TITLE 16  OCCUPATIONAL AND PROFESSIONAL LICENSING
CHAPTER 5  DENTISTRY (DENTISTS, DENTAL HYGIENISTS, ETC.)
PART 1  GENERAL PROVISIONS—DRAFT—DENTAL THERAPY ADDITIONS (this does not include new language to be added in October 2019 Rules Hearing)

16.5.1.1  ISSUING AGENCY: New Mexico Board of Dental Health Care.
[9/30/1996; 16.5.1.1 NMAC - Rn & A, 16 NMAC 5.1.1, 12/14/2000]

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, dental therapists, and non-dentist owners.
[9/30/1996; 16.5.1.2 NMAC - Rn, 16 NMAC 5.1.2, 12/14/2000; A, 7/7/2013]

[9/30/1996; 16.5.1.3 NMAC - Rn, 16 NMAC 5.1.3, 12/14/2000; A, 1/4/2014]

16.5.1.4  DURATION: Permanent.
[9/30/1996; 16.5.4 NMAC - Rn, 16 NMAC 5.1.4, 12/14/2000]

16.5.1.5  EFFECTIVE DATE: September 30, 1996, unless a different date is cited at the end of a section.
[9/30/1996; 16.5.1.5 NMAC - Rn, 16 NMAC 5.1.5, 12/14/2000; A, 7/19/2010]

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.
[9/30/1996; 16.5.1.6 NMAC - Rn, 16 NMAC 5.1.6, 12/14/2000]

16.5.1.7  DEFINITIONS:


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, dental therapist, community dental health coordinator, expanded function dental auxiliary, 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. Sync with collab section

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. “Extemporizing circumstances” are defined as a serious, physician-verified illness or death in immediate family, or military service. The extemporizing 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, dental therapist, 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, dental therapist, 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, dental therapy and dental assisting in the state of New Mexico.

S. “Licensee” means an individual who holds a valid license to practice dentistry, dental therapy or dental hygiene in New Mexico. This also includes non-dentist owners who are licensed in New Mexico.

T. “NERB/ADEX” means the north east regional board of dental examiners, 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, dental therapists, community dental health coordinators, and dental assistants, including expanded function dental auxiliaries.

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 supervise.

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, dental therapist or a student enrolled in a program of study to become a dental assistant, dental hygienist, dental therapist 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 or dental therapist to provide specific tests, treatments or regimens of care in a specified location for 30 days following the date of signature.

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.
[3/14/1973...5/31/1995; 16.5.1.8 NMAC - Rn, 16 NMAC 5.1.8, 12/14/2000]

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(es) 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.

16.5.1.10 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.
[4/10/1981...9/30/1996; 16.5.1.10 NMAC - Rn, 16 NMAC 5.1.10, 12/14/2000]

16.5.1.11 TELEPHONE CONFERENCES: As authorized by Section 10-15-1,C 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.
[5/31/1995; 16.5.1.11 NMAC - Rn, 16 NMAC 5.1.11, 12/14/2000]

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).

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

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.

16.5.1.15 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;

16.5.1 NMAC
(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.
16.5.1.16 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.

16.5.1.17 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.


16.5.1.18 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.


16.5.1.19 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 - N, 3/6/2005]

16.5.1.20 U.S. CITIZENSHIP OR LEGAL RESIDENT: Any person requesting a license to practice dentistry, dental therapy, 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 - N, 1/9/2012]

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 - N, 6/14/2012; A, 7/7/2013; A, 1/15/2015]

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 - N, 6/14/2012]

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 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.

[16.5.1.23 NMAC - N, 6/14/2012]

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 - N, 07/17/2013; A, 3/15/2017]

**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 - N, 7/7/2013]

**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, NMSA 1978, Sections 61-5A-1 to-30.
[16.5.1.26 NMAC - N, 1/4/2014]

**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 - N, 1/15/2015]

**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 - N, 3/15/2017]

**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:
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 1, 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;
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;

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.

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.
16.5.3.1 ISSUING AGENCY: New Mexico Board of Dental Health Care. [9/30/1996; 16.5.3.1 NMAC - Rn & A, 16 NMAC 5.3.1, 4/17/2006]

16.5.3.2 SCOPE: The provisions of Part 3 of Chapter 5 apply to all dentists, dental therapists, non-dentist owners and dental hygienists licensed to practice in New Mexico. [9/30/1996; 16.5.3.2 NMAC - Rn, 16 NMAC 5.3.2, 4/17/2006]


16.5.3.4 DURATION: Permanent. [9/30/1996; 16.5.3.4 NMAC - Rn, 16 NMAC 5.3.4, 4/17/2006]

16.5.3.5 EFFECTIVE DATE: September 30, 1996, unless a later date is cited at the end of a section. [9/30/1996; 16.5.3.5 NMAC - Rn & A, 16 NMAC 5.3.5, 4/17/2006]

16.5.3.6 OBJECTIVE: To establish mandatory reporting requirements for adverse events and incidents against licensed dentists, dental therapists, non-dentist owners and dental hygienists. [9/30/1996; 16.5.3.6 NMAC - Rn, 16 NMAC 5.3.6, 4/17/2006]

16.5.3.7 DEFINITIONS: [RESERVED] [9/30/1996; 16.5.3.7 NMAC - Rn, 16 NMAC 5.3.7, 4/17/2006]

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. [5/31/1995, 12/15/1997; 16.5.3.8 NMAC - Rn, 16 NMAC 5.3.8, 4/17/2006; A, 7/19/2010; A, 1/9/2012]

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 licensees is competent, is of good moral character, and continues to practice in a professional manner to the standards of care expected of its licensees. [5/31/1995; 9/30/1996; 16.5.3.9 NMAC - Rn, 16 NMAC 5.3.9, 4/17/2006]

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. [5/31/1995; 9/30/1996; 16.5.3.10 NMAC - Rn, 16 NMAC 5.3.10, 4/17/2006]

16.5.3 NMAC
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, dental therapist, non-dentist owner or dental hygienist in accordance with NMSA 1978 61-5A-21.

[5/31/1995; 9/30/1996; 16.5.3.11 NMAC - Rn, 16 NMAC 5.3.11, 4/17/2006]

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 2/14/1994.

History of Repealed Material: [RESERVED]

Other History:
BODHC Rule DS 10-95, Dentists, Mandatory Reporting (filed 5/5/1995) was renumbered, reformatted, amended and replaced by 16 NMAC 5.3, Mandatory Reporting Requirements, effective 9/30/1996.
TITLE 16   OCCUPATIONAL AND PROFESSIONAL LICENSING
CHAPTER 5   DENTISTRY (DENTISTS, DENTAL HYGIENISTS, ETC.)
PART X   DENTAL THERAPIST, LICENSURE AND CERTIFICATION BY EXAMINATION

16.5.6.1   ISSUING AGENCY:  New Mexico Board of Dental Health Care.
[9/30/1996; 16.5.6.1 NMAC - Rn & A, 16 NMAC 5.6.1, 6/14/2001]

16.5.6.2   SCOPE:  The provisions of 16.5.6 NMAC apply to all applicants for licensure as a dental therapist or certification as Dental Therapist II.
[9/30/1996; 16.5.6.2 NMAC - Rn, 16 NMAC 5.6.2, 6/14/2001]

16.5.6.3   STATUTORY AUTHORITY:  16.5.6 NMAC is promulgated pursuant to the Dental Health Care Act, NMSA 1978 Section 61-5A-12 (1996 Repl. Pamp.),
[9/30/1996; 16.5.6.3 NMAC - Rn, 16 NMAC 5.6.3, 6/14/2001]

16.5.6.4   DURATION:  Permanent.
[9/30/1996; 16.5.6.4 NMAC - Rn, 16 NMAC 5.6.4, 6/14/2001]

16.5.6.5   EFFECTIVE DATE:  June 14, 2001, unless a later date is cited at the end of a section.
[9/30/1996; 16.5.6.5 NMAC - Rn, 16 NMAC 5.6.5, 6/14/2001; A, 4/17/2006]

16.5.6.6   OBJECTIVE:  To establish the requirements for application for licensure as a dental therapist
[9/30/1996; 16.5.6.6 NMAC - Rn, 16 NMAC 5.6.6, 6/14/2001]

16.5.6.7   DEFINITIONS:  "dental therapy post-graduate clinical experience" means a clinical education program as defined in section 16.xx.xx to provide advanced training for dental therapists in patient treatment and management.
[3/16/1994, 9/30/1996; 16.5.6.7 NMAC—Rn, 16 NMAC 5.6.7, 6/14/2001]

16.5.6.8   PREREQUISITE REQUIREMENTS FOR DENTAL THERAPIST LICENSE:  Each applicant for a license to practice dental therapy must possess the following qualifications:
   A.   licensed as a dental hygienist in New Mexico with certification to administer local anesthetic under general supervision.
   B.   graduated and received a degree from an accredited dental therapy program as defined in NMSA 61-5A-12 A;
   C.   successfully completed the dental national board examination as defined in NMSA 61-5A-12 A;
   D.   passed a board-approved clinical examination approved 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
   E.   completed the dental therapy jurisprudence exam with a score of at least 75 percent; the applicant shall schedule the exam through the board office; (I added this back in because the Jurisprudence exam will be different from hygiene)
   F.   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.

16.5.6.9   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 NMSA 61-5A-12.

B. a postgraduate degree or certificate from an accredited dental school or approved residency program as defined in NMSA 61-5A-12 E 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 NMSA 61-5A-12 A;

D. passed a specialty clinical examination approved by the board; the results of the examination 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 diplomate status for the examination;

F. completed the jurisprudence exam with a score of at least 75 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.


16.5.6.10 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 therapy program, 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 a dental therapy program 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 dental therapy, 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.
16.5.6.11 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.


16.5.6.12 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 therapist licenses are issued for a period not to exceed three years, as defined in Subsection 8 of 16.5.11 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.XX.XX CERTIFICATION OF DENTAL THERAPIST II: An applicant for certification as a Dental Therapist II 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 therapy in New Mexico;
   (2) possess a certificate from a dental therapy post-graduate clinical experience which;
      (a) meets criteria in 16.xx.xx and has been approved by the Board of Dental Health Care;
      (b) is sanctioned by an institution with a dental program accredited by CODA; and
      (c) provides a supervised clinical curriculum:
         1. of at least 2000 hours following completion of a CODA accredited dental therapy program; or
         2. of at least 1500 hours following completion of a CODA accredited dental therapy program and applicant can document active practice experience as a dental hygienist for five years or more.

B. An applicant must provide the board office with the following documentation:
   (1) a copy of a current New Mexico dental therapy license;
   (2) a copy of the applicant’s certificate of completion of a board approved dental therapy post-graduate clinical experience.

16.5.28.12 CERTIFICATION PROCEDURE: Upon receipt of a completed dental therapy II application, including all required documentation and fees, a committee member or designee of the committee will review the application and determine eligibility for certification.

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 3/11/1984;
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;

History of Repealed Material: [RESERVED]

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.
TITLE 16  OCCUPATIONAL AND PROFESSIONAL LICENSING
CHAPTER 5  DENTISTRY (DENTISTS, DENTAL HYGIENISTS, DENTAL THERAPISTS, ETC.)
PART 23  DENTAL THERAPISTS, CONTINUING EDUCATION REQUIREMENTS

16.5.23.1  ISSUING AGENCY: New Mexico Board of Dental Health Care.  

16.5.23.2  SCOPE: The provisions of Part 23 of Chapter 5 apply to all licensed dental therapists who are  
applying to renew their license.  
[9/30/1996; 16.5.23.2 NMAC - Rn, 16 NMAC 5.23.2, 4/17/2006]

16.5.23.3  STATUTORY AUTHORITY: Part 23 of Chapter 5 is promulgated pursuant to the Dental  
[9/30/1996; 16.5.23.3 NMAC - Rn, 16 NMAC 5.23.3, 4/17/2006]

16.5.23.4  DURATION: Permanent.  
[9/30/1996; 16.5.23.4 NMAC - Rn, 16 NMAC 5.23.4, 4/17/2006]

16.5.23.5  EFFECTIVE DATE: June 14, 2020, unless a later date is cited at the end of a section.  

16.5.23.6  OBJECTIVE: To establish criteria for continuing education for dental therapists licensed in New  
Mexico.  
[9/30/1996; 16.5.23.6 NMAC - Rn, 16 NMAC 5.23.6, 4/17/2006]

16.5.23.7  DEFINITIONS: [RESERVED]  
[9/30/1996; 16.5.23.7 NMAC - Rn, 16 NMAC 5.23.7, 4/17/2006]

16.5.23.8  HOURS REQUIRED: Fifteen hours of continuing education in addition to the 45 hours required  
for the dental hygiene license, a maximum of 50 percent of the required 15 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.  

16.5.23.9  COURSES REQUIRED: Fifteen hours in the following courses are required for dental  
therapist license renewal:  
A. dental materials and restorative technique  
B. palliative care  
C. pediatric dentistry

16.5.23.10  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.  

16.5.23.11  EMERGENCY DEFERRAL:  
A. 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. 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.

16.5.23 NMAC
(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.

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:
That applicable portion of Article XIII, Disciplinary Proceedings replaced by BOD Rule 12, Continuing Education
That applicable portion of BOD Rule 12, Continuing Education Requirements replaced by BODHC Rule DH 5-95,

History of Repealed Material: [RESERVED]

Other History:
BODHC Rule DH 5-95, Dental Hygienists, Continuing Education Requirements (filed 5/5/1995) was renumbered,
reformatted, amended and replaced by 16 NMAC 5.23, Dental Hygienists, Continuing Education Requirements,
effective 9/30/1996.
16 NMAC 5.23, Dental Hygienists, Continuing Education Requirements (filed 9/17/1996) renumbered, reformatted,
amended and replaced by 16.5.23 NMAC, Dental Hygienists, Continuing Education Requirements effective
16.5.4.1 ISSUING AGENCY: New Mexico Board of Dental Health Care.
[16.5.4.1 NMAC - N, 4/17/2006]

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, 4/17/2006; A, 1/9/2012]

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, 4/17/2006]

16.5.4.4 DURATION: Permanent.
[16.5.4.4 NMAC - N, 4/17/2006]

16.5.4.5 EFFECTIVE DATE: 4/17/2006, unless a later date is cited at the end of a section.
[16.5.4.5 NMAC - N, 4/17/2006]

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; all licensee and certificate holders affected by a declared disaster.
[16.5.4.6 NMAC - N, 4/17/2006; A, 1/9/2012]

16.5.4.7 DEFINITIONS: [RESERVED]

16.5.4.8 REQUIREMENTS FOR EMERGENCY LICENSURE:
A. Dentists, dental hygienists, dental assistants, expanded function dental auxiliary, dental therapists 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, and 16.5.XXX for dental therapists;
(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, dental therapists in 16.5.XXX 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;
   (6) dental therapists $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, 4/17/2006; A, 07/16/2007; A, 07/17/2008; A, 1/9/2012]

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, dental therapists in 16.5.XXX 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, 4/17/2006; A, 1/9/2012]

HISTORY OF 16.5.4 NMAC: [RESERVED]
TITLE 16  OCCUPATIONAL AND PROFESSIONAL LICENSING
CHAPTER 5  DENTISTRY (DENTISTS, DENTAL HYGIENISTS, DENTAL THERAPISTS, ETC.)
PART 24  DENTAL THERAPIST LICENSE AND RENEWAL

16.5.24.1 ISSUING AGENCY: New Mexico Board of Dental Health Care.

16.5.24.2 SCOPE: The provisions of Part 24 of Chapter 5 apply to all dental therapists with a license to practice in New Mexico.

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. Pamp.).

16.5.24.4 DURATION: Permanent.

16.5.24.5 EFFECTIVE DATE: June 14, 2020, unless a later date is cited at the end of a section.

16.5.24.6 OBJECTIVE: To establish procedures for license issuance, expiration and renewal.
[9/30/1996; 16.5.24.6 NMAC - Rn, 16 NMAC 5.24.6, 4/17/2006]

16.5.24.7 DEFINITIONS: [RESERVED]

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.

16.5.24.9 RENEWAL PERIOD AND EXPIRATION: After the initial license period, dental therapy licenses expire every three years on June 30. Dental therapy licenses not renewed by July 1 are considered expired.

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 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.

16.5.24.11 LICENSEEE 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.

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.

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 60 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.

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.

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 3/12/1981.
Article VIII, Licensing of Dental Hygienists, filed 1/12/1982.
Article VIII, Licensing of Dental Hygienists, filed 3/30/1982.

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 9/30/1996.
TITLE 16  OCCUPATIONAL AND PROFESSIONAL LICENSING
CHAPTER 5  DENTISTRY (DENTAL THERAPISTS, ETC.)
PART 26 DENTAL THERAPIST - LICENSE REVOCATION FOR NON-RENEWAL

16.5.26.1 ISSUING AGENCY: New Mexico Board of Dental Health Care.

16.5.26.2 SCOPE: The provisions of Part 26 of Chapter 5 apply to all therapists licensed in New Mexico who do not submit an application for license renewal within 60 days of the license expiration date.

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.).

16.5.26.4 DURATION: Permanent.

16.5.26.5 EFFECTIVE DATE: September 30, 1996, unless a later date is cited at the end of a section.

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.

16.5.26.7 DEFINITIONS: [RESERVED]

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 30, the license shall be revoked for non-renewal.

16.5.26.9 REINSTALLATION 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 therapy, 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 board member, will review and may approve the application. The board may formally accept the approval of the application at the next scheduled meeting.

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 3/12/1981. this would all need to be researched by RLD
Article VIII, Licensing of Dental Hygienists, filed 1/12/1982.
Article VIII, Licensing of Dental Hygienists, filed 3/30/1982.

History of Repealed Material: [RESERVED]

Other History: This portion would needs to be added by RLD
That applicable portion of BODHC Rule DH 4-95, Dental Hygienists, Initial Licensing Period, Renewal (filed 5/5/1995) was renumbered, reformatted and replaced by 16 NMAC 5.26, Dental Hygienists, License Revocation for Non-Renewal, effective 9/30/1996.
TITLE 16  OCCUPATIONAL AND PROFESSIONAL LICENSING
CHAPTER 5  DENTISTRY (DENTISTS, DENTAL HYGIENISTS, ETC.)
PART XX  DENTAL THERAPIST, PRACTICE

16.5.29.1  ISSUING AGENCY: New Mexico Board of Dental Health Care.
[9/30/1996; 16.5.29.1 NMAC - Rn & A, 16 NMAC 5.29.1, 4/17/2006]

16.5.29.2  SCOPE: The provisions of Part XX of Chapter 5 apply to all active license holders and all dental therapist working in New Mexico.
[9/30/1996; 16.5.29.2 NMAC - Rn, 16 NMAC 5.29.2, 4/17/2006]

16.5.29.3  STATUTORY AUTHORITY: Part XX 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.).
[9/30/1996; 16.5.29.3 NMAC - Rn, 16 NMAC 5.29.3, 4/17/2006]

16.5.29.4  DURATION: Permanent.
[9/30/1996; 16.5.29.4 NMAC - Rn, 16 NMAC 5.29.4, 4/17/2006]

16.5.29.5  EFFECTIVE DATE: September 30, 1996, unless a later date is cited at the end of a section.
[9/30/1996; 16.5.29.5 NMAC - Rn & A, 16 NMAC 5.29.5, 4/17/2006]

16.5.29.6  OBJECTIVE: To establish allowable practice settings, scope of practice and limitations on dental therapy practice in New Mexico.
[9/30/1996; 16.5.29.6 NMAC - Rn, 16 NMAC 5.29.6, 4/17/2006]

16.5.29.7  DEFINITIONS:
A. “Atraumatic restorative therapy” means a temporary or sedative restoration in an open carious lesions after excavation of gross decay and debris without the use of mechanical preparation.
B. “Dental therapy practice agreement” means a contract between the 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 dentists and dental therapists care.
C. “Dental Therapist II” means a dental therapist that has met the requirements in 16.xx.xx and been certified to perform certain additional procedures under general supervision.
D. “Topical therapeutic agents” means agents applied to the teeth or gingiva that have a therapeutic effect locally with limited or no systemic effect.

16.5.29.8  SCOPE OF PRACTICE: A dental therapist may perform dental therapy services as defined in NMSA 1978, Section 61-5A-4 B thru F NMSA 1978 of the act with the supervision defined below and as authorized in a dental therapy practice agreement. A dental therapy practice agreement may allow:
A. UNDER GENERAL SUPERVISION:
1. oral evaluation and assessment of dental disease;
2. formulation of an individualized treatment plan as authorized by a supervising dentist;
3. place and shape direct restorations without mechanical preparation;
4. impressions for single-tooth removable prosthesis;
5. temporary cementation;
6. atraumatic restorative therapy;
7. temporary and sedative restorations;
8. extraction of primary teeth without radiological evidence of roots;
9. palliative treatments;
10. fabrication and placement of temporary crowns;
11. reconditioning of permanent crowns;
12. removal and nonsurgical placement of space maintainers;
13. repairs and adjustments to prostheses;
14. tissue conditioning;
15. administration of analgesics, anti-inflammatory substances and antibiotics that a supervising dentist orders;
16. other closely related procedures that the board authorizes through rules it has adopted and promulgated;
17. all procedures within the scope of practice of a dental hygienist;
18. administration of local anesthesia as defined in 16.5.28 NMAC; and

**B. UNDER INDIRECT SUPERVISION:**
1. preparation and direct restoration of cavities in primary and permanent teeth; and
2. fitting, shaping and cementing of stainless steel crowns on teeth prepared by a dentist; and

**C. dental therapists that have met all requirements and been certified as a dental therapist II, under general supervision:**
1. preparation and direct restoration of cavities in primary and permanent teeth; and
2. fitting, shaping and cementing of stainless steel crowns on teeth prepared by a dentist.


**16.5.29.9 LIMITATIONS ON PRACTICE:** Dental therapists 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 except stainless steel crowns on teeth prepared by a dentist and the cementation of single tooth crowns previously cemented by a dentist, including but not limited to inlays, onlays, crowns, bands, space maintainers, habit devices or splints;**

**E. final impressions for restorations or prosthetic appliances except single tooth removable prostheses;**

**F. administration of substances outside of a dental hygienist prescriptive authority as defined in 16.5.29.11 or under the orders of a prescribing dentist; (this is somewhat unclear)**

**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.**


**16.5.29 DENTAL THERAPY PRACTICE AGREEMENT:**

A. Prior to performing any of the services authorized under 61-5A----, a dental therapist must enter into a written dental therapist agreement with a New Mexico licensed dentist. The agreement must include:

1. practice settings where services may be provided, which may include
   (a) a facility operated by a nonprofit community dental organization;
   (b) a health facility operated by the federal Indian health service;
   (c) a health facility that a tribe operates under Section 638 of the federal Indian Self-Determination and Education Assistance Act;
   (d) a federally qualified health center;
   (e) a facility certified by the federal centers for medicare and medicaid services as a "federally qualified health center look-alike" facility;
   (f) a private residence or a facility in which an individual receives long-term community-based services under the state's medicaid program;
   (g) a long-term care facility;
   (h) a private residence, when exclusively to treat an individual who, due to disease, disability or condition, is unable to receive care in a dental facility; or
   (i) an educational institution engaged in the training of dental therapists accredited by the commission on dental accreditation;
2. any limitations on services that may be provided by the dental therapist, including the level of supervision required by the supervising dentist and what treatment is permitted prior to the dentist seeing the patient;
3. a protocol to manage medical emergencies in each setting where the therapist provides care;
4. protocols for administering and dispensing medications; and
B. A dental therapy practice agreement should be prepared and amended using a template tool provided by the New Mexico Board of Dental Health Care
C. Dental therapy practice agreements must be signed and maintained by the supervising dentist and the dental therapist and renewed annually. A copy of the agreement shall be on file with the board office.

16.5.29.10 [RESERVED]
[5/31/1995, 12/15/97; 16.5.29.10 NMAC - Rn, 16 NMAC 5.29.10, 4/17/2006; A, 4/16/2008; A, 1/9/2012; Repealed, 12/15/2012]

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 – 2.2 mg;
      (e) 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%);
      (e) 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) prophylactic paste (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;
      (l) rinses – 0.12%;
      (ii) periodontal chips (for insertion into the periodontal pocket);
      (b) tetracycline-impregnated fibers (inserted subgingivally into the periodontal sulcus);
      (c) doxycycline hydrochloride 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, 1/9/2012; A, 1/4/2014]

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, subcutaneous and tissue disinfection in periodontal therapy. Due to the rising utilization of lasers by dental hygienists, the committee and board set 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, 1/4/2014]

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 3/12/1981.
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.

History of Repealed Material: [RESERVED]

Other History:
BODHC Rule DH 9-95, Dental Hygiene, Practice (filed 5/5/1995) was renumbered, reformatted, amended and replaced by 16-NMAC 5.29, Dental Hygienists, Practice, effective 9/30/1996,
16.5.30.1 **ISSUING AGENCY:** New Mexico Board of Dental Health Care.  
[9/30/1996; 16.5.30.1 NMAC - Rn & A, 16 NMAC 5.30.1, 12/14/2000]

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 therapist.  
[9/30/1996; 16.5.30.2 NMAC - Rn, 16 NMAC 5.30.2, 12/14/2000]

16.5.30.3 **STATUTORY AUTHORITY:** 16.5.30 NMAC is promulgated pursuant to the Dental Health Care Act, NMSA 1978, Section 61-5A-21 (1996 Repl. Pamp.).  
[9/30/1996; 16.5.30.3 NMAC - Rn, 16 NMAC 5.30.3, 12/14/2000]

16.5.30.4 **DURATION:** Permanent.  
[9/30/1996; 16.5.30.4 NMAC - Rn, 16 NMAC 5.30.4, 12/14/2000]

16.5.30.5 **EFFECTIVE DATE:** September 30, 1996, unless a later date is cited at the end of a section.  
[9/30/1996; 16.5.30.5 NMAC - Rn, 16 NMAC 5.30.5, 12/14/2000; A, 7/19/2010]

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.  
[9/30/1996; 16.5.30.6 NMAC - Rn, 16 NMAC 5.30.6, 12/14/2000]

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 therapist(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.

[9/30/1996; 16.5.30.7 NMAC - Rn, 16 NMAC 5.30.7, 12/14/2000; A, 1/9/2012; A, 12/15/2012; A, 7/17/2013]

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.


16.5.30.9 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 therapists 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.


16.5.30.10 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 therapists 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;

(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 therapists 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 therapy 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 therapist to comply with the following advertising guidelines as outlined in 16.5.1.XX

(a) shall not advertise in a false, fraudulent, or misleading manner, and

(b) shall include in the advertisement the name of the dental therapist, the name of the employer dentist(s), the practice address(es) and telephone number(s);

(a) practice dental therapy 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;

(b) practice dental therapy without displaying his/her full name as it appears on the license issued by the board on the entrance door of each office;

(c) shall include in all advertisements the dental therapist's name, address and telephone number or direct reference where the name of the dental therapist(s) can be found as defined in 16.5.30.7 NMAC; and
(d) shall not advertise a practice in a false, fraudulent or misleading manner;

(19) 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;

(25) failure to make available to current patients of record a reasonable method of contacting the treating dental therapist 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 supervising dentist deems it necessary for the patient’s well-being;

(20) conviction of either a misdemeanor or a felony punishable by incarceration;

(21) aiding and abetting a dental auxiliary who is not properly certified;

(22) patient abandonment;

(23) habitually addicted as defined in 61.5A-21 4 & 6 and Subsections C and D 61.5B-3 NMSA 1978 habitual or excessive use or abuse of drugs, as defined in the Controlled Substances Act,30-31-1 NMSA 1978 or habitual or excessive use or abuse of alcohol;

(24) 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;

(25) failure to appear before the board when requested by the committee, and ratified by the board, in any disciplinary proceeding; and

(26) failure of compliance with the Parental Responsibility Act Section 40-5A-3 seq., NMSA1978.


(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.

16.5.30.11 INVESTIGATIVE SUBPOENAS: The complaint committee of the committee is authorized to issue action investigative subpoenas and to employ experts with regard to pending investigations.


16.5.30.12 REVOCATION OF Dental Therapists 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 - N, 1/9/2012]

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; **(SYNC WITH CE REQUIREMENTS IN DT SECTION)**
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 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 therapy, 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 therapist with a license in revocation status may not practice dental therapy 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 therapy in New Mexico.
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 therapy, 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 therapist with a license in suspended status may not practice dental therapy in New Mexico until proof of active licensure is approved by the board and issued by the board office.

[16.5.30.14 NMAC - N, 1/9/2012]

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 1/12/1982;
Article XIII, Disciplinary Proceedings, filed 3/30/1982;
BOD Rule 11, Disciplinary Proceedings, filed 2/9/1989;

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 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.
16.5.56.1 ISSUING AGENCY: New Mexico Board of Dental Health Care.
[16.5.56.1 NMAC - N, 6/14/2012]

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, 6/14/2012]

16.5.56.3 STATUTORY AUTHORITY: This part is adopted pursuant to the Parental Responsibility Act, Sections 40-5A-1 to 40-5A-13 NMSA 1978.
[16.5.56.3 NMAC - N, 6/14/2012]

16.5.56.4 DURATION: Permanent.
[16.5.56.4 NMAC - N, 6/14/2012]

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, 6/14/2012]

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 function dental auxiliaries, community dental health coordinators, dental therapists and non-dentist owners for dental practices.
[16.5.56.6 NMAC - N, 6/14/2012]

16.5.56.7 DEFINITIONS:
A. All terms defined in this part shall have the same meanings as 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, registration 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 subpoenas 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 subpoenas or warrants relating to paternity or child support proceedings.
[16.5.56.7 NMAC - N, 6/14/2012]

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, 6/14/2012]

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, 6/14/2012]

HISTORY OF 16.5.56 NMAC: [RESERVED]