5.39, Dental Assistants, Practice and Certification, filed 9-17-96.

16 NMAC 5.39, Dental Assistants, Practice and Certification, filed 9/17/96 was renumbered, reformatted and amended to 16.5.39 NMAC, effective 9-30-02.

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING
CHAPTER 5 DENTISTRY (DENTISTS, DENTAL HYGIENISTS, ETC.)
PART 40 DENTAL ASSISTANTS, DISCIPLINARY PROCEEDINGS

16.5.40.1 ISSUING AGENCY: New Mexico Board of Dental Health Care.
[9/30/96; 16.5.40.1 NMAC - Rn & A, 16 NMAC 5.40.1, 04/17/06]

16.5.40.2 SCOPE: The provisions of Part 40 of Chapter 5 apply to all active certificate holders and applicants for certification. These provisions may also be of interest to anyone who may wish to file a complaint against a dental assistant certified by the board.
[9/30/96; 16.5.40.2 NMAC - Rn, 16 NMAC 5.40.2, 04/17/06]

16.5.40.3 STATUTORY AUTHORITY: Part 40 of Chapter 5 is promulgated pursuant to the Dental Health Care Act, Sections 61-5A-6 and 61-5A-21 NMSA 1978 (1996 Repl. Pamp.).
[9/30/96; 16.5.40.3 NMAC - Rn, 16 NMAC 5.40.3, 04/17/06]

16.5.40.4 DURATION: Permanent
[9/30/96; 16.5.40.4 NMAC - Rn, 16 NMAC 5.40.4, 04/17/06]

16.5.40.5 EFFECTIVE DATE: September 30, 1996, unless a later date is cited at the end of a section.
[9/30/96; 16.5.40.5 NMAC - Rn & A, 16 NMAC 5.40.5, 04/17/06]

16.5.40.6 OBJECTIVE: To establish the procedures for filing complaints against certificate holders, the disciplinary actions available to the board, the authority to issue investigative subpoenas and to further define actions by a certificate holder which are considered incompetent or unprofessional practice.
[9/30/96; 16.5.40.6 NMAC - Rn, 16 NMAC 5.40.6, 04/17/06]

16.5.40.7 DEFINITIONS: [RESERVED]
[9/30/96; 16.5.40.7 NMAC - Rn, 16 NMAC 5.40.7, 04/17/06]

16.5.40.8 COMPLAINTS: Disciplinary proceedings may be instituted by sworn complaint of any person, including members of the board and committee. Any hearing held pursuant to the complaint shall conform with the provisions of the Uniform Licensing Act and the Dental Health Care Act.
[5/31/95; 16.5.40.8 NMAC - Rn, 16 NMAC 5.40.8, 04/17/06]

16.5.40.9 ACTIONS:

- A. The board may issue fines, deny, revoke or suspend, or otherwise limit a certificate if the board determines the certificate holder is guilty of violating any of the provisions outlined in the Act, the Uniform Licensing Act, or these rules.
- B. The board may reprimand, censure, stipulate and may require certificate holders to fulfill additional continuing education hours within limited time constraints for violations of the act or the rules.
- C. The board shall take into consideration the role of dental assistants as employees when taking disciplinary action against a certificate holder. In the event the complaint is ruled to be based primarily on the assistant's role as employee, the board may consider appropriate action against the employer/dentist.

[5/31/95, 8/15/95; 16.5.40.9 NMAC - Rn, 16 NMAC 5.40.9, 04/17/06]

16.5.40.10 GUIDELINES: The board shall define the following as guidelines for disciplinary action: "unprofessional conduct" means, but is not limited to because of enumeration:

- A. performing, or holding oneself out as able to perform, professional services beyond the scope of ones certification and field or fields of competence as established by education, experience, training, or any combination thereof; this includes, but is not limited to, the use of any instrument, device or material in a manner that is not in accordance with the customary standards and practices of dental assisting;
- B. sexual misconduct;
- C. failure to use appropriate infection control techniques and sterilization procedures;
- D. fraud, deceit or misrepresentation in any application;
- E. cheating on an examination for expanded function certification;
- F. performing any procedure which requires certification unless so certified;
- G. injudicious administration of any drug or medicine;
- H. conviction of either a misdemeanor or a felony punishable by incarceration; and

I. failure to be in compliance with the Parental Responsibility Act NMSA1978, Section 40-5A-3 seq.
[10/16/92, 8/15/95, 9/30/96; 16.5.40.10 NMAC - Rn, 16 NMAC 5.40.10, 04/17/06; A, 07/16/07; A, 07/19/10; A, 06/14/12; A, 07/17/13]

16.5.40.11 INVESTIGATIVE SUBPOENAS: The complaint committee of the board is authorized to issue investigative subpoenas and to employ experts with regard to pending investigations.
[8/15/95; 16.5.40.11 NMAC - Rn, 16 NMAC 5.40.11, 04/17/06; A, 07/16/07; A, 07/17/08]

HISTORY OF 16.5.40 NMAC:

Pre-NMAC History: The material in this part was derived from that previously filed with the commission of public records - state records center and archives as:
BODHC Rule DA 3-95, Dental Assistants, Disciplinary Proceedings, filed 5/5/95.

History of Repealed Material: [RESERVED]

Other History:

BODHC Rule DA 3-95, Dental Assistants, Disciplinary Proceedings (filed 5/5/95) was renumbered, reformatted, amended and replaced by 16 NMAC 5.40, Dental Assistants, Disciplinary Proceedings, effective 9/30/96.
16 NMAC 5.40, Dental Assistants, Disciplinary Proceedings (filed 9/17/96) renumbered, reformatted, amended and replaced by 16.5.40 NMAC, Dental Assistants, Disciplinary Proceedings, effective 04/17/06.

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING
CHAPTER 5 DENTISTRY (DENTISTS, DENTAL HYGIENISTS, ETC.)
PART 41 EXPANDED FUNCTION DENTAL AUXILIARY, FEES

16.5.41.1 ISSUING AGENCY: New Mexico Board of Dental Health Care.
[16.5.41.1 NMAC - N, 01/09/12]

16.5.41.2 SCOPE: The provisions of Part 41 of Chapter 5 apply to all applicants for certification; to active, expired and suspended certificate holders; and to anyone who requests a list of certified expanded function dental auxiliary or other public records.
[16.5.41.2 NMAC - N, 01/09/12]

16.5.41.3 STATUTORY AUTHORITY: Part 41 of Chapter 5 is promulgated pursuant to the Dental Health Care Act, Section 61-5A-20 NMSA 1978.
[16.5.41.3 NMAC - N, 01/09/12]

16.5.41.4 DURATION: Permanent.
[16.5.41.4 NMAC - N, 01/09/12]

16.5.41.5 EFFECTIVE DATE: January 9, 2012, unless a later date is cited at the end of a section.
[16.5.41.5 NMAC - N, 01/09/12]

16.5.41.6 OBJECTIVE: To establish fees to generate revenue to support the cost of program administration.
[16.5.41.6 NMAC - N, 01/09/12]

16.5.41.7 DEFINITIONS: [RESERVED]

16.5.41.8 FEES:

- A. all fees are non-refundable;
- B. application fee: \$100;
- C. board examination fee not to exceed \$100 per exam;
- D. triennial renewal fee: \$100;
- E. late penalty fee: \$25.00;
- F. duplicate certificate fee: \$10.00;
- G. list of current certificate holders: \$300; an annual list of current certificate holders is available to the professional association upon request at no cost;
- H. labels of current certificate holders: \$300;
- I. reinstatement fee: \$15.00;
- J. copies cost \$0.25 per page.

[16.5.41.8 NMAC - N, 01/09/12]

HISTORY OF 16.5.41 NMAC: [RESERVED]

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING
CHAPTER 5 DENTISTRY (DENTISTS, DENTAL HYGIENISTS, ETC.)
PART 42 EXPANDED FUNCTION DENTAL AUXILIARY, REQUIREMENTS FOR
CERTIFICATION

16.5.42.1 ISSUING AGENCY: New Mexico Board of Dental Health Care.
[16.5.42.1 NMAC - N, 1/9/2012]

16.5.42.2 SCOPE: The provisions of Part 42 of Chapter 5 apply to all applicants for certification; to active, expired and suspended certificate holders; and to anyone who requests a list of certified expanded function dental auxiliary or other public records.
[16.5.42.2 NMAC - N, 1/9/2012]

16.5.42.3 STATUTORY AUTHORITY: Part 42 of Chapter 5 is promulgated pursuant to the Dental Health Care Act, Section 61-5A-5, 61-5A-6 and 61-5A-6.1 NMSA 1978.
[16.5.42.3 NMAC - N, 1/9/2012]

16.5.42.4 DURATION: Permanent.
[16.5.42.4 NMAC - N, 1/9/2012]

16.5.42.5 EFFECTIVE DATE: January 9, 2012, unless a later date is cited at the end of a section.
[16.5.42.5 NMAC - N, 1/9/2012]

16.5.42.6 OBJECTIVE: To establish the requirements for certification for expanded function dental auxiliary to perform expanded functions. These rules address applicants being certified via the following tracks.

A. Completed expanded function dental auxiliary program at an institution where the dental assisting program is accredited by the joint commission on dental accreditation (CODA).

B. Independent preparation for dental assistants that have five years' experience and prepare independently for the requirements.

C. Candidates who possess a current certificate in good standing in expanded function dental auxiliary from another state or jurisdiction (credentials).

[16.5.42.6 NMAC - N, 1/9/2012, A, 3/18/2018]

16.5.42.7 DEFINITIONS:

A. **"Apprenticeship"** means a period of time in which an EFDA candidate is closely supervised by a supervising dentist and demonstrates competency on patients in EFDA duties as defined under Section 16.5.46.9 NMAC. The supervising dentist assumes all responsibility and liability for the training and actions of an EFDA candidate and must attest to their competency.

B. **"Close personal supervision"** means a New Mexico licensed dentist directly observes, instructs and certifies in writing the training and expertise of a EFDA candidate to the board.

C. **"Continuous employment"** means 1,000 hours per year for any five consecutive years.

D. **"Direct supervision"** means the process under which an act is performed when a dentist licensed pursuant to the Dental Health Care Act:

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

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

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

setting.

E. **"Expanded function dental auxiliary"** EFDA means a dental assistant, dental hygienist or other dental auxiliary that has received education specific to the duties delineated by the board for an EFDA, and has met the educational and certifying exam standards set by the board for an EFDA, and works under the direct supervision of a NM licensed dentist to perform the functions allowed under this section.

F. **"Placing and shaping restorations"** means the act of placing dental filling material(s) directly into a cavity preparation previously prepared by a dentist, and shaping, finishing and polishing the restoration so that it has proper occlusal form, contacts, anatomy and margins prior to final approval by the dentist.

G. **"Supervising dentist"** means a New Mexico licensed dentist who has no current action or inquires pending by the board and who provides supervision, instruction and recommendation for an EFDA candidate to the board.

[16.5.42.7 NMAC - N, 1/9/2012]

16.5.42.8 REQUIREMENTS: EFDA who performs the duties defined under Section 16.5.46.9 NMAC are required to be certified by the board.
[16.5.42.8 NMAC - N, 1/9/2012]

16.5.42.9 EDUCATION AND EXAMINATION REQUIREMENTS FOR EXPANDED FUNCTION DENTAL AUXILIARY:

A. satisfactory completion of an expanded function dental auxiliary course at an institution. Where the dental assisting program is accredited by the joint commission on dental accreditation, and approved by the board. The applicant must be certified in all four expanded functions as defined in Section 16.5.33 NMAC; or

B. for dental auxiliaries that have five years' experience and "independent preparation" for the requirements:

(1) applicant must have a minimum of five years of continuous employment as a dental assistant or dental hygienist with a minimum of 1,000 hours per year;

(2) achieved certification in all expanded functions as defined in Section 16.5.33 NMAC;

(3) taken a course of study in dental anatomy, dental materials, placing and shaping direct restorations, fitting and shaping of stainless steel crowns, and occlusion function and passed a post-test approved by the board verifying readiness for taking the certification examination;

(4) recommended for an expanded function dental auxiliary (EFDA) certification by the supervising dentist as defined in Subsection G of Section 16.5.42.7 NMAC;

(5) instructors must have higher or same level of licensure or certification in respective courses they are teaching;

C. pass a clinical examination accepted by the board for certification of EFDA;

D. completed the jurisprudence examination with a score of at least seventy five percent;

E. exemptions; an expanded function dental auxiliary who is certified to perform EFDA duties in another state or jurisdiction with requirements not less stringent than those in New Mexico may be certified based on credentials;

F. after passing a board accepted examination or being certified by credentials, EFDA candidates must complete an apprenticeship under the close personal supervision of a supervising dentist;

(1) the board will send to the EFDA candidate upon receipt of the completed application the following:

(a) permit to start apprenticeship to be displayed during apprenticeship; and

(b) affidavit form to be signed by supervising dentist at start and completion of

apprenticeship;

(2) the affidavit shall state that the supervising dentist assures that the EFDA candidate is competent in the procedures allowed by an EFDA and that the supervising dentist assumes full responsibility and liability for the training and actions of the EFDA;

(3) once the permit is issued by the board office the EFDA candidate has 180 days to complete the apprenticeship; (a grace period of no more than 60 days may be granted by the board chair or vice-chair) and

(4) upon completion of the apprenticeship the candidate must return the EFDA permit and the signed affidavit to the board; once the permit and signed affidavit have been received and verified by the board a certificate for EFDA may be issued.

[16.5.42.9 NMAC - N, 1/9/2012; A, 06/14/2012; A, 7/17/2013; A, 12/16/2015; A, 3/18/2018; A, 12/14/2019]

16.5.42.10 REQUIRED DOCUMENTATION: Each applicant for an expanded function dental auxiliary certification shall submit to the board or its agent the required fees and the following documentation. Applications are valid for one year from the date of receipt by the board; after one year, the applicant shall submit to the board a new application.

A. Each application for licensure who completed an EFDA program as defined in Subsection A of Section 16.5.42.9 NMAC must submit the following documentation:

(1) completed application with a passport quality photo taken within six months affixed to the application;

(2) official transcripts or certification verifying successful completion of an EFDA program accredited by the commission on dental accreditation;

(3) copy of clinical examination accepted by the board for certification as EDFA; the results of the exam are valid in New Mexico for a period not to exceed five years:

(a) the applicant shall apply directly to a board approved testing agency for examination;

(b) results of the clinical examination shall be sent directly to the board office; and

- (4) affidavit letter from supervising dentists.
- (5) proof of certifications in all 4 expanded functions as defined in Section 16.5.33 NMAC

no later than July 1, 2019.

B. An applicant who has not graduated from a program as defined in Subsection A of Section 16.5.42.9 NMAC can apply for certification if they meet all requirements in Subsection B, C, D and F of 16.5.42.9 NMAC and must submit the following:

- (1) completed application with a passport quality photo taken within six months affixed to the application;
- (2) shall provide proof of five years of continuous employment as a dental assistant or dental hygienist with a minimum of 1,000 hours per year;
- (3) shall have achieved certification in all expanded functions as defined in Section 16.5.33 NMAC;
- (4) shall provide proof of successful completion of courses in dental anatomy, dental materials, placing and shaping direct restorations, fitting and shaping of stainless steel crowns, and occlusion function;
- (5) shall provide an affidavit executed on dentist letterhead from a supervising dentist recommending the applicant for EFDA certification and verifying the applicant's competency; and
- (6) copy of clinical examination score card or certificate.

C. Certification by credentials: Applicants can apply for certification by credentials if they meet all requirements as defined in Subsections A, C, D and F of Section 16.5.42.9 NMAC and must submit the following:

- (1) completed application with a passport quality photo taken within six months affixed to the application;
- (2) verification of a current active certification in good standing from another state; and
- (3) copy of clinical examination score card or certificate; the results of the examination are valid in New Mexico for a period not to exceed five years:
 - (a) the applicant shall apply directly to a board approved testing agency for examination, and
 - (b) the results of the clinical examination must be sent directly to the board office; and
- (4) affidavit letter from the supervising dentist of competency.

[16.5.42.10 NMAC - N, 1/9/2012; A, 06/14/12; A, 07/17/13; A, 12/16/15; A, 3/18/2018]

16.5.42.11 CERTIFICATION PROCEDURE: Upon receipt of a completed application, including all required documentation, signed affidavit and fees, the secretary-treasurer or delegate of the board will review the application and determine eligibility for certification.

A. Initial certificates are issued for a period not to exceed three years.

B. The certificate must be displayed so that it is visible to the public.

[16.5.42.11 NMAC - N, 1/9/2012]

16.5.42.12 TIMELINE FOR PREVIOUSLY ISSUED EFDA PERMITS AND EXPANDED

FUNCTIONS: All current EFDA certification permit holders must have all four expanded functions as defined in Section 16.5.33 NMAC no later than July 1, 2019. EFDA permits will suspend automatically if such expanded functions certifications are not current. Once those expanded functions are certified, the EFDA permit will become valid until its regular expiration period.

[16.5.42.12 NMAC - N, 3/18/2018]

HISTORY OF 16.5.42 NMAC: [RESERVED]

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING
CHAPTER 5 DENTISTRY (DENTISTS, DENTAL HYGIENISTS, ETC.)
PART 43 EXPANDED FUNCTION DENTAL AUXILIARY, CERTIFICATION EXPIRATION
AND RENEWAL

16.5.43.1 ISSUING AGENCY: New Mexico Board of Dental Health Care.
[16.5.43.1 NMAC - N, 01/09/12]

16.5.43.2 SCOPE: The provisions of Part 43 of Chapter 5 apply to all expanded function dental auxiliary with a certificate to practice expanded functions in New Mexico.
[16.5.43.2 NMAC - N, 01/09/12]

16.5.43.3 STATUTORY AUTHORITY: Part 43 of Chapter 5 is promulgated pursuant to the Dental Health Care Act, Section 61-5A-16 NMSA 1978 (1996 Repl. Pamp.).
[16.5.43.3 NMAC - N, 01/09/12]

16.5.43.4 DURATION: Permanent.
[16.5.43.4 NMAC - N, 01/09/12]

16.5.43.5 EFFECTIVE DATE: January 9, 2012, unless a later date is cited at the end of a section.
[16.5.43.5 NMAC - N, 01/09/12]

16.5.43.6 OBJECTIVE: To establish the requirements and procedures for renewal and expiration of certificates for expanded function dental auxiliary.
[16.5.43.6 NMAC - N, 01/09/12]

16.5.43.7 DEFINITIONS: [RESERVED]

16.5.43.8 CERTIFICATE EXPIRATION: Initial certificates will expire on July 1 following the second year of certification. No certificate will be issued for longer than 36 months or less than 25 months.
[16.5.43.8 NMAC - N, 01/09/12]

16.5.43.9 RENEWAL PERIOD AND EXPIRATION: After the initial certification period, certifications for expanded function expire every three years on June 30. Certificates that are not renewed by July 1 are considered expired.
[16.5.43.9 NMAC - N, 01/09/12]

16.5.43.10 RENEWAL PROCESS: A completed renewal application, accompanied by the required fee as set forth in 16.5.41.8 NMAC, along with the required proof of completion of 36 hours of continuing education as set forth in 16.5.1.15 NMAC. The completed renewal application must be post-marked on or before July 1 of the renewal year.
[16.5.43.10 NMAC - N, 01/09/12]

16.5.43.11 CERTIFICATE HOLDER RESPONSIBILITY: The board assumes no responsibility for renewal applications not received for any reason. It is the certificate holder's responsibility to make timely request for the renewal form if one has not been received 30 days prior to certificate expiration.
[16.5.43.11 NMAC - N, 01/09/12]

16.5.43.12 RENEWAL AFTER JUNE 30: Renewal applications post-marked after July 1 and prior to August 1 of the renewal year must be accompanied by the completed renewal application with the required proof of completion of 36 hours of continuing education as set forth in 16.5.44.8 NMAC, along with the triennial renewal fee and late fee as set forth in 16.5.41.8 NMAC.
[16.5.43.12 NMAC - N, 01/09/12]

16.5.43.13 RENEWAL AFTER AUGUST 1 AND BEFORE SEPTEMBER 1: Renewal applications post-marked on or after August 1, but before September 1, of the renewal year, must be accompanied by the completed renewal application with the required proof of completion of 36 hours of continuing education as set forth in 16.5.44.8 NMAC, along with the triennial renewal fee and late fee as set forth in 16.5.41.8 NMAC.

[16.5.43.13 NMAC - N, 01/09/12]

16.5.43.14 RENEWAL APPLICATION UNDELIVERABLE: If the notice of renewal is returned to the office and the certificate holder has not sent a change of address, the revocation order will be considered undeliverable and will not be mailed.

[16.5.43.14 NMAC - N, 01/09/12]

HISTORY OF 16.5.43 NMAC: [RESERVED]

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING
CHAPTER 5 DENTISTRY (DENTISTS, DENTAL HYGIENISTS, ETC.)
PART 44 EXPANDED FUNCTION DENTAL AUXILIARY, CONTINUING EDUCATION
REQUIREMENTS

16.5.44.1 ISSUING AGENCY: New Mexico Board of Dental Health Care.
[16.5.44.1 NMAC - N, 01/09/12]

16.5.44.2 SCOPE: The provisions of Part 44 of Chapter 5 apply to all expanded function dental auxiliary with current expanded function dental auxiliary certification who are applying to renew their certificate.
[16.5.44.2 NMAC - N, 01/09/12]

16.5.44.3 STATUTORY AUTHORITY: Part 44 of Chapter 5 is promulgated pursuant to the Dental Health Care Act, Section 61-5A-16 NMSA 1978 (1996 Repl. Pamp.).
[16.5.44.3 NMAC - N, 01/09/12]

16.5.44.4 DURATION: Permanent.
[16.5.44.4 NMAC - N, 01/09/12]

16.5.44.5 EFFECTIVE DATE: January 9, 2012, unless a later date is cited at the end of a section.
[16.5.44.5 NMAC - N, 01/09/12]

16.5.44.6 OBJECTIVE: To establish the requirements for the renewal of expanded function dental auxiliary certificates.
[16.5.44.6 NMAC - N, 01/09/12]

16.5.44.7 DEFINITIONS: [RESERVED]

16.5.44.8 HOURS REQUIRED: 36 hours of continuing education, a maximum of 12 hours can be on-line, webinars or self-study, are required during each triennial renewal cycle as defined in 16.5.1 NMAC. Continuing education received after submission of renewal materials but prior to actual expiration date may be used for the requirements of the next renewal cycle. Continuing education requirements are pro-rated at 12 hours per year for individuals certified for less than three years.
[16.5.44.8 NMAC - N, 01/09/12]

16.5.44.9 COURSES REQUIRED: Continuing education coursework must contribute directly to the practice of expanded function dental auxiliary. The following courses are required for certification renewal:

- A. as further defined in 16.5.1.16 NMAC, a course in infection control techniques and sterilization procedures per renewal period;
- B. proof of current certification in basic life support (BLS) or cardiac pulmonary resuscitation (CPR) accepted by the American heart association, the American red cross, or the American safety and health institute (ASHI); cannot be a self-study course; and
- C. twelve hours in restorative dentistry.

[16.5.44.9 NMAC - N, 01/09/12]

16.5.44.10 VERIFICATION OF CONTINUING EDUCATION: The board will select renewal applications for verification of continuing education. Audit requests will be included with the renewal notice and those selected individuals will be asked to submit proof of compliance with the continuing education requirements. Continuing education records may be audited by the board at any time. The records identified Subsection F of 16.5.1.15 NMAC are considered acceptable forms of documentation. Continuing education records must be maintained for one year following the renewal cycle in which they are earned.
[16.5.44.10 NMAC - N, 01/09/12]

16.5.44.11 EMERGENCY DEFERRAL: A certificate holder who is unable to fulfill the continuing education requirements may apply to the board for an emergency deferral of the requirements due to extenuating circumstances as defined in 16.5.1.7 NMAC. Deferrals of up to four months may be granted by a designee of the board.
[16.5.44.11 NMAC - N, 01/09/12]

HISTORY OF 16.5.44 NMAC: [RESERVED]

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING
CHAPTER 5 DENTISTRY (DENTISTS, DENTAL HYGIENISTS, ETC.)
PART 45 EXPANDED FUNCTION DENTAL AUXILIARY, CERTIFICATE REVOCATION
FOR NON-RENEWAL

16.5.45.1 ISSUING AGENCY: New Mexico Board of Dental Health Care.
[16.5.45.1 NMAC - N, 01/09/12]

16.5.45.2 SCOPE: The provisions of Part 45 of Chapter 5 apply to all expanded function dental auxiliary with expanded function certification who do not submit an application for certificate renewal within 60 days of the expiration date.
[16.5.45.2 NMAC - N, 01/09/12]

16.5.45.3 STATUTORY AUTHORITY: Part 45 of Chapter 5 is promulgated pursuant to the Dental Health Care Act, Section 61-5A-16 NMSA 1978 (1996 Repl. Pamp.).
[16.5.45.3 NMAC - N, 01/09/12]

16.5.45.4 DURATION: Permanent
[16.5.45.4 NMAC - N, 01/09/12]

16.5.45.5 EFFECTIVE DATE: January 09, 2012, unless a later date is cited at the end of a section.
[16.5.45.5 NMAC - N, 01/09/12]

16.5.45.6 OBJECTIVE: To establish the procedures and policies for revocation of expired expanded function dental auxiliary certificates and the reinstatement of certificates revoked for non-renewal.
[16.5.45.6 NMAC - N, 01/09/12]

16.5.45.7 DEFINITIONS: [RESERVED]

16.5.45.8 REVOCATION OF CERTIFICATE FOR NON-RENEWAL: Unless an application for certificate renewal is received by the board office, or post-marked, before September 1, the certificate shall be revoked for non-renewal.
[16.5.45.8 NMAC - N, 01/09/12]

16.5.45.9 REINSTATEMENT OF REVOKED CERTIFICATE: Within one year of the revocation notice, the certificate may be reinstated by payment of renewal, late and reinstatement fees, compliance with continuing education for the previous renewal cycle and for the year of the revocation. Applicants for reinstatement after one year of revocation must re-apply as a new applicant and meet all requirements for initial certification.

A. Applicants for reinstatement must provide verification of certification in all states where the applicant holds or has held a certificate to practice expanded function dental auxiliary, or other health care profession within the previous year. Verification must be sent directly to the board office from the other state(s) board, must include a raised seal, and must attest to the status, issue date, expiration date, certificate number, and other information contained on the form.

B. Upon receipt of a completed reinstatement of revoked certification application, including all documentation and fees, the secretary-treasurer or delegate of the board, will review and may approve the application. The board may formally accept the approval of the application at the next scheduled meeting.
[16.5.45.9 NMAC - N, 01/09/12]

HISTORY OF 16.5.45 NMAC: [RESERVED]

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING
CHAPTER 5 DENTISTRY (DENTISTS, DENTAL HYGIENISTS, ETC.)
PART 46 EXPANDED FUNCTION DENTAL AUXILIARY, PRACTICE AND SUPERVISION

16.5.46.1 ISSUING AGENCY: New Mexico Board of Dental Health Care.
[16.5.46.1 NMAC - N, 01/09/12]

16.5.46.2 SCOPE: The provisions of Part 46 of Chapter 5 apply to all expanded function dental auxiliary with current certification.
[16.5.46.2 NMAC - N, 01/09/12]

16.5.46.3 STATUTORY AUTHORITY: Part 46 of Chapter 5 is promulgated pursuant to the Dental Health Care Act, 61-5A-5, 61-5A-6 and 61-5A-6.1 NMSA 1978, (1996 Repl. Pamp.).
[16.5.46.3 NMAC - N, 01/09/12]

16.5.46.4 DURATION: Permanent.
[16.5.46.4 NMAC - N, 01/09/12]

16.5.46.5 EFFECTIVE DATE: January 9, 2012, unless a later date is cited at the end of a section.
[16.5.46.5 NMAC - N, 01/09/12]

16.5.46.6 OBJECTIVE: To establish those procedures which shall be provided by an expanded function dental auxiliary, the procedures which require expanded function dental auxiliary certification, and the procedures which shall not be performed by an expanded function dental auxiliary, regardless of certification or supervision.
[16.5.46.6 NMAC - N, 01/09/12]

16.5.46.7 DEFINITIONS: "Direct supervision" means the process under which an act is performed when a dentist licensed pursuant to the Dental Health Care Act:

- A. is physically present throughout the performance of the act;
- B. orders, controls and accepts full professional responsibility for the act performed; and
- C. evaluates and approves the procedure performed before the patient departs the care setting.

[16.5.46.7 NMAC - N, 01/09/12]

16.5.46.8 PRACTICE AND REQUIRED SUPERVISION: EFDA duties set forth in 16.5.46.9 NMAC are allowed under the direct supervision of a NM licensed dentist, provided the dentist has:

- A. prepared the cavity or tooth for the restorative procedure;
- B. instructed the EFDA on the particular elements of this individual case;
- C. fully examined and evaluated the procedure carried out by the EFDA, and corrected or replaced any deficiency found in the EFDA work, before allowing the patient to leave the treatment facility;
- D. the dentist is ultimately responsible for the quality of care and the quality of the final restorative procedure carried out by the EFDA as defined in 16.5.16 NMAC and Subsection N of Section 61-5A-3 of the Dental Health Care Act; and
- E. not more than two EFDA, performing expanded functions, per licensed dentist present in office.

[16.5.46.8 NMAC - N, 01/09/12]

16.5.46.9 ALLOWABLE DUTIES UNDER DIRECT SUPERVISION: The following EFDA procedures are allowable under direct supervision as set forth in 16.5.46.8 NMAC.

- A. Placing and shaping of direct restorative materials into cavity preparations completed by a dentist; EFDA may use instrumentation as necessary and proper for this purpose.
- B. Taking of impressions for permanent fixed or removable prosthetics involving single teeth, to include digital impressions. These include single crowns or single tooth replacement prosthetics. EFDA shall NOT take final impressions for multiple units of single crowns, bridges, cast framework partial dentures or full dentures final impressions.
- C. Cement permanent or provisional restorations with temporary or provisional cement, provided the permanent cementation will be completed or monitored by the dentist within six months.
- D. Place pit and fissure sealants under supervision as certification or licensure allows.
- E. Place temporary or sedative restorations in open carious lesions after hand excavation of gross decay and debris. If pain is perceived by the patient dentist shall evaluate lesion before completion by EFDA. The

EFDA shall NOT use any automated method to clean out the lesion or prepare the tooth, including but not limited to high speed, slow speed, air abrasion, ultrasonic, laser etc.

F. The EFDA may place temporary or sedative restorative material into unprepared tooth fractures as a palliative measure. The EFDA shall NOT use any automated method to clean out the fracture or prepare the tooth, including but not limited to high speed, slow speed, air abrasion, ultrasonic, laser etc.

G. Remove residual orthodontic bracket or band cement or resin from teeth after the brackets or bands have been removed by the dentist performing the orthodontic treatment, or to prepare the tooth or teeth for re-cementation of a debonded bracket or band. This removal of cement/resin may include the use of instrumentation, as necessary and proper for this purpose.

H. Perform preliminary fitting and shaping of stainless steel crowns which shall undergo final evaluation and cementation by a dentist.

I. In emergency situation recement temporary or permanent crowns or bridges using provisional cement under the general supervision of a dentist and when instructed to do so by the dentist provided the permanent cementation will be completed or monitored by the dentist within six months.

[16.5.46.9 NMAC - N, 01/09/12; A, 06/14/12; A. 01/04/14]

16.5.46.10 NON-ALLOWABLE PROCEDURES: EFDA shall not perform any other procedure, duty or function as an EFDA under any level of supervision that is not expressly listed in 16.5.46.9 NMAC.

[16.5.46.10 NMAC - N, 01/09/12]

HISTORY OF 16.5.46 NMAC: [RESERVED]

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING
CHAPTER 5 DENTISTRY (DENTISTS, DENTAL HYGIENISTS, ETC.)
PART 47 EXPANDED FUNCTION DENTAL AUXILIARY, DISCIPLINARY PROCEEDINGS

16.5.47.1 ISSUING AGENCY: New Mexico Board of Dental Health Care.
[16.5.47.1 NMAC - N, 01/09/12]

16.5.47.2 SCOPE: The provisions of Part 47 of Chapter 5 apply to all active certificate holders and applicants for certification. These provisions may also be of interest to anyone who may wish to file a complaint against a expanded function dental auxiliary certified by the board.
[16.5.47.2 NMAC - N, 01/09/12]

16.5.47.3 STATUTORY AUTHORITY: Part 47 of Chapter 5 is promulgated pursuant to the Dental Health Care Act, Sections 61-5A-6 and 61-5A-21 NMSA 1978 (1996 Repl. Pamp.).
[16.5.47.3 NMAC - N, 01/09/12]

16.5.47.4 DURATION: Permanent.
[16.5.47.4 NMAC - N, 01/09/12]

16.5.47.5 EFFECTIVE DATE: January 9, 2012, unless a later date is cited at the end of a section.
[16.5.47.5 NMAC - N, 01/09/12]

16.5.47.6 OBJECTIVE: To establish the procedures for filing complaints against certificate holders, the disciplinary actions available to the board, the authority to issue investigative subpoenas and to further define actions by a certificate holder which are considered incompetent or unprofessional practice.
[16.5.47.6 NMAC - N, 01/09/12]

16.5.47.7 DEFINITIONS: [RESERVED]

16.5.47.8 COMPLAINTS: Disciplinary proceedings shall be instituted by sworn complaint of any person, including members of the board and committee. Any hearing held pursuant to the complaint shall conform with the provisions of the Uniform Licensing Act and the Dental Health Care Act.
[16.5.47.8 NMAC - N, 01/09/12]

16.5.47.9 ACTIONS:

A. The board may issue fines, deny, revoke or suspend, or otherwise limit a certificate if the board determines the certificate holder is guilty of violating any of the provisions outlined in the act, the Uniform Licensing Act, or these rules.

B. The board may reprimand, censure, stipulate and may require certificate holders to fulfill additional continuing education hours within limited time constraints for violations of the act or the rules.

C. The board shall take into consideration the role of expanded function dental auxiliary as employees when taking disciplinary action against a certificate holder. In the event the complaint is ruled to be based primarily on the expanded function dental auxiliary's role as employee, the board may consider appropriate action against the employer/dentist.

[16.5.47.9 NMAC - N, 01/09/12]

16.5.47.10 GUIDELINES: The board shall define the following as guidelines for disciplinary action: "unprofessional conduct" means, but is not limited to because of enumeration:

A. performing, or holding oneself out as able to perform, professional services beyond the scope of ones certification and field or fields of competence as established by education, experience, training, or any combination thereof; this includes, but is not limited to, the use of any instrument, device or material in a manner that is not in accordance with the customary standards and practices of expanded function dental auxiliary;

B. sexual misconduct;

C. failure to use appropriate infection control techniques and sterilization procedures;

D. fraud, deceit or misrepresentation in any application;

E. cheating on an examination for expanded function dental auxiliary certification;

F. performing any procedure which requires certification unless so certified;

G. injudicious administration of any drug or medicine;

H. conviction of either a misdemeanor or a felony punishable by incarceration; and

I. failure to be in compliance with the Parental Responsibility Act NMSA1978, Section 40-5A-3
seq.
[16.5.47.10 NMAC - N, 01/09/12; A, 06/14/12; A, 07/17/13]

16.5.47.11 INVESTIGATIVE SUBPOENAS: The complaint committee of the board is authorized to
issue investigative subpoenas and to employ experts with regard to pending investigations.
[16.5.47.11 NMAC - N, 01/09/12]

HISTORY OF 16.5.47 NMAC: [RESERVED]

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING
CHAPTER 5 DENTISTRY (DENTISTS, DENTAL HYGIENISTS, ETC.)
PART 49 COMMUNITY DENTAL HEALTH COORDINATOR, FEES

16.5.49.1 ISSUING AGENCY: New Mexico Board of Dental Health Care.
[16.5.49.1 NMAC - N, 01/09/12]

16.5.49.2 SCOPE: The provisions of Part 49 of Chapter 5 apply to all applicants for certification; to active, expired and suspended certificate holders; and to anyone who requests a list of certified community dental health coordinators or other public records.
[16.5.49.2 NMAC - N, 01/09/12]

16.5.49.3 STATUTORY AUTHORITY: Part 49 of Chapter 5 is promulgated pursuant to the Dental Health Care Act, Section 61-5A-20 NMSA 1978.
[16.5.49.3 NMAC - N, 01/09/12]

16.5.49.4 DURATION: Permanent.
[16.5.49.4 NMAC - N, 01/09/12]

16.5.49.5 EFFECTIVE DATE: January 9, 2012, unless a later date is cited at the end of a section.
[16.5.49.5 NMAC - N, 01/09/12]

16.5.49.6 OBJECTIVE: To establish fees to generate revenue to support the cost of program administration.
[16.5.49.6 NMAC - N, 01/09/12]

16.5.49.7 DEFINITIONS: [RESERVED]

16.5.49.8 FEES:

- A. all fees are non-refundable;
- B. application fee: \$100;
- C. board examination fee not to exceed \$100 per exam;
- D. triennial renewal fee: \$100;
- E. late penalty fee: \$25.00;
- F. duplicate certificate fee: \$10.00;
- G. list of current certificate holders: \$300; an annual list of current certificate holders is available to the professional association upon request at no cost;
- H. labels of current certificate holders: \$300;
- I. reinstatement fee: \$15.00;
- J. copies cost \$0.25 per page.

[16.5.49.8 NMAC - N, 01/09/12]

HISTORY OF 16.5.49 NMAC: [RESERVED]

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING
CHAPTER 5 DENTISTRY (DENTISTS, DENTAL HYGIENISTS, ETC.)
PART 50 COMMUNITY DENTAL HEALTH COORDINATOR, REQUIREMENTS FOR
CERTIFICATION

16.5.50.1 ISSUING AGENCY: New Mexico Board of Dental Health Care.
[16.5.50.1 NMAC - N, 01/09/12]

16.5.50.2 SCOPE: The provisions of Part 50 of Chapter 5 apply to all applicants for certification; to active, expired and suspended certificate holders; and to anyone who requests a list of community dental health coordinators or other public records.
[16.5.50.2 NMAC - N, 01/09/12]

16.5.50.3 STATUTORY AUTHORITY: Part 50 of Chapter 5 is promulgated pursuant to the Dental Health Care Act, Sections 61-5A-5 and 61-5A-6 NMSA 1978.
[16.5.50.3 NMAC - N, 01/09/12]

16.5.50.4 DURATION: Permanent
[16.5.50.4 NMAC - N, 01/09/12]

16.5.50.5 EFFECTIVE DATE: January 9, 2012, unless a later date is cited at the end of a section.
[16.5.50.5 NMAC - N, 01/09/12]

16.5.50.6 OBJECTIVE: To establish the requirements for certification as a community dental health coordinator for applicants from various educational backgrounds and professional tracks.
[16.5.50.6 NMAC - N, 01/09/12]

16.5.50.7 DEFINITIONS:

A. "Community based field experience" means a hands-on internship/apprenticeship where the CDHC gets to use their skills under supervision of a licensed New Mexico dentist or hygienist.

B. "Community dental health coordinator" CDHC means a dental assistant, dental hygienist or other trained personnel certified by the board as a community dental health coordinator to provide educational, preventive and limited palliative care and assessment services working collaboratively under the general supervision of a licensed New Mexico dentist.

C. "Community health promotion" means courses that teach social work skills such as, building social networks, health advocacy for individuals and communities, mapping out social and health support networks, cultural competency, communication skills, interpersonal skills, interviewing skills, behavioral assessment and management, developing community programs, teaching and training skills, legal and ethical issues.

D. "Continuous employment" means 1,000 hours per year for five consecutive years.

E. "Dental skills" means courses in basic dental knowledge, emergency vs. routine care needs, recognition of dental conditions, gross anatomy of head and neck and oral structures, gathering and recording information, clinical record keeping, caries, periodontal disease, oral and external cancer evaluation, palliative care, and financing dental care.

F. "General supervision" means the authorization by a dentist of the procedures to be used by a dental hygienist, dental assistant, expanded function dental auxiliary, dental student, or community dental health coordinator and the execution of the procedures in accordance with a dentist's diagnosis and treatment plan at a time the dentist is not physically present and in facilities as designated by the rules of the board.

G. "Limited palliative procedures" means procedures ordered by the dentist to help relieve pain or to improve an emergency situation that a patient is experiencing. These procedures must be within the scope of the community dental health coordinator.

H. "Teledentistry" means a dentist's use of health information technology in real time to provide limited diagnostic and treatment planning services in cooperation with another dentist, a dental hygienist, a community dental health coordinator or a student enrolled in a program of study to become a dental assistant, dental hygienist or dentist.

[16.5.50.7 NMAC - N, 01/09/12]

16.5.50.8 REQUIREMENTS: Community dental health coordinator who performs the duties defined under 16.5.54 NMAC are required to be certified by the board.

[16.5.50.8 NMAC - N, 01/09/12]

16.5.50.9 EDUCATION AND EXAMINATION REQUIREMENTS FOR COMMUNITY DENTAL HEALTH COORDINATOR: Each applicant for a certification for community dental health coordinator must possess the following qualifications, through one of the following pathways:

- A. Applicants for CDHC shall meet the following requirements for certification:
 - (1) shall have high school diploma (or equivalent) or college level degree;
 - (2) shall have board certification in radiography, rubber cup coronal polishing and topical fluoride and pit and fissure expanded functions;
 - (3) completed the jurisprudence exam with a score of at least 75 percent; and
 - (4) successful completion of CDHC program approved by the board.
- B. Pathways/educational tracks: applicants may have earned other college level degree(s) and certifications in their respective field(s) of study, such as, but not limited to, registered dental hygienists, certified dental assistant, dental assistant, expanded function dental auxiliary and other non-dental professionals. Credits earned in these educational fields may be applied for credit towards the CDHC education program as determined by the sponsoring institution.
- C. Approved programs: board approved CDHC programs shall include the following guidelines for course study in order to prepare the applicant to a level consistent with the definitions as listed in 16.5.50.7 NMAC and duties as outlined in 16.5.54.9 NMAC:
 - (1) education in community health promotion;
 - (2) education in dental skills; and
 - (3) education in community-based field experience.
- D. Credit shall be given by the approved program of coursework, certifications, or degrees already earned. Proof of these credits is the responsibility of the institution of the approved program.

[16.5.50.9 NMAC - N, 01/09/12]

16.5.50.10 REQUIRED DOCUMENTATION: Each applicant for community dental health coordinator certification must submit to the board or its agent the required fees and following documentation. Applications are valid for one year from the date of receipt:

- A. proof of official transcripts with required courses for certification; official transcripts verifying successfully passing all required coursework as defined in 61-5A-6 of the act;
- B. passed the jurisprudence exam with a score of at least 75 percent;
- C. submit to the board the names of the dentists(s) working in a supervisory capacity to the CDHC coordinator.

[16.5.50.10 NMAC - N, 01/09/12]

16.5.50.11 CERTIFICATION PROCEDURE: Upon receipt of a completed application, including all required documentation and fees the secretary-treasurer or delegate of the board will review the application and determine eligibility for certification.

- A. Initial certificates are issued for a period not to exceed three years.
- B. The certificate must be displayed so that it is visible to the public.

[16.5.50.11 NMAC - N, 01/09/12]

HISTORY OF 16.5.50 NMAC: [RESERVED]

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING
CHAPTER 5 DENTISTRY (DENTISTS, DENTAL HYGIENISTS, ETC.)
PART 51 COMMUNITY DENTAL HEALTH COORDINATOR, CERTIFICATION EXPIRATION
AND RENEWAL

16.5.51.1 ISSUING AGENCY: New Mexico Board of Dental Health Care.
[16.5.51.1 NMAC - N, 01/09/12]

16.5.51.2 SCOPE: The provisions of Part 51 of Chapter 5 apply to all community dental health coordinators with a certificate to practice as a community dental health coordinator in New Mexico.
[16.5.51.2 NMAC - N, 01/09/12]

16.5.51.3 STATUTORY AUTHORITY: Part 51 of Chapter 5 is promulgated pursuant to the Dental Health Care Act, Section 61-5A-16 NMSA 1978 (1996 Repl. Pamp.).
[16.5.51.3 NMAC - N, 01/09/12]

16.5.51.4 DURATION: Permanent.
[16.5.51.4 NMAC - N, 01/09/12]

16.5.51.5 EFFECTIVE DATE: January 9, 2012, unless a later date is cited at the end of a section.
[16.5.51.5 NMAC - N, 01/09/12]

16.5.51.6 OBJECTIVE: To establish the requirements and procedures for renewal and expiration of certificates for community dental health coordinator.
[16.5.51.6 NMAC - N, 01/09/12]

16.5.51.7 DEFINITIONS: [RESERVED]

16.5.51.8 CERTIFICATE EXPIRATION: Initial certificates will expire on July 1 following the second year of certification. No certificate will be issued for longer than 36 months or less than 25 months.
[16.5.51.8 NMAC - N, 01/09/12]

16.5.51.9 RENEWAL PERIOD AND EXPIRATION: After the initial certification period, certifications for community dental health coordinator expire every three years on June 30. Certificates that are not renewed by July 1 are considered expired.
[16.5.51.9 NMAC - N, 01/09/12]

16.5.51.10 RENEWAL PROCESS: A completed renewal application, accompanied by the required fee as set forth in 16.5.49.8 NMAC, along with the required proof of completion of 36 hours of continuing education as set forth in 16.5.1.15 NMAC. The completed renewal application must be post-marked on or before July 1 of the renewal year.
[16.5.51.10 NMAC - N, 01/09/12]

16.5.51.11 CERTIFICATE HOLDER RESPONSIBILITY: The board assumes no responsibility for renewal applications not received for any reason. It is the certificate holders responsibility to make timely request for the renewal form if one has not been received 30 days prior to certificate expiration.
[16.5.51.11 NMAC - N, 01/09/12]

16.5.51.12 RENEWAL AFTER JUNE 30: Renewal applications post-marked after July 1 and prior to August 1 of the renewal year must be accompanied by the completed renewal application with the required proof of completion of 36 hours of continuing education as set forth in 16.5.52.8 NMAC, along with the triennial renewal fee and late fee as set forth in 16.5.49.8 NMAC.
[16.5.51.12 NMAC - N, 01/09/12]

16.5.51.13 RENEWAL AFTER AUGUST 1 AND BEFORE SEPTEMBER 1: Renewal applications post-marked on or after August 1, but before September 1, of the renewal year, must be accompanied by the completed renewal application with the required proof of completion of 36 hours of continuing education as set forth in 16.5.52.8 NMAC, along with the triennial renewal fee and late fee as set forth in 16.5.49.8 NMAC.
[16.5.51.13 NMAC - N, 01/09/12]

16.5.51.14 RENEWAL APPLICATION UNDELIVERABLE: If the notice of renewal is returned to the office and the certificate holder has not sent a change of address, the revocation order will be considered undeliverable and will not be mailed.
[16.5.51.14 NMAC - N, 01/09/12]

HISTORY OF 16.5.51 NMAC: [RESERVED]

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING
CHAPTER 5 DENTISTRY (DENTISTS, DENTAL HYGIENISTS, ETC.)
PART 52 COMMUNITY DENTAL HEALTH COORDINATOR, CONTINUING EDUCATION
REQUIREMENTS

16.5.52.1 ISSUING AGENCY: New Mexico Board of Dental Health Care.
[16.5.52.1 NMAC - N, 01/09/12]

16.5.52.2 SCOPE: The provisions of Part 52 of Chapter 5 apply to all community dental health coordinators with current expanded function certification who are applying to renew their certificate.
[16.5.52.2 NMAC - N, 01/09/12]

16.5.52.3 STATUTORY AUTHORITY: Part 52 of Chapter 5 is promulgated pursuant to the Dental Health Care Act, Section 61-5A-16 NMSA 1978 (1996 Repl. Pamp.).
[16.5.52.3 NMAC - N, 01/09/12]

16.5.52.4 DURATION: Permanent.
[16.5.52.4 NMAC - N, 01/09/12]

16.5.52.5 EFFECTIVE DATE: January 9, 2012, unless a later date is cited at the end of a section.
[16.5.52.5 NMAC - N, 01/09/12]

16.5.52.6 OBJECTIVE: To establish the requirements for the renewal of community dental health coordinator certificates.
[16.5.52.6 NMAC - N, 01/09/12]

16.5.52.7 DEFINITIONS: [RESERVED]

16.5.52.8 HOURS REQUIRED: 36 hours of continuing education, a maximum of 12 hours can be on-line, webinars or self-study, are required during each triennial renewal cycle as defined in 16.5.1 NMAC. Continuing education received after submission of renewal materials but prior to actual expiration date may be used for the requirements of the next renewal cycle. Continuing education requirements are pro-rated at 12 hours per year for individuals certified for less than three years.
[16.5.52.8 NMAC - N, 01/09/12; A, 06/14/12]

16.5.52.9 COURSES REQUIRED: Continuing education coursework must contribute directly to the practice of community dental health coordinator. The following courses are required for certificate renewal:

- A. as further defined in 16.5.1.16 NMAC, a course in infection control techniques and sterilization procedures per renewal period;
- B. proof of current certification in basic life support (BLS) or cardiac pulmonary resuscitation (CPR) accepted by the American heart association, the American red cross, or the American safety and health institute (ASHI); cannot be a self-study course; and
- C. 12 hours in preventive or emergency dentistry.

[16.5.52.9 NMAC - N, 01/09/12; A, 06/14/12]

16.5.52.10 VERIFICATION OF CONTINUING EDUCATION: The board will select renewal applications for verification of continuing education. Audit requests will be included with the renewal notice and those selected individuals will be asked to submit proof of compliance with the continuing education requirements. Continuing education records may be audited by the board at any time. The records identified Subsection F of 16.5.1.15 NMAC are considered acceptable forms of documentation. Continuing education records must be maintained for one year following the renewal cycle in which they are earned.
[16.5.52.10 NMAC - N, 01/09/12]

16.5.52.11 EMERGENCY DEFERRAL: A certificate holder who is unable to fulfill the continuing education requirements may apply to the board for an emergency deferral of the requirements due to extenuating circumstances as defined in 16.5.1.7 NMAC. Deferrals of up to four months may be granted by a designee of the board.
[16.5.52.11 NMAC - N, 01/09/12]

HISTORY OF 16.5.52 NMAC: [RESERVED]

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING
CHAPTER 5 DENTISTRY (DENTISTS, DENTAL HYGIENISTS, ETC.)
PART 53 COMMUNITY DENTAL HEALTH COORDINATOR, CERTIFICATE REVOCATION
FOR NON-RENEWAL

16.5.53.1 ISSUING AGENCY: New Mexico Board of Dental Health Care.
[16.5.53.1 NMAC - N, 01/09/12]

16.5.53.2 SCOPE: The provisions of Part 53 of Chapter 5 apply to all community dental health coordinators with certification who do not submit an application for certificate renewal within 60 days of the expiration date.
[16.5.53.2 NMAC - N, 01/09/12]

16.5.53.3 STATUTORY AUTHORITY: Part 53 of Chapter 5 is promulgated pursuant to the Dental Health Care Act, Section 61-5A-16 NMSA 1978 (1996 Repl. Pam.).
[16.5.53.3 NMAC - N, 01/09/12]

16.5.53.4 DURATION: Permanent.
[16.5.53.4 NMAC - N, 01/09/12]

16.5.53.5 EFFECTIVE DATE: January 9, 2012, unless a later date is cited at the end of a section.
[16.5.53.5 NMAC - N, 01/09/12]

16.5.53.6 OBJECTIVE: To establish the procedures and policies for revocation of expired community dental health coordinator certificates and the reinstatement of certificates revoked for non-renewal.
[16.5.53.6 NMAC - N, 01/09/12]

16.5.53.7 DEFINITIONS: [RESERVED]

16.5.53.8 REVOCATION OF CERTIFICATE FOR NON-RENEWAL: Unless an application for certificate renewal is received by the board office, or post-marked, before September 1, the certificate shall be revoked for non-renewal.
[16.5.53.8 NMAC - N, 01/09/12]

16.5.53.9 REINSTATEMENT OF REVOKED CERTIFICATE: Within one year of the revocation notice, the certificate may be reinstated by payment of renewal, late and reinstatement fees, compliance with continuing education for the previous renewal cycle and for the year of the revocation. Applicants for reinstatement after one year of revocation must re-apply as a new applicant and meet all requirements for initial certification.

A. Applicants for reinstatement must provide verification of certification in all states where the applicant holds or has held a certificate to practice as a community dental health coordinator, or other health care profession within the previous year. Verification must be sent directly to the board office from the other state(s) board, must include a raised seal, and must attest to the status, issue date, expiration date, certification number, and other information contained on the form.

B. Upon receipt of a completed reinstatement of revoked certification application, including all documentation and fees, the secretary-treasurer or delegate of the board, will review and may approve the application. The board may formally accept the approval of the application at the next scheduled meeting.
[16.5.53.9 NMAC - N, 01/09/12]

HISTORY OF 16.5.53 NMAC: [RESERVED]

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING
CHAPTER 5 DENTISTRY (DENTISTS, DENTAL HYGIENISTS, ETC.)
PART 54 COMMUNITY DENTAL HEALTH COORDINATOR, PRACTICE AND SUPERVISION

16.5.54.1 ISSUING AGENCY: New Mexico Board of Dental Health Care.
[16.5.54.1 NMAC - N, 01/09/12]

16.5.54.2 SCOPE: The provisions of Part 54 of Chapter 5 apply to all community dental health coordinators with current certification.
[16.5.54.2 NMAC - N, 01/09/12]

16.5.54.3 STATUTORY AUTHORITY: Part 54 of Chapter 5 is promulgated pursuant to the Dental Health Care Act, 61-5A-5 and 61-5A-6 NMSA 1978, (1996 Repl. Pamp.).
[16.5.54.3 NMAC - N, 01/09/12]

16.5.54.4 DURATION: Permanent.
[16.5.54.4 NMAC - N, 01/09/12]

16.5.54.5 EFFECTIVE DATE: January 9, 2012, unless a later date is cited at the end of a section.
[16.5.54.5 NMAC - N, 01/09/12]

16.5.54.6 OBJECTIVE: To establish those procedures which may be provided by a community dental health coordinator, the procedures which require community dental health coordinator certification, and the procedures which may not be performed by an community dental health coordinator, regardless of certification or supervision.
[16.5.54.6 NMAC - N, 01/09/12]

16.5.54.7 DEFINITIONS:

- A. "Cavitation" means a break in the continuous, solid surface of the enamel of a tooth, created either by genetic formation or demineralization.
- B. "Direct supervision" means the process under which an act is performed when a dentist licensed pursuant to the Dental Health Care Act:
- (1) is physically present throughout the performance of the act;
 - (2) orders, controls and accepts full professional responsibility for the act performed; and
 - (3) evaluates and approves the procedure performed before the patient departs the care setting.
- C. "General supervision" means the authorization by a dentist of the procedures to be used by a dental hygienist, dental assistant, expanded function dental auxiliary, community dental health coordinator or dental student and the execution of the procedures in accordance with a dentist's diagnosis and treatment plan at a time the dentist is not physically present and in facilities as designated by the rules of the board.
- D. "Limited palliative procedure(s)" means procedures ordered by the dentist to help relieve pain or to improve an emergency situation that a patient is experiencing. These procedures must be within the scope of practice of the CDHC.
- E. "Supervising dentist" means a dentist that maintains the records of a patient, is responsible for their care, has reviewed their current medical history and for purposes of authorization, has examined that patient within the previous 11 months or will examine that patient within 30 days of giving authorization.
- F. "Teledentistry" means a dentist's use of health information technology in real time to provide limited diagnostic treatment planning services in cooperation with another dentist, a dental hygienist, a community health coordinator or a student enrolled in a program of study to become a dental assistant, dental hygienist or dentist.
- G. "Tooth fracture" means the fracture or loss of tooth structure due to trauma or chewing. The defect has little or no caries present.
- H. "Unexcavated carious lesion" means an open carious lesion in a tooth that is cleaned of loose debris by rinsing or use of cotton pellets. Caries attached to the tooth will not be removed.
[16.5.54.7 NMAC - N, 01/09/12]

16.5.54.8 PRACTICE AND REQUIRED SUPERVISION: Community dental health coordinator duties set forth in 16.5.54.9 NMAC are allowed under the general supervision of a New Mexico licensed dentist. The community dental health coordinator may provide educational preventive and limited palliative care and assessment services while working collaboratively under the general supervision of a dentist.

[16.5.54.8 NMAC - N, 01/09/12]

16.5.54.9 ALLOWABLE DUTIES UNDER GENERAL SUPERVISION: The following community dental health coordinator procedures are allowable under general supervision as set forth in 16.5.54.8 NMAC:

- A. take a complete health and dental history;
- B. expose and develop necessary radiographs as ordered by the supervising dentist or as established in protocol by a supervising dentist;
- C. observe and transmit patient data through teledentistry means to a dentist;
- D. place temporary and sedative restorative materials in unexcavated carious lesions and unprepared tooth fractures;
- E. transmit prescription or medication orders on the direct order of a dentist;
- F. CDHC may provide the following limited palliative procedures:
 - (1) application of hot/cold compresses to the face or mouth;
 - (2) instruct patient in the uses of various rinses containing salt, sodium bicarbonate, chlorhexidine, etc. as ordered by the dentist;
 - (3) instruct patients as to the proper use and dosage of over the counter or prescribed medications recommended by the supervising dentists;
 - (4) place avulsed teeth in the proper preservation solution for transport to a dentist;
 - (5) apply pressure compresses to intraoral wounds;
 - (6) performance of any other palliative procedures as directly instructed by the supervising dentist, and within the scope of practice of the CDHC;
 - (7) instruct the patient on brushing, flossing, gingival massage or cleaning for gingival inflammation or infection;
- G. patient and community education on an individual basis or with groups within the community to improve dental health and dental health awareness;
- H. act as an advocate for patients and the community in accessing dental care; and
- I. rubber cup coronal polishing, which is not to be represented as a prophylaxis, topical application of fluorides; application of pit and fissure sealants when previously authorized by the supervising dentist or dental hygienist and cavitation of the enamel is not present.

[16.5.54.9 NMAC - N, 01/09/12; A, 06/14/12]

16.5.54.10 NON-ALLOWABLE PROCEDURES: CDHC may not perform any other procedure, duty or function under any level of supervision that is not expressly listed in 16.5.54.9 NMAC.

[16.5.54.10 NMAC - N, 01/09/12]

HISTORY OF 16.5.54 NMAC: [RESERVED]

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING
CHAPTER 5 DENTISTRY (DENTISTS, DENTAL HYGIENISTS, ETC.)
PART 55 COMMUNITY DENTAL HEALTH COORDINATOR, DISCIPLINARY PROCEEDINGS

16.5.55.1 ISSUING AGENCY: New Mexico Board of Dental Health Care.
[16.5.55.1 NMAC - N, 01/09/12]

16.5.55.2 SCOPE: The provisions of Part 55 of Chapter 5 apply to all active certificate holders and applicants for certification. These provisions may also be of interest to anyone who may wish to file a complaint against a community dental health coordinator certified by the board.
[16.5.55.2 NMAC - N, 01/09/12]

16.5.55.3 STATUTORY AUTHORITY: Part 55 of Chapter 5 is promulgated pursuant to the Dental Health Care Act, Sections 61-5A-5, 61-5A-6 and 61-5A-21 NMSA 1978 (1996 Repl. Pamp.).
[16.5.55.3 NMAC - N, 01/09/12]

16.5.55.4 DURATION: Permanent.
[16.5.55.4 NMAC - N, 01/09/12]

16.5.55.5 EFFECTIVE DATE: January 9, 2012, unless a later date is cited at the end of a section.
[16.5.55.5 NMAC - N, 01/09/12]

16.5.55.6 OBJECTIVE: To establish the procedures for filing complaints against certificate holders, the disciplinary actions available to the board, the authority to issue investigative subpoenas and to further define actions by a certificate holder which are considered incompetent or unprofessional practice.
[16.5.55.6 NMAC - N, 01/09/12]

16.5.55.7 DEFINITIONS: [RESERVED]

16.5.55.8 COMPLAINTS: Disciplinary proceedings may be instituted by sworn complaint of any person, including members of the board and committee. Any hearing held pursuant to the complaint shall conform with the provisions of the Uniform Licensing Act and the Dental Health Care Act.
[16.5.55.8 NMAC - N, 01/09/12]

16.5.55.9 ACTIONS:

- A. The board may issue fines, deny, revoke or suspend, or otherwise limit a certificate if the board determines the certificate holder is guilty of violating any of the provisions outlined in the act, the Uniform Licensing Act, or these rules.
- B. The board may reprimand, censure, stipulate and may require certificate holders to fulfill additional continuing education hours within limited time constraints for violations of the act or the rules.
- C. The board shall take into consideration the role of community dental health coordinator as employees when taking disciplinary action against a certificate holder. In the event the complaint is ruled to be based primarily on the community dental health coordinator's role as employee, the board may consider appropriate action against the employer/dentist.

[16.5.55.9 NMAC - N, 01/09/12]

16.5.55.10 GUIDELINES: The board shall define the following as guidelines for disciplinary action: "unprofessional conduct" means, but is not limited to because of enumeration:

- A. performing, or holding oneself out as able to perform, professional services beyond the scope of ones certification and field or fields of competence as established by education, experience, training, or any combination thereof; this includes, but is not limited to, the use of any instrument, device or material in a manner that is not in accordance with the customary standards and practices of community dental health coordinator;
- B. sexual misconduct;
- C. failure to use appropriate infection control techniques and sterilization procedures;
- D. fraud, deceit or misrepresentation in any application;
- E. cheating on an examination for community dental health coordinator certification;
- F. performing any procedure which requires certification unless so certified;
- G. injudicious administration of any drug or medicine;
- H. conviction of either a misdemeanor or a felony punishable by incarceration; and

I. failure to be in compliance with the Parental Responsibility Act NMSA1978, Section 40-5A-3
seq.
[16.5.55.10 NMAC - N, 01/09/12; A, 06/14/12; A, 07/17/13]

16.5.55.11 INVESTIGATIVE SUBPOENAS: The complaint committee of the board is authorized to
issue investigative subpoenas and to employ experts with regard to pending investigations.
[16.5.55.11 NMAC - N, 01/09/12]

HISTORY OF 16.5.55 NMAC: [RESERVED]

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING
CHAPTER 5 DENTISTRY (DENTISTS, DENTAL HYGIENISTS, ETC.)
PART 56 PARENTAL RESPONSIBILITY COMPLIANCE

16.5.56.1 ISSUING AGENCY: New Mexico Board of Dental Health Care.
[16.5.56.1 NMAC - N, 06/14/12]

16.5.56.2 SCOPE: This part applies to disciplinary proceedings by an issuing agency pursuant to the Parental Responsibility Act against a license, certificate, registration or permit required to engage in a profession or occupation.
[16.5.56.2 NMAC - N, 06/14/12]

16.5.56.3 STATUTORY AUTHORITY: This part is adopted pursuant to the Parental Responsibility Act, Sections 40-5A-1 to 40-5A-13 NMSA1978.
[16.5.56.3 NMAC - N, 06/14/12]

16.5.56.4 DURATION: Permanent.
[16.5.56.4 NMAC - N, 06/14/12]

16.5.56.5 EFFECTIVE DATE: June 14, 2012, unless a later date is cited at the end of a section.
[16.5.56.5 NMAC - N, 06/14/12]

16.5.56.6 OBJECTIVE: This part is intended to implement the requirements of the Parental Responsibility Act as they apply to the issuance, renewal, suspension or revocation of any license, certificate, registration or permit required for dentists, dental hygienists, dental assistants, expanded fuction dental auxiliaries, community dental health coordinators and non-dentist owners for dental practices.
[16.5.56.6 NMAC - N, 06/14/12]

16.5.56.7 DEFINITIONS:

A. All terms defined in the Parental Responsibility Act shall have the same meanings in this part unless defined below.

B. As used in this part.

(1) "Board" means the New Mexico board of dental health care or any entity to which it has delegated authority to pursue violations of the Parental Responsibility Act.

(2) "HSD" means the New Mexico human services department.

(3) "License" means a license, certificate, registrtion or permit issued by the board that a person is required to have to engage in a profession or occupation in New Mexico.

(4) "Statement of compliance" means a certified statement from HSD stating that an applicant or licensee is in compliance with a judgment and order for support, and has complied with subpoenaes or warrants relating to paternity or child support proceedings.

(5) "Statement of non-compliance" means a certified statement from HSD stating that an applicant or licensee is not in compliance with judgment and order for support or has not complied with subpoenaes or warrants relating to paternity or child support proceedings.

[16.5.56.7 NMAC - N, 06/14/12]

16.5.56.8 PARENTAL RESPONSIBILITY ACT; DELEGATION OF AUTHORITY: The authority of the New Mexico board of dental health care to issue a notice of contemplated action, to refer cases in which a notice of contemplated action has been issued for administrative prosecution, to hold hearings and issue decision and orders to any licensee or applicant for licensure whose name appears on the certified list issued by the New Mexico department of human services, as provided in NMSA 1978, 40-5A-1, et seq., may be delegated to the New Mexico regulation and licensing department. This section shall not be construed to deprive the board of its authority to issue a notice of contemplated action for any violation of the Parental Responsibility Act, to refer a case for administrative prosecution, hold a hearing or issue a decision and order for any violation of the Parental Responsibility Act.

[16.5.56.8 NMAC - N, 06/14/12]

16.5.56.9 DISCIPLINARY PROCEEDINGS:

A. Disciplinary action: If an applicant or licensee is not in compliance with a judgment and order for support, or has not complied with subpoenas or warrants, relating to paternity or child support proceedings the board shall follow:

- (1) shall deny an application for licensure;
- (2) shall deny the renewal of a license; and
- (3) has grounds for suspension or revocation of a license.

B. Certified list: Upon receipt of HSD's certified list of obligors not in compliance with a judgment and order for support or who have not complied with subpoenas or warrants relating to paternity or child support proceedings, the board shall match the certified list against the current list of applicants and licensees. Upon the later receipt of an application for licensure or renewal, the board shall match the applicant against the current certified list. By the end of the month in which the certified list is received, the board shall report to HSD the names of applicants and licensees who are on the certified list and the action the board has taken in connection with such applicants and licensees.

C. Initial action: Upon determination that an applicant or licensee appears on the certified list, the board shall:

- (1) commence a formal proceeding under Subsection D of 16.5.56.8 NMAC to take the appropriate action under Subsection A of 16.5.56.8 NMAC; or
- (2) for current licensees only, informally notify the licensee that the licensee's name is on the certified list, and that the licensee must provide the board with a subsequent statement of compliance by the earlier of the application for license renewal or a specified date not to exceed six months, if the licensee fails to provide the statement, the board shall commence formal proceeding under Subsection D of 16.5.56.8 NMAC.

D. Notice of contemplated action: Prior to taking any action specified in Subsection A of 16.5.56.8 NMAC, the board shall serve upon the applicant or licensee a written notice stating that:

(1) the board has grounds to take such action, and that the board shall take such action unless the licensee or applicant:

- (a) mails a letter (certified mail, return receipt requested) within 20 days after service of the notice requesting a hearing; or
- (b) provides the board, within 30 days of the date of the notice, with a statement of compliance; and

(2) if the applicant or licensee disagrees with the determination of non-compliance, or wishes to come into compliance, the applicant or licensee should contact the HSD child support enforcement division.

E. Evidence and proof: If any hearing under this part, relevant evidence is limited to the following:

- (1) a statement of non-compliance is conclusive evidence that requires the board to take the appropriate action under Subsection A of 16.5.56.8 NMAC unless:
- (2) the applicant or licensee can provide the board with subsequent statement of compliance which shall preclude the board from taking any action based solely on the prior statement of non-compliance.

F. Order: When an action is taken under this part solely because the applicant or licensee is not in compliance with a judgement and order for support or has not complied with subpoenas or warrants relating to paternity or child support proceedings the order shall state that the application or license shall be reinstated upon presentation of a subsequent statement of compliance. The board may also include any other conditions necessary to comply with board requirements for reapplication or reinstatement of lapsed license.

G. Procedures: Proceedings under this part shall be governed by the Uniform Licensing Act, NMSA 1978, Section 61-1-1 *et seq.*, or any other adjudicatory procedures adopted by the board.
[16.5.56.9 NMAC - N, 06/14/12]

HISTORY OF 16.5.56 NMAC: [RESERVED]

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING
CHAPTER 5 DENTISTRY (DENTISTS, DENTAL HYGIENISTS, ETC.)
PART 57 MANAGEMENT OF PAIN WITH CONTROLLED SUBSTANCES

16.5.57.1 ISSUING AGENCY: New Mexico Board of Dental Health Care.
[16.5.57.1 NMAC - N, 7/17/2013]

16.5.57.2 SCOPE: This part applies to all New Mexico dental board licensees who hold a federal drug enforcement administration registration.
[16.5.57.2 NMAC - N, 7/17/2013]

16.5.57.3 STATUTORY AUTHORITY: These rules are promulgated pursuant to and in accordance with Section 61-5A-4, NMSA 1978, of the Dental Health Care Act and the Pain Relief Act, Sections 24-2D-1 through 24-2D-6, NMSA 1978.
[16.5.57.3 NMAC - N, 7/17/2013]

16.5.57.4 DURATION: Permanent.
[16.5.57.4 NMAC - N, 7/17/2013]

16.5.57.5 EFFECTIVE DATE: July 17, 2013, unless a later date is cited at the end of a section.
[16.5.57.5 NMAC - N, 7/17/2013]

16.5.57.6 OBJECTIVE: It is the position of the board that dentists have an obligation to treat pain, and that a wide variety of drugs including controlled substances may be prescribed for that purpose. When such controlled substances are used, they should be prescribed in adequate doses and for the appropriate length of time after a thorough dental evaluation has been completed.
[16.5.57.6 NMAC - N, 7/17/2013]

16.5.57.7 DEFINITIONS:

A. “Addiction” means a neurobehavioral syndrome with genetic and environmental influences that result in psychological dependence on the use of substances for their psychic effects. It is characterized by behaviors that include one or more of the following: impaired control over drug use; compulsive use; continued use despite harm; and craving.

B. “Accepted guideline” means the most current clinical pain management guideline developed by the American geriatrics society or the American pain society or a clinical pain management guideline based on evidence and expert opinion that has been accepted by the New Mexico medical board.

C. “Acute pain” means the normal, predicted physiological response to a noxious chemical or thermal or mechanical stimulus, typically associated with invasive procedures, trauma or disease and is generally time-limited.

D. “Chronic pain” means pain that persists after reasonable dental efforts have been made to relieve the pain or its cause and that continues, either continuously or episodically, for longer than three consecutive months “chronic pain” does not, for purpose of the Pain Relief Act requirements, include pain associated with a terminal condition or with a progressive disease that, in the normal course of progression, may reasonably be expected to result in a terminal condition.

E. “Clinical expert” means a person who, by reason of specialized education or substantial relevant experience in pain management, has knowledge regarding current standards, practices and guidelines.

F. “Drug abuser” means a person who takes a drugs or controlled substances for other than legitimate dental purposes.

G. “Opioid analgesic” means buprenorphine, butorphanol, codeine, hydrocodone, hydromorphone, levorphanol, meperidine, methadone, morphine, nalbuphine, oxycodone, ocymorphone, pentazocine and propoxyphene as well as their brand names, isomers and combinations.

H. “Opioid antagonist” means a drug approved by the federal food and drug administration that when administered negates or neutralizes in whole or in part the pharmacological effects of an opioid analgesic in the body, including naloxone and such other medications approved by the board of pharmacy for the reversal of opioid analgesic overdoses.

I. “Pain” means acute or chronic pain or both.

J. “Physical dependence” means a state of adaptation that is manifested by a drug-specific withdrawal syndrome that can be produced by abrupt cessation, rapid dose reduction, decreasing blood level of the drug, administration of an antagonist, or a combination of these.

K. “Prescription monitoring program (PMP)” means a centralized system to collect, monitor, and analyze electronically, for controlled substances, prescribing and dispensing data submitted by pharmacies and dispensing practitioners. The data is used to support efforts in education, research, enforcement, and abuse prevention.

L. “Therapeutic purpose” means the use of pharmaceutical and non-pharmaceutical dental treatment that conforms substantially to accepted guidelines for pain management.

M. “Tolerance” means a state of adaptation in which exposure to a drug induces changes that result in a diminution of one or more of the drug’s effects over time.
[16.5.57.7 NMAC - N, 7/17/2013; A, 12/14/2019]

16.5.57.8 GUIDELINES: The following regulations shall be used by the board to determine whether a dentist’s prescriptive practices as consistent with the appropriate treatment of pain.

A. The treatment of pain with drugs or controlled substances is a legitimate dental practice when accomplished in the usual course of professional practice. It does not preclude treatment of patients with addiction, physical dependence or tolerance who have legitimate pain. However, such patients do require very close monitoring and precise documentation.

B. The prescribing, ordering, administering or dispensing of controlled substances to meet the individual needs of the patient for management of chronic pain is appropriate if prescribed, ordered, administered or dispensed in compliance with the following.

(1) A dentist shall complete an evaluation. The medical history shall include any previous history of significant pain, past history of alternate treatments for pain, potential for substance abuse, coexisting disease or medical conditions, and the presence of a medical indication for or contra-indication against the use of controlled substance.

(2) A dentist shall be familiar with and employ screening tools as appropriate, as well as the spectrum of available modalities, in the evaluation and management of pain. The dentist shall consider an integrative approach to pain management.

(3) A written treatment plan shall be developed and tailored to the individual needs of the patient, taking age, gender, culture, and ethnicity into consideration, with stated objectives by which treatment can be evaluated, e.g. by degree of pain relief, improved physical and psychological function, or other accepted measure. Such a plan shall include a statement of the need for further testing, consultation, referral or use of other treatment modalities.

(4) The dentist shall discuss the risks and benefits of using controlled substances with the patient or surrogate or guardian, and shall document this discussion in the record.

(5) Complete and accurate records of care provided and drugs or controlled substances prescribed shall be maintained. When controlled substances are prescribed, the name of the drug, quantity, prescribed dosage and number of refills authorized shall be recorded. Prescriptions for controlled substances shall include indications for use.

(6) The management of patients needing chronic pain control requires monitoring by the dentist. The dentist shall periodically review the course of treatment for chronic pain, the patient’s state of health, and any new information about the etiology of the chronic pain at least every six months. Chronic pain patients shall receive all chronic pain management prescriptions from one dentist and one pharmacy whenever possible.

(7) In addition, a dentist shall consult, when indicated by the patient’s condition, with health care professionals who are experienced in the area of chronic pain control; such professionals need not be those who specialize in pain control.

(8) If, in a dentist’s opinion, a patient is seeking pain medication for reasons that are not medically justified, the dentist is not required to prescribe controlled substances for the patient.

(9) A dentist who prescribes, distributes or dispenses an opioid analgesic for the first time to a patient shall advise the patient on the risks of overdose and inform the patient of the availability of an opioid antagonist. With respect to a patient to whom an opioid analgesic has previously been prescribed, distributed or dispensed by the dentist, the dentist shall advise the patient on the risks of overdose and inform the patient of the availability of an opioid antagonist on the first occasion that the dentist prescribes, distributes or dispenses an opioid analgesic each calendar year.

(10) A dentist who prescribes an opioid analgesic for a patient shall co-prescribe an opioid antagonist if the amount of opioid analgesic being prescribed is at least a five-day supply. The prescription for the opioid antagonist shall be accompanied by written information regarding the temporary effects of the opioid antagonist and techniques for administering the opioid antagonist. That written information shall contain a warning that a person administering the opioid antagonist should call 911 immediately after administering the opioid antagonist.

C. The board will evaluate the quality of care on the following basis: appropriate diagnosis and evaluation; appropriate indication for the treatment prescribed; documented change or persistence of the recognized indication; and, follow-up evaluation with appropriate continuity of care. The board will judge the validity of prescribing based on the dentist's treatment of the patient and on available documentation, rather than on the quantity and chronicity of prescribing. The goal is to control the patient's pain for its duration while effectively addressing other aspects of the patient's functioning, including physical, psychological, social, and work-related factors.

D. The board will review both over-prescription and under-prescription of pain medications using the same standard of patient protection.

E. A dentist who appropriately prescribes controlled substances and who follows this section would be considered to be in compliance with this rule and not be subject to discipline by the board, unless there is some violation of the Dental Health Care Act or board rules.

[16.5.57.8 NMAC - N, 7/17/2013; A, 12/14/2019]

16.5.57.9 DENTISTS TREATED WITH CONTROLLED SUBSTANCES: Dentists who have chronic pain and are being treated with controlled substances shall be evaluated by a pain clinic or, by an M.D. or D.O. pain specialist, and must have a complete, independent neuropsychological evaluation, as well as clearance from their physician, before returning to or continuing in practice. In addition, they must remain under the care of a physician for as long as they remain on controlled substances while continuing to practice.

[16.5.57.9 NMAC - N, 7/17/2013]

16.5.57.10 PRESCRIPTION MONITORING PROGRAM (PMP) REQUIREMENTS:

The intent of the New Mexico board of dental health care in requiring participation in the PMP is to assist dentists in balancing the safe use of controlled substances with the need to impede harmful and illegal activities involving these pharmaceuticals.

A. Any dentist who holds a federal drug enforcement administration registration and a New Mexico controlled substance registration shall register with the board of pharmacy to become a regular participant in the PMP inquiry and reporting.

B. A dentist may authorize delegate(s) to access the prescription monitoring report consistent with board of pharmacy regulation 16.19.29 NMAC. While a dentist's delegate may obtain a report from the state's prescription monitoring program, the dentist is solely responsible for reviewing the prescription monitoring report and documenting the receipt and review of the report in the patient's medical record.

C. Before a dentist prescribes or dispenses for the first time a controlled substance in Schedule II, III, IV or V to a patient for a period greater than four days, or if there is a gap in prescribing the controlled substance for 30 days or more, the dentist shall review a prescription monitoring report for the patient for the preceding 12 months. When available, the dentist shall review similar reports from adjacent states. The dentist shall document the receipt and review of such reports in the patient's medical record.

D. A prescription monitoring report shall be reviewed a minimum of once every three months during the continuous use of a controlled substance in Schedule II, III, IV or V for each patient. The dentist shall document the review of these reports in the patient's medical record. Nothing in this section shall be construed as preventing a dentist from reviewing prescription monitoring reports with greater frequency than that required by this section.

E. A dentist does not have to obtain and review a prescription monitoring report before prescribing, ordering, or dispensing a controlled substance in Schedule II, III, IV or V;

- (1) for a period of four days or less; or
- (2) to a patient in a nursing facility; or
- (3) to a patient in hospice care.

F. Upon review of a prescription monitoring report for a patient, the dentist shall identify and be aware of a patient currently:

- (1) receiving opioids from multiple prescribers;
- (2) receiving opioids and benzodiazepines concurrently;
- (3) receiving opioids for more than 12 consecutive weeks;
- (4) receiving more than one controlled substance analgesic;
- (5) receiving opioids totaling more than 90 morphine milligram equivalents per day;
- (6) exhibiting potential for abuse or misuse of opioids and other controlled substances, such

as over-utilization, requests to fill early, requests for specific opioids, requests to pay cash when insurance is available, receiving opioids from multiple pharmacies.

G. Upon recognizing any of the above conditions described in Paragraph (10) of Subsection F of 16.5.57 NMAC, the dentist shall refer to the guidelines outlined in 16.5.57.8 NMAC

[16.5.57.10 NMAC - N, 07/17/2013; A, 3/15/2017]

16.5.57.11 PAIN MANAGEMENT CONTINUING EDUCATION: This section applies to all New Mexico dentists who hold a federal drug enforcement administration registration to prescribe controlled substances. Pursuant to the Pain Relief Act in order to ensure that all such health care practitioners safely prescribe for pain management and harm reduction, the following rules shall apply.

A. Immediate requirements effective July 17, 2013. Between July 17, 2013 and no later than June 30, 2014, all board licensees who hold a federal drug enforcement administration registration to prescribe controlled substances shall complete no less than three continuing dental or medical education hours in appropriate courses that shall include:

- (1) an understanding of the pharmacology and risks on controlled substances,
- (2) a basic awareness of the problems of abuse, addiction and diversion,
- (3) awareness of state and federal regulations for the prescription of controlled substances,
- (4) management of the treatment of pain, and
- (5) dentists who have taken continuing education hours in these educational elements

between July 1, 2012 and July 17, 2013 and reviewed this rule, may apply those hours toward the required three continuing education hours described in this section.

B. Triennial requirements: Beginning with the July 1, 2014 triennial renewal date, all New Mexico dentist licensees who hold a federal drug enforcement administration registration shall be required to complete and submit three continuing education hours; these hours shall count toward the 60 continuing education hours required during each triennial cycle. Appropriate courses shall include all of the educational elements described in Subsection A of this section. The applicability of such courses toward fulfillment of the continuing education requirement is subject to board approval. These hours may be earned at any time during the three-year period immediately preceding the triennial renewal date. The three continuing education hours completed prior to July 1, 2014, as defined in Subsection A, may be included as part of the required continuing education hours in pain management in either the triennial cycle in which those hours are completed or the triennial cycle immediately thereafter.

C. Requirements for new licensees: All New Mexico dental licensees who hold a federal drug enforcement administration registration, whether or not the New Mexico license is the licensee's their first license, shall complete three continuing education hours in pain management during the first year of licensure. These three continuing education hours completed prior to the first renewal may be included as part of the hours required in Subsection B of this section.

D. The continuing education requirements of this section shall be included in the total continuing education requirements as set forth in 16.5.10 NMAC.

[16.5.57.11 NMAC - N, 7/17/2013; A, 1/11/2015]

16.5.57.12 NOTIFICATION: In addition to the notice of procedures set forth in the State Rules Act Chapter 14, Article 4, NMSA 1978, the board shall separately notify the following persons of the Pain Relief Act and Part 57 of the New Mexico dental board rule;

A. health care practitioner's under its jurisdiction; and

B. a health care practitioner being investigated by the board in relation to the practitioner's pain management services.

[16.5.57.12 NMAC - N, 7/17/2013]

HISTORY OF 16.5.57 NMAC: [RESERVED]

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING
CHAPTER 5 DENTISTRY (DENTISTS, DENTAL HYGIENISTS, ETC.)
PART 58 DENTAL AMALGAM WASTE

16.5.58.1 ISSUING AGENCY: New Mexico Board of Dental Health Care.
[16.5.58.1 NMAC - N, 01-04-14]

16.5.58.2 SCOPE: The provisions of Part 58 of Chapter 5 apply to all New Mexico dental offices.
[16.5.58.2 NMAC - N, 01-04-14]

16.5.58.3 STATUTORY AUTHORITY: Part 58 of Chapter 5 is promulgated pursuant to the Dental Health Care Act, NMSA 1978, 61-5A-10 (2013) and the Dental Amalgam Waste Reduction Act, NMSA 1978, Sections 61-5C-1 to 6 (2013).
[16.5.58.3 NMAC - N, 01-04-14]

16.5.58.4 DURATION: Permanent.
[16.5.58.4 NMAC - N, 01-04-14]

16.5.58.5 EFFECTIVE DATE: January 4, 2014, unless a later date is cited at the end of a section.
[16.5.58.5 NMAC - N, 01-04-14]

16.5.58.6 OBJECTIVE: To promote the safe disposal of dental amalgam waste generated in dental offices.
[16.5.58.6 NMAC - N, 01-04-14]

16.5.58.7 DEFINITIONS:

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

B. "Amalgam separator" means a device that removes dental amalgam from the waste stream prior to discharge into either the local public wastewater system or a private septic system and that meets minimum removal efficiency in accordance with international standards contained in *ISO 11143, dental equipment-amalgam separators*, published by the international organization for standardization.

C. "Dental office" means a fixed physical structure in which dental services are provided to patients by dentists and dental professionals licensed or certified by the New Mexico board of dental health care under the management of a licensed owner, operator, or designee.

[16.5.58.7 NMAC - N, 01-04-14]

16.5.58.8 AMALGAM SEPARATOR; INSTALLATION REQUIREMENTS:

A. On or before December 31, 2014, the licensed owner(s), operator(s) or designee(s) of a dental office shall:

(1) install an appropriately sized amalgam separator system on each wastewater drain at the licensee or certificate holder's dental office; the amalgam separator system must, at a minimum, comply with international standard contained in *ISO 11143*; and

(2) within 90 days of installation, report to the board office and to the local water treatment authority where applicable the type, model, and size of the amalgam separator system, and the date the amalgam separator system became operational.

B. Exemption: An amalgam separator shall not be required for the offices or clinical sites of:

(1) a dental office that is not engaged in amalgam placement, removal or modification;

(2) an orthodontist;

(3) a periodontist;

(4) an oral and maxillofacial surgeons;

(5) an oral and maxillofacial radiologists;

(6) an oral pathologists; or

(7) a portable dental office without a fixed connection for wastewater discharge.

C. Licensed owner(s), operator(s) or designee(s) of a dental office with an existing amalgam separator must be in compliance with *ISO 11143* and shall report the type, model and size of the amalgam separator system to the board no later than December 31, 2014.

[16.5.58.8 NMAC - N, 01-04-14; A, 01-15-15]

16.5.58.9 RECORD KEEPING AND REPORTING:

A. The board shall require all licensed owner(s), operator(s) or designee(s) of a dental office to verify, on each initial application and each triennial renewal that they are in compliance with Part 58 of Chapter 5.

B. Licensed owner(s), operator(s) or designee(s) of a dental office shall maintain records of operation, maintenance, and recycling or disposal of amalgam waste for the three years prior to their triennial license renewal; records shall include the following information:

- (1) dates of maintenance;
- (2) dates separator contents were recycled; and
- (3) name of the staff or contractor performing the service.

C. Upon the board's inspection for cause, the licensed owner(s), operator(s) or designee(s) shall demonstrate proper installation, operation, maintenance, and recycling or disposal of amalgam waste in accordance with the amalgam separator manufacture's recommendations.

[16.5.58.9 NMAC - N, 01-04-14]

16.5.58.10 COMPLIANCE AND ENFORCEMENT: Failure to comply with Part 58 of Chapter 5 will constitute "unprofessional conduct" and may subject the licensed owner(s), operator(s) or designee(s) of a dental office to disciplinary action; willful and persistent noncompliance with the provisions of Part 58 of Chapter 5 and the Dental Amalgam Waste Reduction Act shall result in disciplinary action.

[16.5.58.10 NMAC - N, 01-04-14]

HISTORY OF 16.5.58 NMAC: [RESERVED]

TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING
CHAPTER 5 DENTISTRY (DENTISTS, DENTAL HYGIENISTS, ETC.)
PART 59 LICENSURE FOR MILITARY SERVICE MEMBERS, SPOUSES AND VETERANS

16.5.59.1 ISSUING AGENCY: New Mexico Board of Dental Health Care.
[16.5.59.1 NMAC - N, 01-04-14]

16.5.59.2 SCOPE: This part sets forth application procedures to expedite licensure for military service members, spouses and veterans.
[16.5.59.2 NMAC - N, 01-04-14]

16.5.59.3 STATUTORY AUTHORITY: These rules are promulgated pursuant to Section 61-1-34 of the Uniform Licensing Act, NMSA 1978, Section 61-1-1 to -34 (1957, as amended through 2013) and the Dental Health Care Act, NMSA 1978, Sections 61-5A-1 to -30.
[16.5.59.3 NMAC - N, 01-04-14]

16.5.59.4 DURATION: Permanent.
[16.5.59.4 NMAC - N, 01-04-14]

16.5.59.5 EFFECTIVE DATE: January 4, 2014, unless a later date is cited at the end of a section.
[16.5.59.5 NMAC - N, 01-04-14]

16.5.59.6 OBJECTIVE: The purpose of this part is to expedite licensure for military service members, spouses and veterans pursuant to NMSA 1978, Section 61-1-34.
[16.5.59.6 NMAC - N, 01-04-14]

16.5.59.7 DEFINITIONS:

- A. "Military service member" means a person who is serving in the armed forces of the United States or in an active reserve component of the armed forces of the United States, including the national guard.
 - B. "Recent veteran" means a person who has received an honorable discharge or separation from military service within the two years immediately preceding the date the person applied for an occupational or professional license pursuant to this section.
- [16.5.59.7 NMAC - N, 01-04-14]

16.5.59.8 APPLICATION REQUIREMENTS:

- A. Applications for registration shall be completed on a form provided by the department.
 - B. Completed application shall include:
 - (1) application fee; and
 - (2) satisfactory evidence that the applicant holds a license that is current and in good standing, issued by another jurisdiction, including a branch of armed forces of the United States, that has met the minimal licensing requirements that are substantially equivalent to the licensing requirements for the occupational or professional license the applicant applies for pursuant to Chapter 61, Articles 5A NMSA 1978.
 - C. Electronic signatures will be acceptable for applications submitted pursuant to section 14-16-1 through section 14-16-19 NMSA 1978.
- [16.5.59.8 NMAC - N, 01-04-14]

16.5.59.9 FEES: An applicant seeking licensure under Part 59 of Chapter 5 NMAC shall refer to the following parts for applicable fees:

- A. for a dentist applicant, refer to 16.5.5 NMAC;
 - B. for a dental hygiene applicant, refer to 16.5.18 NMAC;
 - C. for a dental assistant applicant, refer to 16.5.32 NMAC;
 - D. for an expanded function dental auxiliary applicant, refer to 16.5.41 NMAC; and
 - E. for a community dental health coordinator applicant, refer to 16.5.49 NMAC.
- [16.5.59.9 NMAC - N, 01-04-14]

16.5.59.10 RENEWAL REQUIREMENTS:

A. A license or certificate issued pursuant to this section shall not be renewed unless the license or certificate holder satisfies the requirements for the issuance and for the renewal of a license or certificate pursuant to Chapter 61, Articles 5A NMSA 1978.

B. The licensee or certificate holder issued under Part 59 of Chapter 5 shall submit the documentation required under the following parts:

- (1) for a dentist, refer to 16.5.8 NMAC for required documentation;
- (2) for a dental hygienist, refer to 16.5.20 NMAC for required documentation;
- (3) for a dental assistants, refer to 16.5.33 NMAC for required documentation;
- (4) for an expanded function dental auxiliary, refer to 16.5.42 NMAC for required documentation;

and

- (5) for a community dental health coordinator, refer to 16.5.50 NMAC for required documentation.

C. All licenses and certificates issued under Part 59 of Chapter 5 shall be valid for a period not to exceed three years.

D. Prior to the expiration of the license, all licensees or certificate holders shall apply for registration renewal and shall pay the renewal fee as set forth in 16.5.59.9 NMAC.

[16.5.59.10 NMAC - N, 01-04-14]

HISTORY OF 16.5.59 NMAC: [RESERVED]