

ALL-ON-4 Dental Implants State TeleDentistry Laws

We have compiled information about current state ALL-ON-4 live video consultation teledentistry laws to aid ALL-ON-4 clinicians provide dental implants live video services. Teledentistry laws are ever-changing and this list may not reflect all aspects of current statutes or pending changes to the administrative code. This document should be viewed as a work in progress due to the fluid nature of teledentistry policy in the United States. We strongly encourages providers of Dental Implants teledentistry to: **1) Check with their State Boards of Dentistry about current law or pending changes for dental implants teledentistry** **2) Check with their malpractice insurance provider about the required coverage to practice teledentistry** and **3) Check with their attorney to make sure that they are in compliance with both state law and their malpractice policy prior to engaging in any dental implants teledentistry.**

ALL-ON-4 DENTAL IMPLANTS STATE TELEHEALTH POLICIES

State	Telehealth Legislation	Cross-state Licensing	Teledentistry Included	Teledentistry Separate	Telehealth Modality	State Required License	Reimbursement	Telehealth Regulations and Rules
Alabama	Yes	Yes	No	No	Real-time	Yes	Medicaid	AL Admin Code 540-X-15; AL Admin Code 540-X-16; AL Admin Code 630-X-13-.02; AL Sec 34-24-502-507; AL Act 2015-197
Alaska	Yes	No	No	No	Real-time, store-and-forward, self-monitoring	Yes	Medicaid	AK Admin Code, Title 7, 12.449; AK Admin Code, Title 7, 110.65(a); AK Admin Code, Title 7, 110.630; AK Admin Code, Title 7 110.635; AK Admin Code, Title 7, 110.625(a); AK Admin Code, Title12, Sec 40.967; AK Stat Sec. 08.64.364; AK Admin Code, Title 7, 135.290
Arizona	Yes	Yes	No	No	Real-time, store-and-forward	Yes	Medicaid and commercial	AZ Revised Statute Sec 36-36-1; AZ Admin Code, Sec R20-1902; AZ SB 1353; AZ Rev Stat, Sec 32-3251(15); AZ Admin Code, Sec R20-6-1915; AZ Stat 20-841-09; AZ Bill SB 1282; AZ Admin Code Sec R20-9-1902; AZ Rev Stat Sec 32-1401; AZ Rev Stat Sec 36-3602; AZ Rev Stat, Sec 32-1421; AZ Rev Stat, Sec 36-3604
Arkansas	Yes	No	No	No	Real-time	Yes	Medicaid and commercial	AR Code 23-79-1601, 016-06-06; Code of AR Rules and Regulations (CARR) 024; AR Code 23-79-1602(c)(1); AR Code 17-80-117(e)(1); AR Code 23-79-162; AR Code 17-80-117(b)(4)(A); AR Code Ann Sec 17-92-1003; AR Code 17-80-117(b); AR Code 17-80-117(c)(1); 016-06 Code of AR Rules and Regulations (CARR) 036, 17-80-117(d)(1)(2); AR Code Rev 17-95-206; AR Code 23-79-1602(c)(1); AR Code 23-79-1602(d)(3); AR Code Sec 17-100-103; Title 17.100-202, Sec 12; AR Bill SB 53
California	Yes	N/A	Yes	Yes	Real-time	Yes	Medicaid and commercial	CA Business and Professions Code, Sec 290.5; CA Code of Reg, Title 10, Sec 6410; CA Health and Safety Code, Se. 1374.13; CA Business and Professions Code, Sec 2290.5; Sec 14132.725 of Welfare and Institutions Code; CA Business and Professions Code Sec 2242.1(a); CA Code of Reg, Title 16, Div 39, Art 8, Sec 4172, AC 250; CA Business and Professions Code, Sec 2290.5; Welfare and Institutions Code Sec 4512, Title 16, Div 39, Sec 4172, AB 1174
Colorado	Yes	No	No	N/A	Real-time, remote monitoring	Yes	Medicaid and commercial	CO Rev Stat 12-36-102.5; CO Rev Stat 10-16-123(2)(h)(4)(e)(I & II); 7 CO Reg, Rule 18; 6 CO Reg, Rule 1011-1, Ch 5; CO Rev Stat 10-16-123; CO Rev Stat 123(2)(a); CO Rev Stat 25.5-5-320; CO Rev Stat 25.5-5-321; 10 CO Code Reg 2505-10; CO Code of Reg 719-1; CO Rev Stat 10-16-102; CO Rev Stat 12-36-106(1)(g)
Connecticut	Yes	Yes	No	No	Real-time	Yes	Medicaid and commercial	CT Public Act 15-88; CT Gen Stat 17b-245c; CT Public Act No. 15-88, SB 467; CT Gen Stat 7b-245c; CT Gen Stat, Sec 20-12
Delaware	Yes	No	No	No	Real-time (audio and video), remote monitoring, store-and-forward	Yes	Medicaid and commercial	DE Code, Title 24, Sec. 2602; DE House Bill 69 (2015), Title 18, Sec 3370 & Title 18, Sec 3571R; DE Code, Title 24, Sec 1702, Sec 502, Sec 701, Sec 1101, Sec 1902, Sec 2002, Sec 2101, Sec 2502, Sec 3002, Sec 3502, Sec 3802, Sec 3902; DE Code, Title 16, Sec 4744, Title 24, Se. 1769; DE Code, Title 24, Sec 1932, 19; DE Reg 191, Title 18, Sec 3770 & Sec 3571R
District of Columbia	Yes	No	No	No	Real-time	Yes	Medicaid and commercial	DC Code, Sec 31-3861
Florida	Yes	No	No	No	Real-time	Yes	Medicaid	FL Admin Code 64B15-14.0081; FL Stat 456.023; FL Admin Code 64B8-9.0141
Georgia	Yes	No	No	N/A	Real-time	Yes	Medicaid and commercial	Code of GA Ann, Sec 324-56.4; GA Rules & Regs (Rev) 360-2-.02; GA Code 360-3.07; OCGA 43-34-31; GA Rules & Regs, 360-3-07

Hawaii	Yes	Yes	No	No	Real-time, store-and-forward	Yes	Medicaid and commercial	HI Rev Stat 431:10A-116.3; HI Rev Stat 457-2; HI Rev Stat 453-1.3; HI Rev Stat 466J-6; HI Rev Stat 453-2; HI Rules 17-1737; HI Rev Stat 329-1; HI Rev Stat 453-1.3; HI Rev Stat, Div 1, Title 20, Ch 346
Idaho	Yes	Yes	No	No	Real-time	Yes	Not de ned in statute or regulation	ID Admin Code 16.03.19.681, ID Admin Code 16.03.09, Sec 210, 502, 565; ID Code Ann 54-5603-5608; ID Code 54-1733; ID Code, Title 54, Ch 18
Illinois	Yes	Yes	No	No	Real-time, store-and-forward	Yes	Medicaid and commercial	225 ILCS 60-49.5; IL Admin Code, Title 89, 140.403; IL Admin Code, Title 77, Sec 250.310, 225 ILCS 75.2; IL Public Act 099-0076
Indiana	Yes	Yes	No	No	Real-time	Yes	Medicaid and commercial	IN Code 25-22.5-14; IN Code 12-15-5-11, 844 IAC 5-8; IN Admin Code, Title 405, 5-38-1; IN Admin Code, Title 405, 5-38-4; IN Code 12-15-5-11; IN Code 27-8-34; IN Code 27-13-22; IN Code 25-1-9.5; IN Admin Code, Title 405, 5-16-3.1; IN Code 12-15-5-11; IN Admin Code, Title 844, 5-3-2; IN Code 25-22.4-14; IN Code 25-1-9.5; IN Code 16-36-1-15; IN Code 27-8-34; IN Code 27-13-7-22
Iowa	Yes	Yes	No	No	Not de ned in statute and regulation	Yes	Medicaid	IA Admin Code 751 7.1(8D); IA Admin Code, Sec 441, 78.55(249A); IA Admin Code 653-13.10-11; IA Admin Code 675-8.19 (124, 126, 155A)
Kansas	Yes	No	No	No	Real-time	Yes	Medicaid	KS Admin Reg,Sec 68-2-20
Kentucky	Yes	Yes	No	No	Real-time	Yes	Medicaid and commercial	KY Rev Stat 310-200; KY Rev Stat 205.510; KY 907 KAR 1:055E; KY 907 KAR 1:055; KY Rev Stat 304.17A-138; KY Rev Stat 205.559; KY Admin Regs, Title 907, 3:170, Sec 3, 3(a), & 4(a); KY 201 KAR 17-110; KY Rev Stat 311.560
Louisiana	Yes	Yes	No	No	Real-time	Yes	Medicaid and commercial	LA Rev Stat 37:1262; LA Admin Code 46:XLV,75; LA Rev Stat HB 1280, Title 40, Sec 1300.383; LA Rev Stat 22:1281; LA Rev 3701262; LA Rev Stat, Sec 1300.381; LA Admin Code 46:XLV.7511; LA Admin Code 46:XLV.7509; LA Rev Stat 37:1276
Maine	Yes	Yes	No	No	Real-time	Yes	Medicaid and commercial	ME Rev Stat Ann, Title 24, Sec 4316; Code of ME Rules 10-144-101; 32M RSA Sec 3300-D
Maryland	Yes	MD Rev. Stat. 14-302 exempts physicians licensed in adjoining states from being required to obtain a MD license.	No	No	real-time, store-and-forward, remote monitoring	Yes	Medicaid and commercial	COMAR 10.32.05; MD Dept of Health and Mental Hygiene: "Telemedicine," MD Health Occupations Ann, Sec 2-101; Health General Code 15-105.2; COMAR, Sec 10.32.05.02; COMAR 10.09.49.02; COMAR 30.08.12; MD Insurance Code Ann, Sec 15-139; COMAR 10.09.49.03-07; COMAR 10.09.49.11; COMAR 10.32.05.02; COMAR 10.41.06.04; COMAR 10.32.05.06; COMAR 19.09.49.05; COMAR 10.09.49.07; MD Health Occupations Ann, Sec 14-302; COMAR 10.09.49.05; COMAR 10.09.49.08; COMAR 10.09.49.09
Massachusetts	Yes	No	No	No	Real-time, remote monitoring	Yes	Commercial only	Ann Laws of MA, Ch 175, Sec 47BB; MA Session Laws, Acts of 2012, Ch 224, SB 2400234 CMR 2.01(4)
Michigan	Yes	No	No	No	Real-time	Yes	Medicaid and commercial	MCLS, Sec 500.3476; MCLS, Sec 333.17751; MCLS 550.1401k
Minnesota	Yes	Yes	No	Yes	Real-time, store-and-forward	Yes	Medicaid and commercial	MN Stat, Sec 256B.0622; MN Stat, Sec 256B.0625; MN Stat, Sec 151.37; MN Stat, Sec 147.032(1); MN Stat, Sec 147.38; MN Stat, Sec 62A.672; MN Stat 254B.14, Sec 13; MN Stat 147.032
Mississippi	Yes	Not required when the evaluation, treatment, or script given by an out-of-state physician is done by request/ referral of a MS physician	No	No	Real-time	Yes	Medicaid and commercial	Code of MS Rules 50-013-2635; MS Code, Sec 83-9-351; Code of MS Rules 23-225, Rule 1.1; Code of MS Rules 23-206, Rule 1.9; MS Code, Sec 8309-353; Code of MS Rules 23-225, Rule 2.3; Code of MS Rules 23-225, Rule 1.4(C); MS Code Ann, Sec 41-29-137; Code of MS Rules 50-013-2635; MS Code Ann 23-214, Rule 1.7; MS Code, Sec 23-000-212; Code of MS Rules 23-225, Rule 1.5(B)

Missouri	Yes	No	No	No	Real-time	Yes	Medicaid and commercial	MO Rev Stat 206.670; MO Rev Stat 208.670; MO Code of State Reg, Title 19, 30-40; MO Consolidated State Reg 22:10-3.057; MO Code of State Reg; Title 17, 70-3.190; MO Rev Stat 334.100; MO Code of State Rules, Sec 20, 2150-5.100; MO Rev Stat 335.175.1, MO Rev Stat 376.1900.1; MO Consolidated State Reg 22:10-3.060
Montana	Yes	Yes	No	No	Real-time	Yes	Medicaid and commercial	MT Code, Sec 33-22-138; MT Code, Sec 37-3-102; MT HB 429
Nebraska	Yes	No	No	No	real-time	Yes	Medicaid.	NE Rev Stat 71-8503 (LB 1076 & LB 257); NE Admin Code, Title 471, Ch 1; NE Rev Stat, Sec 71-8506; NE Admin Code, Title 172, Ch 88, LB 556, LB 257; NE Admin Code, Title 482, 5-004
Nevada	Yes	Yes	No	No	Real-time	Yes	Medicaid and commercial	NV Bill AB 292; NV Rev Stat Ann, Sec 633.165; NV Bill SB 251
New Hampshire	Yes	No	No	No	Real-time	Yes	Medicaid and commercial	NH Rev Stat Ann 415J(2)(3); NH Bill SB 112; NH Rev Stat Ann, Sec 329L.1-c; NH Bill SB 84
New Jersey	Yes	No	No	No	Not de ned in statute and regulation	Yes	Not de ned in statute or regulation	NJ Rev Stat 45:9-21 (b-c)
New Mexico	Yes	No	No	Yes	Real-time, store-and-forward	Yes	Medicaid and commercial	NM Admin Code 16-10.2.7; NM Stat 59A-22-49.3; NM Stat Ann 1978, Sec 61-6-6; NM Stat Ann, Sec 24-1G-3, 16.5.1.7(DD); NM Stat Ann, Sec 24-25-5; NM Admin Code 8.310.2; NM Admin Code, Sec 8.309.4.16 & 8.308.9.18; NM Admin Code 8.310.2; NM Stat Ann 1978, Sec 61-6-20(B); NM Admin Code 8.310.12.12; NM Stat, Ch 61, Art 10, Sec 19; NM Stat Ann 1978, Sec 61-6-11.1 (sunset date of 7/1/2016); NM Stat Ann, Sec 16.10.2.11
New York	Yes	No	No	Yes	Real-time	Yes	Medicaid and commercial	NYCLS Public Health Law, Sec 2805-u; NY Public Health Law, Art 29-G, Sec 2999-(cc)(dd); NY Insurance Law, Art 32, Sec 3217-h; NY Insurance Law, Art 43, Sec 4306-g; NY Reg, Title 14; NYCRR, Sec 599.17; NY Insurance Law, Art 32, Sec 3217-h; NY Insurance Law, Art 43, Sec 4306-g; NYCLS Public Health Law, Sec 3614; Chapter 550 of Laws of 2014, as amended by Chapter 6 of Laws of 2015 (signed by Gov Cuomo in March 2015); NY Public Health Law, Art 29-G—"Telehealth Delivery of Services" (provides clear de nitions to serve as foundation for telehealth practice in NY State [Public Health Law, Sec 2999-cc] and authorizes reimbursement under Sec 367-u of NY Social Services Law [Public Health Law, Sec 2999-dd])
North Carolina	Yes	No	No	No	Real-time	Yes	Medicaid	NC General Stat 130A-125; NC General Stat, Art 3, Ch 143B, Sec 12A.2(B)
North Dakota	Yes	Yes	No	No	Real-time	Yes	Medicaid	NB HB 1038; ND Stat, Sec 54-52.1-04.13; ND HB 1323, ND Stat, Sec 23-43-05; ND Century Code 54-52.1-04.13, Pub L. 10-425; 21 USC 802-803; ND Century Code, Sec 19-02.1-15.1; ND Admin Code 61.5-01-02-01; ND Admin Code 91-01-02-34; ND Century Code, Sec 43-17-21; ND HB 1038; ND Stat, Sec 54-52.1-04.13
Ohio	Yes	Yes	No	No	Real-time	Yes	Medicaid	OH Rev Code Ann 4731.296; OAC 4755-27-01; OAC 4753-1-01; OH Rev Code, Sec 5164.94; OH Rev Code, Sec 5164.95; OAC 4753-2-01; OAC 5160-1; OH Rev Code Ann, Sec 4731.296(C); OAC 4731-11-09; OAC 4731-10-11; OAC 5160-1; OAC 4755-27-01
Oklahoma	Yes	Yes	No	No	Real-time	Yes	Medicaid and commercial	OK Stat, Title 36, Sec 6802 & 6803; OK Admin Code, Sec 317:30-3-27(a), 6804; OK Admin Code, Title 435:10-1-4; OK Admin Code, Sec 317:30-3-37; OK Admin Code, Sec 435:10-7-12; OK Stat, Title 59, Sec 509; OK Admin Code, Sec 317:39-3-27(a); OK Stat, Title 59, Sec 633; OK Stat, Title 17, Sec 139 & 109

Oregon	Yes	Yes	No	Yes	Real-time	Yes	Medicaid and commercial	OR Rev Stat 442.015; OR Admin Rules, Sec 848-040-1080; OR Admin Rules, Sec 847-008-0023; OR Admin Rules, Sec 410-130-9610; OR Admin Rules, Sec 847-025-0000; OR SB 144 (2015), now listed as Ch 340 of 2015 Laws; OR Rev Stat, Sec 743A.058; OR Rev Stat Ann, Sec 677.139; OR Admin Reg 410-130-0610(2)(a); OR Admin Reg 410-130-0610(5); OR Rev Stat, Sec 743A.185
Pennsylvania	Yes	Yes	No	No	Real-time	Yes	Medicaid	PA Stat Ann, Title 63, Sec 422.34(a) & (c)(2)
Rhode Island	Yes	Yes	No	No	Not de ned in statute or regulation	Yes	Medicaid	RI General Law, Sec 5-37-12; RI General Law, Sec 5-37-14
South Carolina	Yes	No.	No	No	Real-time	Yes	Medicaid	SC Code Ann, Sec 40-69-20
South Dakota	Yes	Yes	No	Yes	Real-time	Yes	Medicaid	SD Reg 67.40:16; SD Reg 67.40:19:04
Tennessee	Yes	Yes	No	Yes	Real-time, store-and-forward	Yes	Medicaid	TN Code Ann, Title 56, Ch 7, Part 10; TN Composite Rules and Regs 0880-02-14; TN Code Ann, Sec 63-6-209(b); TN SB 1223/HN 699 (2015)
Texas	Yes	Yes	No	No	Real-time, store-and-forward	Yes	Medicaid	TX Admin Code, Title 25, Sec 412.303; TX Admin Code, Title 1, Sec 354.1430; TX Admin Code, Title 22, Sec 741.1; TX Government Code, Sec 531.001; TX Admin Code, Title 40, Sec 362.1; TX Admin Code, Title 1, Sec 354.1432; TX Government Code 531.0216; TX Admin Code, Title 1, Sec 355.7001; TX Government Code, Sec 531.0217; TX Admin Code, Title 1, Sec 354-1434; TX Admin Code, Title 22, Sec 741.214; TX Admin Code, Title 22, Sec 174.8; TX Admin Code, Title 22, Part 9, Ch 180; TX Occupational Code, Sec 111.002; TX Admin Code, Title 22, Sec 174.6; TX Admin Code, Title 22, Sec 172.12; TX Occupation Code, Sec 151.056; TX Insurance Code, Sec 1455.004; TX Government Code, Sec 531.02162; TX HB 1878 (2015); TX Admin Code, Sec 355.7001; TX HB 479 (2015)
Utah	Yes	Yes	No	No	Real-time	Yes	Medicaid	UT Code Ann, Sec 26-9f-102; UT Code Ann, Sec 26-18-13; UT Admin Code R414-42-3; UT Code Ann, Sec 58-1-501; UT Code Ann, Sec 58-67-305; Laws of UT 68-61-307; UT HB 121 (2015); UT Code R432-100-32; Laws of UT 68-60-102; UT Reg Text R398-15-3
Vermont	Yes	No	No	No	Real-time	Yes	Medicaid and commercial	VT Stat Ann, Title 8, Sec 4100; VT Bill S.139 (2015, Act 54); VT Stat Ann, Title 33, Sec 1901k; VT Stat Ann, Title 18, Sec 9361; VT Act No 40 (S.88)
Virginia	Yes	Yes	No	Yes	Real-time	Yes	Medicaid and commercial	VA Code Ann, Sec 38.2-3418.16; VT SB 1227; VT HB 2063 (2015); VA Code Ann, Sec 54-1-3303
Washington	Yes	Yes	No	No	Real-time, store-and-forward	Yes	Medicaid	WA SB 5175 (passed in 2015, to be incorporated into Rev Code of WA, Sec 41.05, 48.43, 74.09, & 70.41.020); WA Admin Code, Sec 182-551-2010; WA Admin Code, Sec 246-915-187; WA Admin Code, Sec 182-531-1730; WA Admin Code, Sec 182-531-0100; Rev Code of WA, Sec 18.71.030
West Virginia	Yes	Yes	No	No	Real-time, store-and-forward, remote monitoring	Yes	Medicaid	WV Code, Sec 30-3-13 & 30-14-12d (SB 47, 2016); WV Code, Sec 30-5-4; WV HB 2496 (2015)
Wisconsin	Yes	Yes	No	No	Real-time	Yes	Medicaid	WI Stat 49.45 (29w)(2); WI Stat 14.89; WI Act 116 (AB 253, 2015)
Wyoming	Yes	Yes	No	No	Real-time	Yes	Medicaid	WY Stat, Sec 33-26-102; WY Stat, Sec 33-40-102; WY Stat Ann, Sec 33-26-402; Code of WY Rules 006-062-001; WY HB 107 (2015); WY Stat 33-26-701-7-3

admin, administrative; ann, annotated; art, article(s); ch, chapter(s); COMAR, Code of Maryland Regulations; div, division; gen, general; HB, House Bill; KAR, Kentucky Administrative Regulations; LB, Legislative Bill; MCLS, Michigan Compiled Laws Service; N/A, not applicable; NYCLS, New York Consolidated Laws Service; NYCRR, New York Codes, Rules and Regulations; OAC, Ohio Administrative Code; OCGA, Official Code of Georgia, Annotated; reg, regulation(s); rev, revised; RSA, revised statute annotated; SB, Senate Bill; sec, section(s); stat, statute(s); svcs, services; USC, United States Code.

Source: Center for Connected Health Policy, National Telehealth Policy Resource Center. *State Telehealth Laws and Medicaid Program Policies: A Comprehensive Scan of the 50 States and District of Columbia*. March 2016.

ALL-ON-4 DENTAL IMPLANTS LIVE VIDEO CONSULTATION

**STATE LEGISLATION AND CHANGES IN ADMINISTRATIVE CODE
ON TELEDENTISTRY CHANGED AFTER THE PUBLICATION OF THE
ABOVE TABLE OR IN PROGRESS:**

- **California**
- **Florida**
- **Iowa**
- **New Mexico**
- **North Carolina**
- **Texas**
- **Washington State**

Assembly Bill No. 1174

CHAPTER 662

An act to amend Sections 1684.5, 1925, and 1944 of, to add Section 1926.05 to, and to add, repeal, and add Sections 1753.55 and 1910.5 of, the Business and Professions Code, and to add and repeal Section 128196 of the Health and Safety Code, and to amend Section 14132.725 of the Welfare and Institutions Code, relating to oral health.

[Approved by Governor September 27, 2014. Filed with
Secretary of State September 27, 2014.]

legislative counsel's digest

AB 1174, Bocanegra. Dental professionals.

(1) Under existing law, the Dental Practice Act, the Dental Board of California licenses and regulates dentists. Existing law creates, within the jurisdiction of the board, a Dental Assisting Council that is responsible for the regulation of dental assistants, registered dental assistants, and registered dental assistants in extended functions and a Dental Hygiene Committee of California, that is responsible for the regulation of registered dental hygienists, registered dental hygienists in alternative practice, and registered dental hygienists in extended functions. Existing law governs the scope of practice for those professionals, and authorizes a dentist to require or permit one of those professionals, referred to as a dental auxiliary, to perform specified duties, including exposing emergency radiographs upon the direction of the dentist, prior to the dentist examining the patient.

This bill would add to those specified duties exposing radiographs, as specified, make a dentist responsible to provide a patient or the patient's representative written notice, including specified contact information and disclosing that the care was provided at the direction of that authorizing dentist, and would prohibit a dentist from concurrently supervising more than a total of 5 dental auxiliaries, as specified. The bill would authorize specified registered dental assistants in extended functions, registered dental hygienists, and registered dental hygienists in alternative practice to determine which radiographs to perform and to place protective restorations, as specified. The bill would require the board to adopt related regulations, and would also require the committee to review proposed regulations and submit any recommended changes to the board for review to establish a consensus.

(2) Existing law requires the committee to establish by resolution the amount of the fees that relate to the licensing of a registered dental hygienist, registered dental hygienist in alternative practice, and registered dental hygienist in extended functions. Existing law limits the fee for each review of courses required for licensure that are not accredited to \$300. Under

existing law, those fees are further limited to the reasonable regulatory cost incurred by the committee.

This bill would instead limit the fee for each review or approval of course requirements for licensure or procedures that require additional training to \$750.

(3) Existing law provides for the Medi-Cal program, which is administered by the State Department of Health Care Services, under which qualified low-income individuals receive health care services, including certain dental services, as specified. Existing law provides that, to the extent that federal financial participation is available, face-to-face contact between a health care provider and a patient is not required under the Medi-Cal program for “teleophthalmology and teledermatology by store and forward,” as defined to mean the asynchronous transmission of medical information to be reviewed at a later time by a licensed physician or optometrist, as specified, at a distant site.

This bill would additionally provide that face-to-face contact between a health care provider and a patient is not required under the Medi-Cal program for teledentistry by store and forward, as defined.

(4) Existing law authorizes the Office of Statewide Health Planning and Development to approve Health Workforce Pilot Projects (HWPP) No. 172, as defined. The office has approved operation HWPP No. 172, relating to dental workforce, through December 15, 2014.

This bill would extend the operation of HWPP through January 1, 2016. The bill would also delete redundant provisions, and would make conforming changes.

The people of the State of California do enact as follows:

SECTION 1. Section 1684.5 of the Business and Professions Code is amended to read:

1684.5. (a) In addition to other acts constituting unprofessional conduct under this chapter, it is unprofessional conduct for any dentist to perform or allow to be performed any treatment on a patient who is not a patient of record of that dentist. A dentist may, however, after conducting a preliminary oral examination, require or permit any dental auxiliary to perform procedures necessary for diagnostic purposes, provided that the procedures are permitted under the auxiliary’s authorized scope of practice. Additionally, a dentist may require or permit a dental auxiliary to perform all of the following duties prior to any examination of the patient by the dentist, provided that the duties are authorized for the particular classification of dental auxiliary pursuant to Article 7 (commencing with Section 1740):

(1) Expose emergency radiographs upon direction of the dentist.

(2) If the dental auxiliary is a registered dental assistant in extended functions, a registered dental hygienist, or a registered dental hygienist in alternative practice, determine and perform radiographs for the specific purpose of aiding a dentist in completing a comprehensive diagnosis and

treatment plan for a patient using telehealth, as defined by Section 2290.5, for the purpose of communication with the supervising dentist pursuant to Sections 1753.55, 1910.5, and 1926.05. A dentist is not required to review patient records or make a diagnosis using telehealth.

(3) Perform extra-oral duties or functions specified by the dentist.

(4) Perform mouth-mirror inspections of the oral cavity, to include charting of obvious lesions, malocclusions, existing restorations, and missing teeth.

(b) For purposes of this section, “patient of record” refers to a patient who has been examined, has had a medical and dental history completed and evaluated, and has had oral conditions diagnosed and a written plan developed by the licensed dentist.

(c) For purposes of this section, if dental treatment is provided to a patient by a registered dental assistant in extended functions, a registered dental hygienist, or a registered dental hygienist in alternative practice pursuant to the diagnosis and treatment plan authorized by a supervising dentist, at a location other than the dentist’s practice location, it is the responsibility of the authorizing dentist that the patient or the patient’s representative receive written notification that the care was provided at the direction of the authorizing dentist and that the notification include the authorizing dentist’s name, practice location address, and telephone number. This provision shall not require patient notification for dental hygiene preventive services provided in public health programs as specified and authorized in Section 1911, or for dental hygiene care when provided as specified and authorized in Section 1926.

(d) A dentist shall not concurrently supervise more than a total of five registered dental assistants in extended functions, registered dental hygienists, or registered dental hygienists in alternative practice providing services pursuant to Sections 1753.55, 1910.5, and 1926.05.

(e) This section shall not apply to dentists providing examinations on a temporary basis outside of a dental office in settings including, but not limited to, health fairs and school screenings.

(f) This section shall not apply to fluoride mouth rinse or supplement programs administered in a school or preschool setting.

SEC. 2. Section 1753.55 is added to the Business and Professions Code, to read:

1753.55. (a) A registered dental assistant in extended functions is authorized to perform additional duties as set forth in subdivision (b) pursuant to the order, control, and full professional responsibility of a supervising dentist if the licensee meets one the following requirements:

(1) Is licensed on or after January 1, 2010.

(2) Is licensed prior to January 1, 2010, has successfully completed a board-approved course in the additional procedures specified in paragraphs (1), (2), (5), and (7) to (11), inclusive, of subdivision (b) of Section 1753.5, and passed the examination as specified in Section 1753.4.

(b) (1) Determine which radiographs to perform on a patient who has not received an initial examination by the supervising dentist for the specific

purpose of the dentist making a diagnosis and treatment plan for the patient. In these circumstances, the dental assistant in extended functions shall follow protocols established by the supervising dentist. This paragraph only applies in the following settings:

(A) In a dental office setting.

(B) In public health settings, using telehealth, as defined by Section 2290.5, for the purpose of communication with the supervising dentist, including, but not limited to, schools, head start and preschool programs, and community clinics, under the general supervision of a dentist.

(2) Place protective restorations, which for this purpose are identified as interim therapeutic restorations, and defined as a direct provisional restoration placed to stabilize the tooth until a licensed dentist diagnoses the need for further definitive treatment. An interim therapeutic restoration consists of the removal of soft material from the tooth using only hand instrumentation, without the use of rotary instrumentation, and subsequent placement of an adhesive restorative material. Local anesthesia shall not be necessary for interim therapeutic restoration placement. Interim therapeutic restorations shall be placed only in accordance with both of the following:

(A) In either of the following settings:

(i) In a dental office setting, under the direct or general supervision of a dentist as determined by the dentist.

(ii) In public health settings, using telehealth, as defined by Section 2290.5, for the purpose of communication with the supervising dentist, including, but not limited to, schools, head start and preschool programs, and community clinics, under the general supervision of a dentist.

(B) After the diagnosis, treatment plan, and instruction to perform the procedure provided by a dentist.

(c) The functions described in subdivision (b) may be performed by a registered dental assistant in extended functions only after completion of a program that includes training in performing those functions, or after providing evidence, satisfactory to the board, of having completed a board-approved course in those functions.

(1) No later than January 1, 2018, the board shall adopt regulations to establish requirements for courses of instruction for the procedures authorized to be performed by a registered dental assistant in extended functions pursuant to this section, using the competency-based training protocols established by the Health Workforce Pilot Project (HWPP) No. 172 through the Office of Health Planning and Development. The board shall submit to the committee proposed regulatory language for the Interim Therapeutic Restoration to the committee for the purpose of promulgating regulations for registered dental hygienists and registered dental hygienists in alternative practice as described in Section 1910.5. The language submitted by the board to the committee shall mirror the curriculum requirements for the registered dental assistant in extended functions. Any subsequent amendments to the regulations that are promulgated by the board for the Interim Therapeutic Restoration curriculum shall be submitted to the committee.

(2) Until the regulations adopted by the board pursuant to paragraph (1) become effective, the board shall use the competency-based training protocols established by HWPP No. 172 through the Office of Statewide Health Planning and Development to approve courses of instruction for the procedures authorized in this section.

(3) A registered dental assistant in extended functions who has completed the prescribed training in HWPP No. 172 established by the Office of Statewide Health Planning and Development pursuant to Article 1 (commencing with Section 128125) of Chapter 3 of Part 3 of Division 107 of the Health and Safety Code shall be deemed to have satisfied the requirement for completion of a course of instruction approved by the board.

(4) In addition to the instructional components described in this subdivision, a program shall contain both of the instructional components described in this paragraph:

(A) The course shall be established at the postsecondary educational level.

(B) All faculty responsible for clinical evaluation shall have completed a one-hour methodology course in clinical evaluation or have a faculty appointment at an accredited dental education program prior to conducting evaluations of students.

(d) The board may issue a permit to a registered dental assistant in extended functions who files a completed application, including the fee, to provide the duties specified in this section after the board has determined the registered dental assistant in extended functions has completed the coursework required in subdivision (c).

(e) This section shall remain in effect only until January 1, 2018, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2018, deletes or extends that date.

SEC. 3. Section 1753.55 is added to the Business and Professions Code, to read:

1753.55. (a) A registered dental assistant in extended functions is authorized to perform the additional duties as set forth in subdivision (b) pursuant to the order, control, and full professional responsibility of a supervising dentist, if the licensee meets one of the following requirements:

(1) Is licensed on or after January 1, 2010.

(2) Is licensed prior to January 1, 2010, has successfully completed a board-approved course in the additional procedures specified in paragraphs (1), (2), (5), and (7) to (11), inclusive, of subdivision (b) of Section 1753.5, and passed the examination as specified in Section 1753.4.

(b) (1) Determine which radiographs to perform on a patient who has not received an initial examination by the supervising dentist for the specific purpose of the dentist making a diagnosis and treatment plan for the patient. In these circumstances, the dental assistant in extended functions shall follow protocols established by the supervising dentist. This paragraph only applies in the following settings:

(A) In a dental office setting.

(B) In public health settings, using telehealth, as defined by Section 2290.5, for the purpose of communication with the supervising dentist, including, but not limited to, schools, head start and preschool programs, and community clinics, under the general supervision of a dentist.

(2) Place protective restorations, which for this purpose are identified as interim therapeutic restorations, and defined as a direct provisional restoration placed to stabilize the tooth until a licensed dentist diagnoses the need for further definitive treatment. An interim therapeutic restoration consists of the removal of soft material from the tooth using only hand instrumentation, without the use of rotary instrumentation, and subsequent placement of an adhesive restorative material. Local anesthesia shall not be necessary for interim therapeutic restoration placement. Interim therapeutic restorations shall be placed only in accordance with both of the following:

(A) In either of the following settings:

(i) In a dental office setting, under the direct or general supervision of a dentist as determined by the dentist.

(ii) In public health settings, using telehealth, as defined by Section 2290.5, for the purpose of communication with the supervising dentist, including, but not limited to, schools, head start and preschool programs, and community clinics, under the general supervision of a dentist.

(B) After the diagnosis, treatment plan, and instruction to perform the procedure provided by a dentist.

(c) The functions described in subdivision (b) may be performed by a registered dental assistant in extended functions only after completion of a program that includes training in performing those functions, or after providing evidence, satisfactory to the board, of having completed a board-approved course in those functions.

(d) No later than January 1, 2018, the board shall adopt regulations to establish requirements for courses of instruction for the procedures authorized to be performed by a registered dental assistant in extended functions pursuant to this section using the competency-based training protocols established by the Health Workforce Pilot Project (HWPP) No. 172 through the Office of Health Planning and Development. The board shall submit to the committee proposed regulatory language for the curriculum for the Interim Therapeutic Restoration to the committee for the purpose of promulgating regulations for registered dental hygienists and registered dental hygienists in alternative practice as described in Section 1910.5. The language submitted by the board shall mirror the instructional curriculum for the registered dental assistant in extended functions. Any subsequent amendments to the regulations that are promulgated by the board for the Interim Therapeutic Restoration curriculum shall be submitted to the committee.

(e) The board may issue a permit to a registered dental assistant in extended functions who files a completed application, including the fee, to provide the duties specified in this section after the board has determined the registered dental assistant in extended functions has completed the coursework required in subdivision (c).

(f) This section shall become operative on January 1, 2018.

SEC. 4. Section 1910.5 is added to the Business and Professions Code, to read:

1910.5. (a) In addition to the duties specified in Section 1910, a registered dental hygienist is authorized to perform the following additional duties, as specified:

(1) Determine which radiographs to perform on a patient who has not received an initial examination by the supervising dentist for the specific purpose of the dentist making a diagnosis and treatment plan for the patient. In these circumstances, the dental hygienist shall follow protocols established by the supervising dentist. This paragraph shall only apply in the following settings:

(A) In a dental office setting.

(B) In a public health setting, using telehealth, as defined by Section 2290.5, for the purpose of communication with the supervising dentist, including, but not limited to, schools, head start and preschool programs, and community clinics.

(2) Place protective restorations, which for this purpose are identified as interim therapeutic restorations, and defined as a direct provisional restoration placed to stabilize the tooth until a licensed dentist diagnoses the need for further definitive treatment. An interim therapeutic restoration consists of the removal of soft material from the tooth using only hand instrumentation, without the use of rotary instrumentation, and subsequent placement of an adhesive restorative material. Local anesthesia shall not be necessary for interim therapeutic restoration placement. Interim therapeutic restorations shall be placed only in accordance with both of the following:

(A) In either of the following settings:

(i) In a dental office setting.

(ii) In a public health setting, using telehealth, as defined by Section 2290.5, for the purpose of communication with the supervising dentist, including, but not limited to, schools, head start and preschool programs, and community clinics.

(B) After the diagnosis, treatment plan, and instruction to perform the procedure provided by a dentist.

(b) The functions described in subdivision (a) may be performed by a registered dental hygienist only after completion of a program that includes training in performing those functions, or after providing evidence, satisfactory to the committee, of having completed a committee-approved course in those functions.

(c) (1) No later than January 1, 2018, the committee shall adopt regulations to establish requirements for courses of instruction for the procedures authorized to be performed by a registered dental hygienist and registered dental hygienist in alternative practice pursuant to Sections 1910.5 and 1926.05 using the competency-based training protocols established by the Health Workforce Pilot Project (HWPP) No. 172 through the Office of Health Planning and Development. The committee shall use the curriculum submitted by the dental board, pursuant to Section 1753.55, to adopt

regulatory language for approval of courses of instruction for the Interim Therapeutic Restoration. Any subsequent amendments to the regulations for the Interim Therapeutic Restoration curriculum that are promulgated by the committee shall be agreed upon by the board and the committee.

(2) Prior to January 1, 2018, the committee shall use the competency-based training protocols established by HWPP No. 172 through the Office of Statewide Health Planning and Development to approve courses of instruction for the procedures authorized in this section.

(3) A registered dental hygienist who has completed the prescribed training in HWPP No. 172 established by the Office of Statewide Health Planning and Development pursuant to Article 1 (commencing with Section 128125) of Chapter 3 of Part 3 of Division 107 of the Health and Safety Code shall be deemed to have satisfied the requirement for completion of a course of instruction approved by the committee.

(4) In addition to the instructional components described in this subdivision, a program shall contain both of the instructional components described in this paragraph:

(A) The course shall be established at the postsecondary educational level.

(B) All faculty responsible for clinical evaluation shall have completed a one-hour methodology course in clinical evaluation or have a faculty appointment at an accredited dental education program prior to conducting evaluations of students.

(d) This section shall remain in effect only until January 1, 2018, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2018, deletes or extends that date.

SEC. 5. Section 1910.5 is added to the Business and Professions Code, to read:

1910.5. (a) In addition to the duties specified in Section 1910, a registered dental hygienist is authorized to perform the following additional duties, as specified:

(1) Determine which radiographs to perform on a patient who has not received an initial examination by the supervising dentist for the specific purpose of the dentist making a diagnosis and treatment plan for the patient. In these circumstances, the dental hygienist shall follow protocols established by the supervising dentist. This paragraph only applies in the following settings:

(A) In a dental office setting.

(B) In a public health setting, using telehealth, as defined by Section 2290.5, for the purpose of communication with the supervising dentist, including, but not limited to, schools, head start and preschool programs, and community clinics.

(2) Place protective restorations, which for this purpose are identified as interim therapeutic restorations, and defined as a direct provisional restoration placed to stabilize the tooth until a licensed dentist diagnoses the need for further definitive treatment. An interim therapeutic restoration consists of the removal of soft material from the tooth using only hand

instrumentation, without the use of rotary instrumentation, and subsequent placement of an adhesive restorative material. Local anesthesia shall not be necessary for interim therapeutic restoration placement. Interim therapeutic restorations shall be placed only in accordance with both of the following:

(A) In either of the following settings:

(i) In a dental office setting.

(ii) In a public health setting, using telehealth, as defined by Section 2290.5, for the purpose of communication with the supervising dentist, including, but not limited to, schools, head start and preschool programs, and community clinics.

(B) After the diagnosis, treatment plan, and instruction to perform the procedure provided by a dentist.

(b) The functions described in subdivision (a) may be performed by a registered dental hygienist only after completion of a program that includes training in performing those functions, or after providing evidence, satisfactory to the committee, of having completed a committee-approved course in those functions.

(c) No later than January 1, 2018, the committee shall adopt regulations to establish requirements for courses of instruction for the procedures authorized to be performed by a registered dental hygienist and registered dental hygienist in alternative practice pursuant to Sections 1910.5 and 1926.05, using the competency-based training protocols established by the Health Workforce Pilot Project (HWPP) No. 172 through the Office of Health Planning and Development. The committee shall use the curriculum submitted by the board pursuant to Section 1753.55 to adopt regulatory language for approval of courses of instruction for the Interim Therapeutic Restoration. Any subsequent amendments to the regulations for the Interim Therapeutic Restoration curriculum that are promulgated by the committee shall be agreed upon by the board and the committee.

(d) This section shall become operative on January 1, 2018.

SEC. 6. Section 1925 of the Business and Professions Code is amended to read:

1925. A registered dental hygienist in alternative practice may practice, pursuant to subdivision (a) of Section 1907, subdivision (a) of Section 1908, subdivisions (a) and (b) of Section 1910, Section 1910.5, and Section 1926.05 as an employee of a dentist or of another registered dental hygienist in alternative practice, as an independent contractor, as a sole proprietor of an alternative dental hygiene practice, as an employee of a primary care clinic or specialty clinic that is licensed pursuant to Section 1204 of the Health and Safety Code, as an employee of a primary care clinic exempt from licensure pursuant to subdivision (c) of Section 1206 of the Health and Safety Code, as an employee of a clinic owned or operated by a public hospital or health system, or as an employee of a clinic owned and operated by a hospital that maintains the primary contract with a county government to fill the county's role under Section 17000 of the Welfare and Institutions Code.

SEC. 7. Section 1926.05 is added to the Business and Professions Code, to read:

1926.05. (a) In addition to the duties specified in Section 1926, a registered dental hygienist in alternative practice is authorized to perform the duties pursuant to Section 1910.5, in the following settings:

- (1) Residences of the homebound.
- (2) Schools.
- (3) Residential facilities and other institutions.

(b) A registered dental hygienist in alternative practice is authorized to perform the duties pursuant to paragraph (2) of subdivision (a) of Section 1910.5 in the settings specified in this section under the general supervision of a dentist.

SEC. 8. Section 1944 of the Business and Professions Code is amended to read:

1944. (a) The committee shall establish by resolution the amount of the fees that relate to the licensing of a registered dental hygienist, a registered dental hygienist in alternative practice, and a registered dental hygienist in extended functions. The fees established by board resolution in effect on June 30, 2009, as they relate to the licensure of registered dental hygienists, registered dental hygienists in alternative practice, and registered dental hygienists in extended functions, shall remain in effect until modified by the committee. The fees are subject to the following limitations:

(1) The application fee for an original license and the fee for issuance of an original license shall not exceed two hundred fifty dollars (\$250).

(2) The fee for examination for licensure as a registered dental hygienist shall not exceed the actual cost of the examination.

(3) For third- and fourth-year dental students, the fee for examination for licensure as a registered dental hygienist shall not exceed the actual cost of the examination.

(4) The fee for examination for licensure as a registered dental hygienist in extended functions shall not exceed the actual cost of the examination.

(5) The fee for examination for licensure as a registered dental hygienist in alternative practice shall not exceed the actual cost of administering the examination.

(6) The biennial renewal fee shall not exceed one hundred sixty dollars (\$160).

(7) The delinquency fee shall not exceed one-half of the renewal fee. Any delinquent license may be restored only upon payment of all fees, including the delinquency fee, and compliance with all other applicable requirements of this article.

(8) The fee for issuance of a duplicate license to replace one that is lost or destroyed, or in the event of a name change, shall not exceed twenty-five dollars (\$25) or one-half of the renewal fee, whichever is greater.

(9) The fee for certification of licensure shall not exceed one-half of the renewal fee.

(10) The fee for each curriculum review and site evaluation for educational programs for dental hygienists who are not accredited by a

committee-approved agency shall not exceed two thousand one hundred dollars (\$2,100).

(11) The fee for each review or approval of course requirements for licensure or procedures that require additional training shall not exceed seven hundred fifty dollars (\$750).

(12) The initial application and biennial fee for a provider of continuing education shall not exceed five hundred dollars (\$500).

(13) The amount of fees payable in connection with permits issued under Section 1962 is as follows:

(A) The initial permit fee is an amount equal to the renewal fee for the applicant's license to practice dental hygiene in effect on the last regular renewal date before the date on which the permit is issued.

(B) If the permit will expire less than one year after its issuance, then the initial permit fee is an amount equal to 50 percent of the renewal fee in effect on the last regular renewal date before the date on which the permit is issued.

(b) The renewal and delinquency fees shall be fixed by the committee by resolution at not more than the current amount of the renewal fee for a license to practice under this article nor less than five dollars (\$5).

(c) Fees fixed by the committee by resolution pursuant to this section shall not be subject to the approval of the Office of Administrative Law.

(d) Fees collected pursuant to this section shall be collected by the committee and deposited into the State Dental Hygiene Fund, which is hereby created. All money in this fund shall, upon appropriation by the Legislature in the annual Budget Act, be used to implement the provisions of this article.

(e) No fees or charges other than those listed in this section shall be levied by the committee in connection with the licensure of registered dental hygienists, registered dental hygienists in alternative practice, or registered dental hygienists in extended functions.

(f) The fee for registration of an extramural dental facility shall not exceed two hundred fifty dollars (\$250).

(g) The fee for registration of a mobile dental hygiene unit shall not exceed one hundred fifty dollars (\$150).

(h) The biennial renewal fee for a mobile dental hygiene unit shall not exceed two hundred fifty dollars (\$250).

(i) The fee for an additional office permit shall not exceed two hundred fifty dollars (\$250).

(j) The biennial renewal fee for an additional office as described in Section 1926.4 shall not exceed two hundred fifty dollars (\$250).

(k) The initial application and biennial special permit fee is an amount equal to the biennial renewal fee specified in paragraph (6) of subdivision (a).

(l) The fees in this section shall not exceed an amount sufficient to cover the reasonable regulatory cost of carrying out the provisions of this article.

SEC. 9. Section 128196 is added to the Health and Safety Code, to read:

128196. (a) Notwithstanding Section 128180, the office shall extend the duration of the health workforce project known as Health Workforce Pilot Project No. 172 until January 1, 2016, in order to maintain the competence of the clinicians trained during the course of the project, and to authorize training of additional clinicians in the duties specified in HWPP No. 172.

(b) This section shall remain in effect only until January 1, 2016, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2016, deletes or extends that date.

SEC. 10. Section 14132.725 of the Welfare and Institutions Code is amended to read:

14132.725. (a) To the extent that federal financial participation is available, face-to-face contact between a health care provider and a patient is not required under the Medi-Cal program for teleophthalmology, teledermatology, and teledentistry by store and forward. Services appropriately provided through the store and forward process are subject to billing and reimbursement policies developed by the department.

(b) For purposes of this section, “teleophthalmology, teledermatology, and teledentistry by store and forward” means an asynchronous transmission of medical or dental information to be reviewed at a later time by a physician at a distant site who is trained in ophthalmology or dermatology or, for teleophthalmology, by an optometrist who is licensed pursuant to Chapter 7 (commencing with Section 3000) of Division 2 of the Business and Professions Code, or a dentist, where the physician, optometrist, or dentist at the distant site reviews the medical or dental information without the patient being present in real time. A patient receiving teleophthalmology, teledermatology, or teledentistry by store and forward shall be notified of the right to receive interactive communication with the distant specialist physician, optometrist, or dentist and shall receive an interactive communication with the distant specialist physician, optometrist, or dentist, upon request. If requested, communication with the distant specialist physician, optometrist, or dentist may occur either at the time of the consultation, or within 30 days of the patient’s notification of the results of the consultation. If the reviewing optometrist identifies a disease or condition requiring consultation or referral pursuant to Section 3041 of the Business and Professions Code, that consultation or referral shall be with an ophthalmologist or other appropriate physician and surgeon, as required.

(c) Notwithstanding Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, the department may implement, interpret, and make specific this section by means of all-county letters, provider bulletins, and similar instructions.

1 A bill to be entitled
2 An act relating to telehealth; creating s. 456.47,
3 F.S.; defining terms; establishing standards of
4 practice for telehealth providers; authorizing
5 telehealth providers to use telehealth to perform
6 patient evaluations; authorizing certain telehealth
7 providers to use telehealth to prescribe certain
8 controlled substances under specified circumstances;
9 providing that a nonphysician telehealth provider
10 using telehealth and acting within his or her relevant
11 scope of practice is not deemed to be practicing
12 medicine without a license; providing recordkeeping
13 requirements for telehealth providers; providing
14 registration requirements for out-of-state telehealth
15 providers; requiring the Department of Health to
16 publish certain information on its website;
17 authorizing a board, or the department if there is no
18 board, to take disciplinary action against a
19 telehealth provider under certain circumstances;
20 providing venue; providing exemptions from telehealth
21 registration requirements; authorizing the applicable
22 board, or the department if there is no board, to
23 adopt rules; creating s. 627.42396, F.S.; providing
24 requirements for a contract between a certain health
25 insurer and a telehealth provider; amending s. 641.31,

26 F.S.; providing requirements for a contract between a
27 certain health maintenance organization and a
28 telehealth provider; requiring the department to
29 annually review the amount of certain collected fees
30 and make a determination relating to the sufficiency
31 of funding to implement specified telehealth
32 provisions; upon making a certain determination,
33 requiring the department to indicate insufficient
34 funding and recommend fee adjustments in its annual
35 legislative budget request; providing an
36 appropriation; authorizing positions; providing
37 effective dates.

38
39 Be It Enacted by the Legislature of the State of Florida:

40
41 Section 1. Section 456.47, Florida Statutes, is created to
42 read:

43 456.47 Use of telehealth to provide services.-

44 (1) DEFINITIONS.-As used in this section, the term:

45 (a) "Telehealth" means the use of synchronous or
46 asynchronous telecommunications technology by a telehealth
47 provider to provide health care services, including, but not
48 limited to, assessment, diagnosis, consultation, treatment, and
49 monitoring of a patient; transfer of medical data; patient and
50 professional health-related education; public health services;

51 and health administration. The term does not include audio-only
52 telephone calls, e-mail messages, or facsimile transmissions.

53 (b) "Telehealth provider" means any individual who
54 provides health care and related services using telehealth and
55 who is licensed or certified under s. 393.17; part III of
56 chapter 401; chapter 457; chapter 458; chapter 459; chapter 460;
57 chapter 461; chapter 463; chapter 464; chapter 465; chapter 466;
58 chapter 467; part I, part III, part IV, part V, part X, part
59 XIII, or part XIV of chapter 468; chapter 478; chapter 480; part
60 II or part III of chapter 483; chapter 484; chapter 486; chapter
61 490; or chapter 491; who is licensed under a multi-state health
62 care licensure compact of which Florida is a member state; or
63 who is registered under and complies with subsection (4).

64 (2) PRACTICE STANDARDS.—

65 (a) A telehealth provider has the duty to practice in a
66 manner consistent with his or her scope of practice and the
67 prevailing professional standard of practice for a health care
68 professional who provides in-person health care services to
69 patients in this state.

70 (b) A telehealth provider may use telehealth to perform a
71 patient evaluation. If a telehealth provider conducts a patient
72 evaluation sufficient to diagnose and treat the patient, the
73 telehealth provider is not required to research a patient's
74 medical history or conduct a physical examination of the patient
75 before using telehealth to provide health care services to the

76 patient.

77 (c) A telehealth provider may not use telehealth to
78 prescribe a controlled substance unless the controlled substance
79 is prescribed for the following:

80 1. The treatment of a psychiatric disorder;

81 2. Inpatient treatment at a hospital licensed under
82 chapter 395;

83 3. The treatment of a patient receiving hospice services
84 as defined in s. 400.601; or

85 4. The treatment of a resident of a nursing home facility
86 as defined in s. 400.021.

87 (d) A telehealth provider and a patient may be in separate
88 locations when telehealth is used to provide health care
89 services to a patient.

90 (e) A nonphysician telehealth provider using telehealth
91 and acting within his or her relevant scope of practice, as
92 established by Florida law or rule, is not in violation of s.
93 458.327(1)(a) or s. 459.013(1)(a).

94 (3) RECORDS.—A telehealth provider shall document in the
95 patient's medical record the health care services rendered using
96 telehealth according to the same standard as used for in-person
97 services. Medical records, including video, audio, electronic,
98 or other records generated as a result of providing such
99 services, are confidential pursuant to ss. 395.3025(4) and
100 456.057.

101 (4) REGISTRATION OF OUT-OF-STATE TELEHEALTH PROVIDERS.—

102 (a) A health care professional not licensed in this state
103 may provide health care services to a patient located in this
104 state using telehealth if the health care professional registers
105 with the applicable board, or the department if there is no
106 board, and provides health care services within the applicable
107 scope of practice established by Florida law or rule.

108 (b) The board, or the department if there is no board,
109 shall register a health care professional not licensed in this
110 state as a telehealth provider if the health care professional:

111 1. Completes an application in the format prescribed by
112 the department;

113 2. Is licensed with an active, unencumbered license that
114 is issued by another state, the District of Columbia, or a
115 possession or territory of the United States and that is
116 substantially similar to a license issued to a Florida-licensed
117 provider specified in paragraph (1) (b);

118 3. Has not been the subject of disciplinary action
119 relating to his or her license during the 5-year period
120 immediately prior to the submission of the application;

121 4. Designates a duly appointed registered agent for
122 service of process in this state on a form prescribed by the
123 department; and

124 5. Demonstrates to the board, or the department if there
125 is no board, that he or she is in compliance with paragraph (e).

126
127 The department shall use the National Practitioner Data Bank to
128 verify the information submitted under this paragraph, as
129 applicable.

130 (c) The website of a telehealth provider registered under
131 paragraph (b) must prominently display a hyperlink to the
132 department's website containing information required under
133 paragraph (h).

134 (d) A health care professional may not register under this
135 subsection if his or her license to provide health care services
136 is subject to a pending disciplinary investigation or action, or
137 has been revoked in any state or jurisdiction. A health care
138 professional registered under this subsection must notify the
139 appropriate board, or the department if there is no board, of
140 restrictions placed on his or her license to practice, or any
141 disciplinary action taken or pending against him or her, in any
142 state or jurisdiction. The notification must be provided within
143 5 business days after the restriction is placed or disciplinary
144 action is initiated or taken.

145 (e) A provider registered under this subsection shall
146 maintain professional liability coverage or financial
147 responsibility, that includes coverage or financial
148 responsibility for telehealth services provided to patients not
149 located in the provider's home state, in an amount equal to or
150 greater than the requirements for a licensed practitioner under

151 s. 456.048, s. 458.320, or s. 459.0085, as applicable.

152 (f) A health care professional registered under this
153 subsection may not open an office in this state and may not
154 provide in-person health care services to patients located in
155 this state.

156 (g) A pharmacist registered under this subsection may only
157 use a pharmacy permitted under chapter 465, a nonresident
158 pharmacy registered under s. 465.0156, or a nonresident pharmacy
159 or outsourcing facility holding an active permit pursuant to s.
160 465.0158 to dispense medicinal drugs to patients located in this
161 state.

162 (h) The department shall publish on its website a list of
163 all registrants and include, to the extent applicable, each
164 registrant's:

- 165 1. Name.
- 166 2. Health care occupation.
- 167 3. Completed health care training and education, including
168 completion dates and any certificates or degrees obtained.
- 169 4. Out-of-state health care license with the license
170 number.
- 171 5. Florida telehealth provider registration number.
- 172 6. Specialty.
- 173 7. Board certification.
- 174 8. Five-year disciplinary history, including sanctions and
175 board actions.

176 9. Medical malpractice insurance provider and policy
177 limits, including whether the policy covers claims that arise in
178 this state.

179 10. The name and address of the registered agent
180 designated for service of process in this state.

181 (i) The board, or the department if there is no board, may
182 take disciplinary action against an out-of-state telehealth
183 provider registered under this subsection if the registrant:

184 1. Fails to notify the applicable board, or the department
185 if there is no board, of any adverse actions taken against his
186 or her license as required under paragraph (d).

187 2. Has restrictions placed on or disciplinary action taken
188 against his or her license in any state or jurisdiction.

189 3. Violates any of the requirements of this section.

190 4. Commits any act that constitutes grounds for
191 disciplinary action under s. 456.072(1) or the applicable
192 practice act for Florida-licensed providers.

193
194 Disciplinary action taken by a board, or the department if there
195 is no board, under this paragraph may include suspension or
196 revocation of the provider's registration or the issuance of a
197 reprimand or letter of concern. A suspension may be accompanied
198 by a corrective action plan as determined by the board, or the
199 department if there is no board, the completion of which may
200 lead to the suspended registration being reinstated according to

201 rules adopted by the board, or the department if there is no
202 board.

203 (5) VENUE.—For the purposes of this section, any act that
204 constitutes the delivery of health care services is deemed to
205 occur at the place where the patient is located at the time the
206 act is performed or in the patient's county of residence. Venue
207 for a civil or administrative action initiated by the
208 department, the appropriate board, or a patient who receives
209 telehealth services from an out-of-state telehealth provider may
210 be located in the patient's county of residence or in Leon
211 County.

212 (6) EXEMPTIONS.—A health care professional who is not
213 licensed to provide health care services in this state but who
214 holds an active license to provide health care services in
215 another state or jurisdiction, and who provides health care
216 services using telehealth to a patient located in this state, is
217 not subject to the registration requirement under this section
218 if the services are provided:

219 (a) In response to an emergency medical condition as
220 defined in s. 395.002; or

221 (b) In consultation with a health care professional
222 licensed in this state who has ultimate authority over the
223 diagnosis and care of the patient.

224 (7) RULEMAKING.—The applicable board, or the department if
225 there is no board, may adopt rules to administer this section.

226 Section 2. Effective January 1, 2020, section 627.42396,
227 Florida Statutes, is created to read:

228 627.42396 Reimbursement for telehealth services.—A
229 contract between a health insurer issuing major medical
230 comprehensive coverage through an individual or group policy and
231 a telehealth provider, as defined in s. 456.47, must be
232 voluntary between the insurer and the provider and must
233 establish mutually acceptable payment rates or payment
234 methodologies for services provided through telehealth. Any
235 contract provision that distinguishes between payment rates or
236 payment methodologies for services provided through telehealth
237 and the same services provided without the use of telehealth
238 must be initialed by the telehealth provider.

239 Section 3. Effective January 1, 2020, subsection (45) is
240 added to section 641.31, Florida Statutes, to read:

241 641.31 Health maintenance contracts.—

242 (45) A contract between a health maintenance organization
243 issuing major medical individual or group coverage and a
244 telehealth provider, as defined in s. 456.47, must be voluntary
245 between the health maintenance organization and the provider
246 must establish mutually acceptable payment rates or payment
247 methodologies for services provided through telehealth. Any
248 contract provision that distinguishes between payment rates or
249 payment methodologies for services provided through telehealth
250 and the same services provided without the use of telehealth

251 must be initialed by the telehealth provider.

252 Section 4. Effective July 1, 2020, the Department of
253 Health shall annually review the amount of any fees collected
254 under section 456.47, Florida Statutes, in the prior fiscal year
255 and shall determine whether such fees are sufficient to enable
256 the department and the boards, as defined in section 456.001,
257 Florida Statutes, to fully implement section 456.47, Florida
258 Statutes. If the department determines that the fees collected
259 are insufficient, the department shall so indicate to the
260 Legislature in its annual legislative budget request and shall
261 recommend appropriate adjustments to the applicable fees.

262 Section 5. For fiscal year 2019-2020, the sums of \$261,389
263 in recurring funds and \$15,020 in nonrecurring funds from the
264 Medical Quality Assurance Trust Fund are appropriated to the
265 Department of Health, and four full-time equivalent positions
266 with associated salary rate of 145,870 are authorized for the
267 purpose of implementing s. 456.47, Florida Statutes, as created
268 by this act.

269 Section 6. Except as otherwise provided, this act shall
270 take effect July 1, 2019.

DENTAL BOARD[650]

Notice of Intended Action

Proposing rule making related to teledentistry
and providing an opportunity for public comment

The Dental Board hereby proposes to amend Chapter 27, "Standards of Practice and Principles of Professional Ethics," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code sections 147.76, 153.33 and 272C.3.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code sections 147.2, 153.13, 153.15, 153.17, and 153.38.

Purpose and Summary

The primary purpose of these proposed amendments is to define standards of practice for teledentistry. Technological advances have made it possible for dental services to be provided without an on-site dentist. New rule 650—27.12(153) expands access to dental services utilizing available technology. The new rule also establishes criteria to safely provide dental services while maintaining patient confidentiality.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.

Waivers

The rules in this chapter establish the minimum requirements to meet the standard of care in the practice of dentistry. Waiver of these rules would pose a risk to members of the public since it would mitigate the minimum acceptable standard of the practice of dentistry.

Public Comment

Any interested person may submit written or oral comments concerning this proposed rule making. Written or oral comments in response to this rule making must be received by the Board no later than 4:30 p.m. on May 15, 2019. Comments should be directed to:

Steve Garrison
Iowa Dental Board
400 S.W. Eighth Street, Suite D
Des Moines, Iowa 50309
Phone: 515.281.3248
Fax: 515.281.7969
Email: steven.garrison@iowa.gov

Public Hearing

No public hearing is scheduled at this time. As provided in Iowa Code section 17A.4(1)“b,” an oral presentation regarding this rule making may be demanded by 25 interested persons, a governmental subdivision, the Administrative Rules Review Committee, an agency, or an association having 25 or more members.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee’s meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making actions are proposed:

ITEM 1. Renumber rule 650—27.12(17A,147,153,272C) as 650—27.13(17A,147,153,272C).

ITEM 2. Adopt the following new rule 650—27.12(153):

650—27.12(153) Teledentistry. This rule establishes the standards of practice for teledentistry.

27.12(1) *Definitions*. As used in this rule:

“*Asynchronous technology*” means store-and-forward technology that allows a dentist, dental hygienist, or dental assistant to transmit a patient’s health information to a dentist for viewing at a later time.

“*Board*” means the Iowa dental board.

“*Synchronous technology*” means two-way audiovisual technology that allows a dentist to see and communicate in real time with a patient who is located in a different physical location.

“*Teledentistry*” means the practice of dentistry when a patient receives dental care in a location where the dentist is not physically at that location but is delivering or overseeing the delivery of those services through the use of teledentistry technology.

“*Teledentistry technology*” means synchronous or asynchronous technology.

27.12(2) *Teledentistry authorized*. In accordance with this rule, a dentist may utilize teledentistry to provide dental care to patients located in Iowa. A dentist shall not provide dental care to a patient located in Iowa based solely on an Internet questionnaire consisting of a static set of questions that have been answered by the patient.

27.12(3) *License required*. A dentist who uses teledentistry in the examination, diagnosis, or treatment of a patient located in Iowa shall hold an active Iowa license to practice dentistry.

27.12(4) *General requirements*. The standard of dental care is the same whether a patient is seen in person or through a teledentistry encounter. The use of teledentistry is not an expansion of the scope of practice for dental hygienists or dental assistants. A dentist who uses teledentistry shall utilize evidence-based teledentistry standards of practice and practice guidelines, to the degree they are available, to ensure patient safety, quality of care, and positive outcomes.

27.12(5) *Calibration training*. The dentist, dental hygienist, and dental assistant shall undergo calibration training for any teledentistry technology utilized. Calibration training shall include communication and data sharing to ensure that the use of teledentistry technologies allows the dentist to provide diagnoses and treatment planning with comparable efficacy to diagnoses and treatment planning provided at an in-person examination. Calibration training includes processes and protocols for screening, data collection, definitive examination, and diagnosis. The purpose of calibration training is to diminish practice inconsistencies and ensure coordinated efforts.

27.12(6) *Informed consent*. When teledentistry will be utilized, a dentist shall ensure informed consent covers the following additional information:

a. A description of the types of dental care services provided via teledentistry, including limitations on services;

b. The identity, contact information, licensure, credentials, and qualifications of all dentists, dental hygienists, and dental assistants involved in the patient's dental care; and

c. Precautions for technological failures or emergency situations.

27.12(7) *Examination*. A dentist may use teledentistry to conduct an examination for a new patient or for a new diagnosis if the examination is conducted in accordance with evidence-based standards of practice to sufficiently establish an informed diagnosis. A dentist shall not conduct a dental examination using teledentistry if the standard of care necessitates an in-person dental examination. Once an examination has been conducted, a dentist may delegate the services to be provided.

27.12(8) *Follow-up and emergency care*. A dentist who uses teledentistry shall have adequate knowledge of the nature and availability of local dental resources to provide appropriate follow-up care to a patient following a teledentistry encounter. A dentist shall refer a patient to an acute care facility or an emergency department when referral is necessary for the safety of the patient or in the case of emergency.

27.12(9) *Supervision*. With the exception of administering local anesthesia or nitrous oxide inhalation analgesia, or performing expanded functions, a dentist may delegate and supervise services to be performed to a dental hygienist or dental assistant.

a. When direct supervision of a dental hygienist or dental assistant is required, a dentist may provide direct supervision using synchronous technology. A dentist is not required to directly supervise the entire delivery of dental care but must appear using synchronous technology upon request with a response time similar to what would be expected if the dentist were present in the treatment facility.

b. When general supervision of a dental hygienist or dental assistant is required, a dentist may utilize teledentistry technology.

c. When public health supervision is utilized, a supervising dentist may authorize use of teledentistry technology.

27.12(10) *Patient records*. A teledentistry encounter shall be clearly characterized as such in a patient record.

27.12(11) *Privacy and security*. All dentists, dental hygienists, and dental assistants shall ensure that the use of teledentistry complies with the privacy and security requirements of the Health Insurance Portability and Accountability Act.

ITEM 3. Amend 650—Chapter 27, implementation sentence, as follows:

These rules are intended to implement Iowa Code sections 153.34(7), ~~153.34(9)~~, ~~272C.3~~, ~~272C.4(1f)~~ and 272C.4(6).



NOTICE OF TEXT

[Authority G.S. 150B-21.2(c)]

OAH USE ONLY

VOLUME:

ISSUE:

CHECK APPROPRIATE BOX:

- ☒ Notice with a scheduled hearing
☐ Notice without a scheduled hearing
☐ Republication of text. Complete the following cite for the volume and issue of previous publication, as well as blocks 1 - 4 and 7 - 13. If a hearing is scheduled, complete block 5.
Previous publication of text was published in Volume: Issue:

1. Rule-Making Agency: North Carolina Board of Dental Examiners

2. Link to agency website pursuant to G.S. 150B-19.1(c): www.ncdentalboard.org

3. Proposed Action -- Check the appropriate box(es) and list rule citation(s) beside proposed action:

- ☒ **ADOPTION:** 21 NCAC 16T.0103
- ☒ **READOPTION** with substantive changes: 21 NCAC 16T.0101
- ☐ **READOPTION** without substantive changes:
- ☐ **AMENDMENT:**
- ☐ **REPEAL:**

4. Proposed effective date: January 1, 2019

5. Is a public hearing planned? ☒ Yes ☐ No

If yes: Public Hearing date: October 11, 2018

Public Hearing time: 6:30 pm

Public Hearing Location: 2000 Perimeter Park Drive, Suite 160, Morrisville, North Carolina 27560

6. If no public hearing is scheduled, provide instructions on how to demand a public hearing:

7. Explain Reason For Proposed Rule(s): The Board determined that a patient's informed consent to treatment must be documented by the dentist in the patient record. To that end, the Board proposes amending 21 NCAC 16T.0101 to add this requirement, and to adopt 21 NCAC 16T.0103 to define the requirements for obtaining informed consent. 21 NCAC 16T.0101 was identified as a rule with substantive public interest during the Board's periodic review of existing rules, and the Board seeks to readopt the rule with this change.

8. Procedure for Subjecting a Proposed Rule to Legislative Review: If an objection is not resolved prior to the adoption of the rule, a person may also submit written objections to the Rules Review Commission. If the Rules Review Commission receives written and signed objections in accordance with G.S. 150B-21.3(b2) from 10 or more persons clearly requesting review by the legislature and the Rules Review Commission approves the rule, the rule will become effective as provided in G.S. 150B-21.3(b1). The Commission will receive written objections until 5:00 p.m. on the day following the day the Commission approves the rule. The Commission will receive those objections by mail, delivery service, hand delivery, or facsimile transmission. If you have any further questions concerning the submission of objections to the Commission, please call a Commission staff attorney at 919-431-3000.

☐ Rule(s) is automatically subject to legislative review. Cite statutory reference:

9. The person to whom written comments may be submitted on the proposed rule(s):

Name: Bobby D. White, Esq.

Address: 2000 Perimeter Park Drive, Suite 160, Morrisville, North Carolina 27560

Phone (optional):

Fax (optional):

E-Mail (optional):

10. Comment Period Ends: November 5, 2018

11. Fiscal impact (check all that apply).

If this form contains rules that have different fiscal impacts, list the rule citations beside the appropriate impact.

- ☐ State funds affected
- ☐ Environmental permitting of DOT affected
Analysis submitted to Board of Transportation
- ☐ Local funds affected
- ☐ Substantial economic impact ($\geq \$1,000,000$)
- ☐ Approved by OSBM
- ☒ No fiscal note required by G.S. 150B-21.4
- ☐ No fiscal note required by G.S. 150B-21.3A(d)(2)

12. Rule-making Coordinator: Whitney Waldenberg

Address: 2000 Perimeter Park Drive, Suite 160,
Morrisville, North Carolina 27560

Phone: 919-610-0573

E-Mail: whitney@brockerlawfirm.com

Agency contact, if any:

Phone:

E-mail:

13. The Agency formally proposed the text of this rule(s) on
Date: August 10, 2018

14. Signature of Agency Head* or Rule-making Coordinator:



*If this function has been delegated (reassigned) pursuant to
G.S. 143B-10(a), submit a copy of the delegation with this form.

Typed Name: Whitney Waldenberg

Title: Rulemaking Coordinator

21 NCAC 16T .0101 is proposed for readoption with substantive changes as follows:

SUBCHAPTER 16T – PATIENT RECORDS

SECTION .0100 – PATIENT RECORDS

21 NCAC 16T .0101 RECORD CONTENT

A dentist shall maintain ~~complete~~ treatment records on all patients for a period of ~~at least~~ 10 years from the last treatment ~~date~~. date, except that work orders must only be maintained for a period of 2 years. Treatment records may include such information as the dentist deems appropriate but shall include:

- (1) the patient's ~~Patient's~~ full name, address, and treatment dates;
- (2) the patient's ~~Patient's nearest relative~~ emergency contact or responsible party;
- (3) a current ~~Current~~ health history;
- (4) the diagnosis ~~Diagnosis~~ of condition;
- (5) the ~~Specific~~ treatment rendered and by whom;
- (6) the name ~~Name~~ and strength of any medications prescribed, dispensed, or administered along with the quantity and date provided;
- (7) the work ~~Work~~ orders issued; ~~issued during the past two years~~ ;
- (8) the treatment ~~Treatment~~ plans for patients of record, except that treatment plans are not required for patients seen only on an emergency basis;
- (9) the diagnostic ~~Diagnostic~~ radiographs, orthodontic study models, and other diagnostic aids, if taken;
- (10) the patient's ~~Patients'~~ financial records and copies of all insurance claim forms; ~~and~~
- (11) the rationale ~~Rationale~~ for prescribing each ~~narcotic~~. narcotic; and
- (12) A written record that the patient gave informed consent consistent with Rule .0103 of this Section.

*History Note: Authority G.S. 90-28; 90-48;
Eff. October 1, 1996;
Amended Eff. May 1, 2016; July 1, 2015;:-
Readopted with substantive changes January 1, 2019.*

1 21 NCAC 16T .0103 is proposed for adoption as follows:

2

3 **21 NCAC 16T .0103 INFORMED CONSENT**

4 (a) To obtain informed consent to a specific procedure or treatment to be provided, the dentist shall discuss with a
5 patient or other person authorized by the patient or by law to give informed consent on behalf of the patient, prior to
6 any treatment or procedure, information sufficient to permit the patient or authorized person to understand:

7 (1) the condition to be treated;

8 (2) the specific procedures and treatments to be provided;

9 (3) the anticipated results of the procedures and treatments to be provided;

10 (4) the risks and hazards of the procedures or treatments to be provided that are recognized by dentists
11 engaged in the same field of practice;

12 (5) the risks of foregoing the proposed treatments or procedures; and

13 (6) alternative procedures or treatment options;

14 (b) A dentist is not required to obtain informed consent if

15 (1) treatment is rendered on an emergency basis; and

16 (2) the patient is incapacitated.

17

18 *History Note:* Authority G.S. 90-28; 90-48;

19 Eff. January 1, 2019.

Formatted: Underline

INTERPRETIVE STATEMENT REGARDING INFORMED CONSENT

To protect the public interest, the North Carolina Board of Dental Examiners (Board) provides interpretation and guidance regarding acceptable standards of care on the issue of patients' informed consent. Patients have the right to receive adequate information regarding proposed treatments or procedures to enable them to make informed decisions about their care. The patient's informed consent to treatments and procedures must be documented in the treatment record consistent with 21 NCAC 16T.0101 and 21 NCAC 16T.0103. [[Link to Rules](#)]

A dentist may satisfy the requirements of 21 NCAC 16T.0101 and 21 NCAC 16T.0103 for routine, low-risk procedures by personally discussing the procedures with the patient, or other person authorized to give informed consent on behalf of the patient, at the initial visit and by obtaining the patient's general consent to such procedures, which personal discussion with the dentist and general consent must be documented in the patient record. The general consent may apply to all routine, low-risk procedures performed at future visits. Examples of such low-risk, routine procedures and services include those defined under the Diagnostic, Preventive, and Restorative sections of the ADA Dental Procedures Codes (CDT Codes).

However, for treatments and procedures that are aimed at addressing a diagnosed condition, and that carry an increased risk for unwanted outcomes, the dentist must obtain the patient's informed consent for the specific treatment or procedure prior to undertaking such treatment or procedure, which personal discussion with the dentist and specific consent must be documented in the treatment record. Examples of treatments, services, or procedures that would require the dentist to separately document the patient's informed consent include those defined in the Endodontics, Periodontics, Prosthodontics (Removable and Fixed), Maxillofacial Prosthetics, Implant Services, Oral and Maxillofacial Surgery, Orthodontics, and Anesthesia sections of the CDT Codes.

Dentists can satisfy the requirement to document obtaining informed consent from the patient utilizing different methods, such as including it in the patient's clinical treatment record or chart, documenting it in the patient's electronic dental records, or using a separate written informed consent form, possibly signed and dated by the patient. The Board, however, cautions dentists against the overuse of templates and forms and emphasizes that the treatment record should reflect the actual exchange of information between the dentist and patient regarding the conditions diagnosed, proposed course of treatment, expected result, risks involved in treatment, and alternative treatment options.

.

RULES PROPOSALS PART I 2019: DEFINITIONS, ADVERTISING/PROMOTIONS, DENTIST AND HYGIENIST CONDUCT GUIDELINES, AND TELEDENTISTRY

PART 1: GENERAL PROVISIONS

16.5.1.7 (T): “~~NERB/ADEX/CDCA~~” means the ~~former~~ northeast regional board of dental examiners, ~~now called the commission of dental competency assessments~~, a separate...in New Mexico.

(FF): “teledentistry” means the practice of dentistry by a provider who holds an active license pursuant to the Dental Health Care Act and who is subject to the jurisdiction of the board regardless of the provider’s originating teledentistry site, and

- (1) A dentist’s use of health information technology in real time to provide limited diagnostic and treatment planning services in cooperation with another dentist, dental hygienist, community dental health coordinator or a student enrolled in a program of study to become a dental assistant, dental hygienist or dentist; ~~or,~~
- (2) The practice of dentistry where the patient and the dentist are not in the same physical location and the dentist uses electronic information, imaging and communication technologies, including interactive audio, video and data communications as well as store-and-forward technologies, to provide and support dental health care delivery, diagnosis, consultation, treatment, transfer of dental data and education, where the originating site of teledentistry is the location at which the dentist provides the services.”

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

A. Definitions:

1. For the purposes of this section, “advertising/advertisement” is:
 - a. Any written or printed communication for the purpose of soliciting, describing, or promoting a dentist’s/hygienist’s/non-dentist owner’s licensed

activity, including, but not limited to, a brochure, letter, pamphlet, newspaper, directory listing, periodical, business card or other similar publication.

b. Any radio, television, internet, computer network or similar airwave or electronic transmission which solicits or promotes the dental practice.

c. "Advertising" or "advertisement" does not include any of the following:

1. Any printing or writing on buildings, uniforms or badges, where the purpose of the writing is for identification.
2. Any printing or writing on memoranda or other communications used in the ordinary course of business where the sole purpose of the writing is other than the solicitation or promotion of the dental practice.
3. Any printing or writing on novelty objects or dental care products

2. "Bait advertising" is an alluring but insincere offer to sell a product or service which the advertiser in truth does not intend or want to sell. Its purpose is to switch consumers from buying the advertised merchandise or services, in order to sell something else, usually at a higher price or on a basis more advantageous to the advertiser. The primary aim of a bait advertisement is to obtain leads as to persons interested in buying merchandise or services of the type so advertised. [Federal code: Title 16, chapter 1, subchapter B, Part 238]

B. General Requirements

1. At the time any type of advertisement is placed, the licensee must in good faith possess information that would substantiate the truthfulness of any assertion, omission, or claim set forth in the advertisement.

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

3. Licensee shall be responsible for, and shall approve any advertisement made on behalf of the dental or dental hygiene practice, except for brand advertising, i.e. advertising that is limited to promotion of the name of the practice or dental corporation. The licensee shall maintain a listing stating the name and license number of the licensee(s) who approved and are responsible for the advertisement and shall maintain such list for a period of 3 years.

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

1. A known material misrepresentation of fact;
2. The omission of a fact necessary to make the statement considered as a whole not materially misleading;
3. Advertising that is intended to be or is likely to create an unjustified expectation about the results the dentist or dental hygienist can achieve;
4. Advertising that contains a material, objective representation, whether express or implied, that the advertised services are superior in quality to those of other dental or dental hygiene services if that representation is not subject to reasonable substantiation. For the purposes of this subsection, reasonable substantiation is defined as tests, analysis, research, studies, or other evidence based on the expertise of professionals in the relevant area that have been conducted and evaluated in an objective manner by persons qualified to do so, using procedures generally accepted in the profession to yield accurate and reliable results. Individual experiences are not a substitute for scientific research. Evidence about the individual experience of consumers may assist in the substantiation, but a determination as to whether reasonable substantiation exists is a question of fact on a case-by-case basis;
5. The false or misleading use of a claim regarding licensure, certification, registration, permitting, listing, education, or an unearned degree;
6. Advertising that uses patient testimonials unless the following conditions are met:
 - a. The patient's name, address, and telephone number as of the time the advertisement was made must be maintained by the dentist or dental hygienist and that identifying information shall be made available to the Board upon request by the board.
 - b. Dentists or dental hygienists who advertise dental or dental hygiene services, which are the subject of the patient testimonial, must have actually provided these services to the patient making the testimonial.
 - c. If compensation, remuneration, a fee, or benefit of any kind has been provided to the person in exchange for consideration of the testimonial, such testimonial must include a statement that the patient has been compensated for such testimonial.
 - d. A specific release and consent for the testimonial shall be obtained from the patient.
 - e. Any testimonial shall indicate that results may vary in individual cases.
 - f. Patient testimonials attesting to the technical quality or technical competence of a service or treatment offered by a licensee must have reasonable substantiation.
7. Advertising that makes an unsubstantiated medical claim or is outside the scope of dentistry, unless the dentist or dental hygienist holds a license, certification, or registration in another profession and the advertising and/or claim is within the scope authorized by the license, certification, or registration in another profession;
8. Advertising that makes unsubstantiated promises or claims, including but not limited to claims that the patient will be cured;
9. The use of bait advertising as outlined in Federal trade commission guidelines.

10. Advertising that includes an endorsement by a third party in which there is compensation, remuneration, fee paid, or benefit of any kind if it does not indicate that it is a paid endorsement;
11. Advertising that infers or gives the appearance that such advertisement is a news item without using the phrase "paid advertisement";
12. The promotion of a professional service which the licensee knows or should know is beyond the licensee's ability to perform;
13. The use of any personal testimonial by the licensee attesting to a quality or competence of a service or treatment offered by a licensee that is not reasonably verifiable;
14. Advertising that claims to provide services at a specific rate and fails to disclose that a dental benefit plan may provide payment for all or part of the services.
15. Print Advertising that contains all applicable conditions and restrictions of an offer that is not clearly legible or visible. The board will consider font size and positioning within the advertisement as to what is determined as false, misleading or deceptive.

[--- For example, the board would consider font size of less than 15- 20% of the offer or restriction in a small corner of the advertisement as deceptive, especially if the print quality is difficult to read.]
16. Audio advertising that contains all applicable conditions and restrictions that is broadcast at different speed and volume of the main recording and offer.
17. Failure to include in all advertising media for the practice (excluding building signage and promotional items), in a reasonably visible and legible manner, the dentist's or non-dentist owner's name(s), address and contact information or direct reference where the name of the dentist(s) or non-dentist owner(s) can be found, including, but not limited to, an internet website.
18. Failure to update website(s) wherein the names of the current dentist(s) are for each office location within 30 days of the change.
19. Failure to practice dentistry under the name of a corporation, company, association, limited liability company, or trade name without full and outward disclosure of his/her full name, which shall be the name used in his/her license or renewal certificate as issued by the board, or his/her commonly used name.
20. Failure to practice dentistry without displaying his/her full name as it appears on the license issued by the board on the entrance of each dental office.
21. Advertising or making claims that a licensee or practice claims to be superior to any other licensee or practice, including, but not limited to, descriptions of being "the highest quality", a "super-dentist" or "super-general dentist/practitioner", "specially-trained hygienist", "hygienist specializing in non-surgical periodontics", or similar.

D. Specialty Practice and Advertising

1. The Board may discipline a dentist for advertising or otherwise holding himself/herself out to the public as practicing a dental specialty unless the dentist is licensed by the board to practice the specialty or unless the dentist has earned a post-graduate degree or certificate from an accredited dental college, school of dentistry of a university or other residency program that is

accredited by the Commission on dental accreditation (CODA) in one to the specialty areas of dentistry recognized by the American dental association. [NM Statute 61-5A-12 (E) and (F) NMSA 1978]

E. Acronyms

In addition to those acronyms required by law pertaining to one's business entity such as Professional Corporation (P.C.) or Limited Liability Company (L.L.C.), dentists or dental hygienists may only use those acronyms earned at a program accredited by a regional or professional accrediting agency recognized by the United States Department of Education or the Council on Postsecondary Accreditation. Any credential that does not meet this requirement must be completely spelled out.

THE FOLLOWING RULES SHOULD BE CHANGED TO REFER TO ABOVE SECTION:

16.5.16.10 GUIDELINES: The board shall use the following as guidelines for disciplinary action.

A. "Gross incompetence" or "gross negligence" means, but shall not be limited to, a significant

departure from the prevailing standard of care in treating patients.

B. "Unprofessional conduct" means, but is not limited to because of enumeration:

(1) performing, or holding oneself out as able to perform, professional services beyond the scope of one's license and field or fields of competence as established by education, experience, training, or any combination thereof; this includes, but is not limited to, the use of any instrument or device in a manner that is not in accordance with the customary standards and practices of the dental profession;

(2) failure to refer a patient, after emergency treatment, to his/her regular dentist and inform the latter of the conditions found and treated;

(3) failure to release to a patient copy of that patient's records and x-rays within 15 business days regardless whether patient has an outstanding balance;

(4) failure to seek consultation whenever the welfare of the patient would be safeguarded or advanced by referral to individuals with special skills, knowledge, and experience, including:

(a) an owner dentist or supervisor causing an employee dentist to make a referral for dental treatment based on contractual obligations when, in the judgment of the treating dentist, the welfare of the patient would be safeguarded or advanced by referral to another practitioner, and failure to notify the patient of such contractual obligations for referrals;

(b) an owner dentist or supervisor causing an employee dentist to use a dental laboratory due to contractual obligations when, in the judgment of the treating dentist, the welfare of the patient would be safeguarded or advanced by the use of another dental laboratory.

(5) failure to advise the patient in simple understandable terms of the proposed treatment, the anticipated fee, the expectations of success, and any reasonable alternatives;

(6) failure of a dentist to comply with **advertising and specialty recognition rules as defined in 16.5.1.29 NMAC.** ~~the following advertising guidelines, no person shall: (a) practice dentistry under the name of a corporation, company, association,~~

~~limited liability company, or trade name without full and outward disclosure of his/her full name, which shall be the name used in his/her license or renewal certificate as issued by the board, or his/her commonly used name;~~

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

~~(c) fail to include in all advertising media for the practice (excluding building signage and promotional items), in a reasonably visible and legible manner, the dentist's names(s), address and telephone number or direct reference where the name of the dentist(s) can be found as defined in Section 16.5.16.7 NMAC;~~

~~(d) advertise an offer for goods or services that does not meet the following~~

~~requirements:~~

~~(i) for a printed advertisement, all applicable conditions and restrictions of an offer, as well as the direct reference to the licensee(s), shall be no smaller than twenty percent of the largest font~~

~~contained in the advertisement;~~

~~(ii) for an audio advertisement, all applicable conditions and restrictions of an offer, as well as the direct reference to the licensee(s), must be stated at the same volume and speed as the offer~~

~~language;~~

~~(iii) advertise a practice in a false, fraudulent or misleading manner; if the name of the practice or office contains one of the American dental association recognized specialties and only a~~

~~general dentists performs that service, the advertisement, signage, or broadcast media must say "services provided by a general dentist", so as not to imply that a specialist is performing such procedures; and~~

~~(iv) advertise as a specialist unless the dentist is licensed by the board to practice the specialty or unless the dentist has earned a post-graduate degree or certificate from an accredited dental~~

~~college, school of dentistry of a university or other residency program that is accredited by commission on dental accreditation (CODA) in one of the specialty areas of dentistry recognized by the American dental association.~~

16.5.30.10 GUIDELINES: The committee shall define the following as guidelines for disciplinary action. A. "Gross incompetence" or "gross negligence" means, but shall not be limited to, a significant

departure from the prevailing standard of care in patient treatment.

B. "Unprofessional conduct" means, but is not limited to because of enumeration:

(1) performing, or holding oneself out as able to perform, professional services beyond the scope of one's license and field or fields of competence as established by education, experience, training, or any combination thereof; this includes, but is not limited to, the use of any instrument or device in a manner that is not in accordance with the customary standards and practices of the dental hygiene profession;

(2) failure to advise the patient in simple understandable terms of the treatment rendered, the expectations for success, and the responsibility the patient must assume;

3. (3) failure to inform dentist or patient of periodontal assessment;
4. (4) failure to provide patient education of oral health care regimens which assist in

maintaining good oral health throughout life;

5. (5) sexual misconduct;
6. (6) failure to use appropriate infection control techniques and sterilization procedures;
7. (7) breach of ethical standards, an inquiry into which the committee will begin by reference

to the most recent version of the American dental hygienists association's code of ethics; (8) fraud, deceit or misrepresentation in any application;

probation order;

9. (9) violation of any order of the committee, and ratified by the board, including any
10. (10) injudicious administration of any drug or medicine;

(11) failure to report to the committee or board any adverse action taken by any licensing board, peer review body, malpractice insurance carrier or any other entity as defined by the board or committee, the surrender of a license to practice in another state, surrender of membership on any medical staff or in any dental hygiene or professional association or society, in lieu of, and while under disciplinary investigation by any authority;

(12) deliberate and willful failure to reveal, at the request of the committee, the incompetent, dishonest, or corrupt practices of a dentist or dental hygienist licensed or applying for licensure by the committee or board; and

14. (13) cheating on an examination for licensure;
15. (14) failure of a dental hygienist to comply with the following advertising rules as defined in 16.5.1.29 NMAC;
 1. (a) ~~shall not advertise in a false, fraudulent, or misleading manner, and~~
 2. ~~(b) if the hygienist is in a separate listing or media other than their employer dentist, shall include in the advertisement the name of the hygienist, the name of the employer dentist(s), the practice address(es) and telephone number(s);~~

15. (15) failure of a collaborative practice dental hygienists to refer a patient for dental care; or
16. (16) failure of a collaborative practice dental hygienist to comply with the terms of a signed

collaborative practice agreement;

(17) failure of a collaborative practice dental hygienist to professionally and effectively communicate with a dentist of record, or consulting dentist, in a professional manner in regard to a shared patient's care under 16.5.17 NMAC of these rules;

- (18) failure of a collaborative dental hygienist to comply with the following advertisement rules as defined in 16.5.1.29 NMAC; ~~no person shall:~~

(19) failure to practice dental hygiene under the name of a corporation, company, association, limited liability company, or trade name without full and outward disclosure of his/her full name, which shall be the name used in his/her license or renewal certificate as issued by the board;

(20) failure to practice dental hygiene 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 hygienist's name, address and telephone number or direct reference where the name of the dental hygienist(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;~~

(21) assisting a health professional, or be assisted by a health professional that is not licensed

to practice by a New Mexico board, agency or commission;

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

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

(24) patient abandonment;

(25) habitually addicted as defined in 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;

(26) failure of the licensee to furnish the committee within 10 business days of request; its investigators or representatives with information requested by the committee, and ratified by the board;

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

(28) failure to be in compliance with the Parental Responsibility Act Section 40-5A-3 seq., [3-14-73, 4-10-81, 10-16-92, 5-31-95, 9-30-96, 1-1-99, 2-14-00; 16.5.30.10 NMAC - Rn & A, 16 NMAC 5.30.10

NMSA 1978.

12-14-00; A, 07-19-10; A, 01-09-12; A, 12-15-12; A, 07-17-13; A, 12-16-15]

16.5.130 [NEW] TELEDENTISTRY: Teledentistry is pursuant to the “New Mexico Telehealth Act”, Chapter 24, Article 25 NMSA 1978, and the “Dental Health Care Act”, Chapter 61, Article 5A NMSA 1978, and does not alter the scope of practice of any licensee or certificate holder or authorize the delivery of dental services in a setting, or in a manner, not otherwise authorized by the Dental Health Care Act.

**RULES PROPOSALS PART II 2019: DENTIST EXAMINATIONS AND CE, SLEEP RELATED
BREATHING DISORDERS, EFDA CERTIFICATION**

16.5.6.8 PREREQUISITE REQUIREMENTS FOR GENERAL PRACTICE LICENSE: Each

applicant for a license to practice dentistry by examination must possess the following qualifications:

- A. graduated and received a diploma from an accredited dental school as defined in NMSA 61-5A-12 A;
- B. successfully completed the dental national board examination as defined in NMSA 61-5A-12 A;
- C. passed a board approved clinical examination, **including periodontal and restorative procedures on patients in a clinical setting, 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

D. completed the jurisprudence exam with a score of at least 75 percent; the applicant shall schedule the exam through the board office;

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

[3-14-73, 5-31-95, 9-30-96, 12-15-97; 16.5.6.8 NMAC - Rn & A, 16 NMAC 5.6.8, 06-14-01; A, 3-29-02, A, 07-16-07; A, 07-19-10; A, 01-09-12; A, 07-17-13]

**TITLE 16 OCCUPATIONAL AND PROFESSIONAL LICENSING
CHAPTER DENTISTRY (DENTISTS, DENTAL HYGIENISTS, ETC.)
5 PART 14 DENTISTS, ADJUNCTIVE DENTAL SERVICES**

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

[16.5.14.1 NMAC - N, 07-17-13]

16.5.14.2 SCOPE: The provisions of Part 14 of Chapter 5 apply to all dentists for the administration of adjunctive dental services.

[16.5.14.2 NMAC - N, 07-17-13]

16.5.14.3 STATUTORY AUTHORITY: Part 14 of Chapter 5 is promulgated pursuant to the Dental Health Care Act, NMSA 1978, 61-5A-4 (1996 Repl. Pamp.).

[16.5.14.3 NMAC - N, 07-17-13]

16.5.14.4 DURATION: Permanent.

[16.5.14.4 NMAC - N, 07-17-13]

16.5.14.5 EFFECTIVE DATE: 07-17-13, unless a later date is cited at the end of a section.

[16.5.14.5 NMAC - N, 07-17-13]

16.5.14.6 OBJECTIVE: To establish guidelines for the administration of the defined adjunctive dental services in a dental office located in New Mexico.

[16.5.14.6 NMAC - N, 07-17-13]

16.5.14.7 DEFINITIONS:

A. "Adjunctive dental services" means additional procedures, as recognized by the board, used for increasing efficiency, safety, outcome, or performance of dental treatment, including, but not limited to, cosmetic procedures or therapies.

B. "Botulinum toxin" means a neurotoxin that temporarily reduces muscle contraction.

C. "Dermal fillers" means a resorbable substance injected below the skin surface to reduce lines, wrinkles, or facial grooves, and for the purpose of this rule, are for the oral and maxillofacial regions of the body.

D. “Sleep-related breathing disorders” includes, for the purposes of this section, snoring, upper airway resistance syndrome, and obstructive sleep apnea. These disorders must be diagnosed by a physician.

E. “Obstructive sleep apnea” means a spectrum of abnormal breathing during sleep that occurs when there is partial or complete collapse of the airway.

D. “Upper airway resistance syndrome” is a partial collapse of the airway that is an intermediate form of abnormal breathing between snoring and obstructive sleep apnea.

[16.5.14.7 NMAC - N, 07-17-13]

16.5.14.8 ADMINISTRATION OF BOTULINUM NEUROTOXIN (BOTOX) AND DERMAL FILLERS:

The board does not issue permits for the administration of botox or dermal fillers. The board does not regulate dental materials of any type; however, due to the rising utilization of these materials by dentists, the board sets forth the following requirements.

A. Before administering botulinum neurotoxin or dermal fillers, in connection with the practice of dentistry as defined in Section 61-5A-4, a dentist must receive satisfactory training at a dental institution accredited by the commission on dental accreditation (CODA) or successfully completed a board approved continuing education course of instruction that includes a minimum of the following:

- (1) patient assessment and consultation for botulinum neurotoxin and dermal fillers;
- (2) indications and contraindications for these techniques;
- (3) safety and risk issues for botulinum neurotoxin/dermal fillers injectable therapy;
- (4) proper preparation and delivery techniques for desired outcomes;
- (5) enhancing and finishing esthetic dentistry cases with dermal fillers;
- (6) botulinum neurotoxin treatment of temporomandibular dysfunction;
- (7) knowledge of adverse reactions and management and treatment of possible complications;
- (8) patient evaluation of best esthetic and therapeutic outcomes;
- (9) integrating botulinum neurotoxin and dermal filler therapy into dental therapeutic and esthetic treatment plans; and
- (10) 16 hours total, including eight hours minimum live patient hands-on training including diagnosis, treatment planning and proper dosing and delivery of botox and dermal fillers;

B. Botulinum neurotoxin and dermal fillers shall only be administered in dental offices using universal precautions as required by the federal centers for disease control.

C. All dental auxiliaries are prohibited from administering either botulinum neurotoxin or dermal fillers.

D. Continuing education courses shall be approved by the academy of general dentistry (AGD) program approval for continuing education (PACE), American dental association (ADA) continuing education recognition program (CERP) or other dental or medical entities accepted by the board.

16.5.14.9 [NEW] GUIDELINES FOR DENTISTS TREATING SLEEP-RELATED BREATHING DISORDERS

A. Dentists treating patients that have been diagnosed by a physician with sleep-related breathing disorders, including, but not limited to, primary snoring, upper airway resistance syndrome or obstructive sleep apnea are to follow these guidelines published by the American dental association, the American academy of dental sleep medicine and American academy of sleep medicine:

- (1) “The role of dentistry in the treatment of sleep-related breathing disorders” (American dental association)
- (2) “Dental sleep medicine standards for screening, treating and managing adults with sleep-related breathing disorders” (American academy of dental sleep medicine)
- (3) “Clinical practice guideline for the treatment of obstructive sleep apnea and snoring with oral appliance therapy: an update for 2015” (Joint statement, American academy of sleep medicine and American academy of dental sleep medicine)
- (4) Any updates to these documents in future

B. Dentists cannot diagnose sleep related breathing disorders, but are a vital partner in treating these conditions in collaboration with medical colleagues.

[16.5.14.17 NMAC - N, 07-17-13]

HISTORY OF 16.5.14 NMAC: [RESERVED]

16.5.10 DENTISTS, CONTINUING EDUCATION REQUIREMENTS

16.5.10.9 (C) Education Requirements

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

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

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

C. ~~Education requirements:~~ **Anesthesia/sedation.** Any dentist holding ~~enteral anxiolysis (minimal sedation), CSI, CSII, deep sedation and permit at large (AAL)~~ are required to have a minimum of five hours of continuing education for the permit renewal (every six years) in medical emergencies, air way management, pharmacology, or anesthesia related topics. **a minimal, moderate or deep sedation/general anesthesia permit is required follow continuing education requirements as set forth in 16.5.15.20 NMAC.**

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

16.5.10.1

and

1. (1) an understanding of the pharmacology and risks of controlled substances,
2. (2) a basic awareness of the problems of abuse, addiction and diversion,
3. (3) awareness of state and federal regulations for the prescription of controlled substances,
4. (4) management of the treatment of pain. 64

[5/21/93...9/30/96; 16.5.10.9 NMAC - Rn & A, 16 NMAC 5.10.9, 04/17/06; A, 07/16/07; A, 07/19/10; A, 01/09/12; A, 01-15-15]

16.5.42.9 EDUCATION AND EXAMINATION REQUIREMENTS FOR EXPANDED FUNCTION DENTAL **AUXILIARY**:

A. satisfactory completion of an expanded function dental auxiliary course at an institution. Where the dental assisting program is accredited by the joint commission on dental accreditation, and approved by the board. The applicant must be certified in all four expanded functions as defined in Section 16.5.33 NMAC; or

B. for dental auxiliaries that have five years' experience and "independent preparation" for the requirements:

(1) applicant must have a minimum of five years of continuous employment as a dental assistant or dental hygienist with a minimum of 1,000 hours per year;

2. (2) achieved certification in all expanded functions as defined in Section 16.5.33 NMAC;
3. (3) taken a course of study in dental anatomy, dental materials, placing and shaping direct

restorations, fitting and shaping of stainless steel crowns, and occlusion function and passed a post-test approved by the board verifying readiness for taking the certification examination;

(4) recommended for an expanded function dental auxiliary (EFDA) certification by the supervising dentist as defined in Subsection G of Section 16.5.42.7 NMAC;

(5) instructors must have higher or same level of licensure or certification in respective courses they are

teaching; C. pass a clinical examination accepted by the board for certification of EFDA;

4. completed the jurisprudence examination with a score of at least seventy five percent;
5. exemptions; an expanded function dental auxiliary who is certified to perform EFDA duties in

another state or jurisdiction with requirements not less stringent than those in New Mexico may be certified based on credentials;

F. after passing a board accepted examination or being certified by credentials, EFDA candidates must complete an apprenticeship under the close personal supervision of a supervising dentist;

following:

apprenticeship;

(1) the board will send to the EFDA candidate upon receipt of the completed application the

1. (a) permit to start apprenticeship to be displayed during apprenticeship; and
2. (b) affidavit form to be signed by supervising dentist at start and completion of

(2) the affidavit shall state that the supervising dentist assures that the EFDA candidate is competent in the procedures allowed by an EFDA and that the supervising dentist assumes full responsibility and liability for the training and actions of the EFDA;

(3) once the permit is issued by the board office the EFDA candidate has 180 days to complete the apprenticeship; (a grace period of no more than 60 days may be granted by the board chair or vice-chair); and

(4) upon completion of the apprenticeship the candidate must return the EFDA permit and the signed affidavit to the board; once the permit and signed affidavit have been received and verified by the board a certificate for EFDA may be issued.

[16.5.42.9 NMAC - N, 01/09/12; A, 06/14/12; A, 07/17/13; A, 12/16/15; A, 3/18/2018]

Add language for BLS for hyg, assts

By: Perry

S.B. No. 792

A BILL TO BE ENTITLED

AN ACT

relating to the practice of dentistry and the provision of
teledentistry dental services.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. The heading to Chapter 111, Occupations Code, is
amended to read as follows:

CHAPTER 111. TELEMEDICINE, TELEDENTISTRY, AND TELEHEALTH

SECTION 2. Section 111.001, Occupations Code, is amended by
amending Subdivisions (1) and (3) and adding Subdivision (2-a) to
read as follows:

(1) "Dentist," "health [~~Health~~] professional," and
"physician" have the meanings assigned by Section 1455.001,
Insurance Code.

(2-a) "Teledentistry dental service" means a health
care service delivered by a dentist, or a health professional
acting under the delegation and supervision of a dentist, acting
within the scope of the dentist's or health professional's license
or certification to a patient at a different physical location than
the dentist or health professional using telecommunications or

1 scope of the health professional's license, certification, or
2 entitlement to a patient at a different physical location than the
3 health professional using telecommunications or information
4 technology.

5 SECTION 3. Section 111.002, Occupations Code, is amended to
6 read as follows:

7 Sec. 111.002. INFORMED CONSENT. A treating physician,
8 dentist, or health professional who provides or facilitates the use
9 of telemedicine medical services, teledentistry dental services,
10 or telehealth services shall ensure that the informed consent of
11 the patient, or another appropriate individual authorized to make
12 health care treatment decisions for the patient, is obtained before
13 telemedicine medical services, teledentistry dental services, or
14 telehealth services are provided.

15 SECTION 4. Section 111.003, Occupations Code, is amended to
16 read as follows:

17 Sec. 111.003. CONFIDENTIALITY. A treating physician,
18 dentist, or health professional who provides or facilitates the use
19 of telemedicine medical services, teledentistry dental services,
20 or telehealth services shall ensure that the confidentiality of the
21 patient's clinical ~~medical~~ information is maintained as required
22 by Chapter 159, by Subchapter C, Chapter 258, or by other applicable

1 may adopt rules necessary to:

2 (1) ensure that patients using telemedicine medical
3 services receive appropriate, quality care;

4 (2) prevent abuse and fraud in the use of telemedicine
5 medical services, including rules relating to the filing of claims
6 and records required to be maintained in connection with
7 telemedicine medical services;

8 (3) ensure adequate supervision of health
9 professionals who are not physicians and who provide telemedicine
10 medical services; and

11 (4) establish the maximum number of health
12 professionals who are not physicians that a physician may supervise
13 through a telemedicine medical service.

14 (b) The State Board of Dental Examiners, in consultation
15 with the commissioner of insurance, as appropriate, may adopt rules
16 necessary to:

17 (1) ensure that patients using teledentistry dental
18 services receive appropriate, quality care;

19 (2) prevent abuse and fraud in the use of
20 teledentistry dental services, including rules relating to the
21 filing of claims and records required to be maintained in
22 connection with teledentistry dental services;

1 through a teledentistry dental service.

2 SECTION 6. The heading to Section 111.005, Occupations
3 Code, is amended to read as follows:

4 Sec. 111.005. PRACTITIONER-PATIENT RELATIONSHIP FOR
5 TELEMEDICINE MEDICAL SERVICES OR TELEDENTISTRY DENTAL SERVICES.

6 SECTION 7. Sections 111.005(a) and (b), Occupations Code,
7 are amended to read as follows:

8 (a) For purposes of Section 562.056, a valid
9 practitioner-patient relationship is present between a
10 practitioner providing a telemedicine medical service or a
11 teledentistry dental service and a patient receiving the
12 [~~telemedicine medical~~] service as long as the practitioner complies
13 with the standard of care described in Section 111.007 and the
14 practitioner:

15 (1) has a preexisting practitioner-patient
16 relationship with the patient established in accordance with rules
17 adopted under Section 111.006;

18 (2) communicates, regardless of the method of
19 communication, with the patient pursuant to a call coverage
20 agreement established in accordance with: —

21 (A) Texas Medical Board rules with a physician
22 requesting coverage of medical care for the patient; or

1 follow-up requirements in Subsection (b), and the method allows the
2 practitioner to have access to, and the practitioner uses, the
3 relevant clinical information that would be required in accordance
4 with the standard of care described in Section 111.007:

5 (A) synchronous audiovisual interaction between
6 the practitioner and the patient in another location;

7 (B) asynchronous store and forward technology,
8 including asynchronous store and forward technology in conjunction
9 with synchronous audio interaction between the practitioner and the
10 patient in another location, as long as the practitioner uses
11 clinical information from:

12 (i) clinically relevant photographic or
13 video images, including diagnostic images; or

14 (ii) the patient's relevant clinical
15 ~~[medical]~~ records, such as the relevant medical or dental history,
16 laboratory and pathology results, and prescriptive histories; or

17 (C) another form of audiovisual
18 telecommunication technology that allows the practitioner to
19 comply with the standard of care described in Section 111.007.

20 (b) A practitioner who provides telemedicine medical
21 services or teledentistry dental services to a patient as described
22 in Subsection (a) (3) shall:

1 appropriate, within 72 hours after the practitioner provides the
2 services to the patient, a clinical ~~[medical]~~ record or other
3 report containing an explanation of the treatment provided by the
4 practitioner to the patient and the practitioner's evaluation,
5 analysis, or diagnosis, as appropriate, of the patient's condition.

6 SECTION 8. Section 111.006, Occupations Code, is amended by
7 adding Subsection (c) to read as follows:

8 (c) The State Board of Dental Examiners and the Texas State
9 Board of Pharmacy shall jointly adopt rules that establish the
10 determination of a valid prescription in accordance with Section
11 111.005, as that section applies to teledentistry dental services.

12 Rules adopted under this subsection must allow for the
13 establishment of a practitioner-patient relationship by a
14 teledentistry dental service provided by a practitioner to a
15 patient in a manner that complies with Section 111.005(a)(3). The
16 State Board of Dental Examiners and the Texas State Board of
17 Pharmacy shall jointly develop and publish on each respective
18 board's Internet website responses to frequently asked questions
19 relating to the determination of a valid prescription issued in the
20 course of the provision of teledentistry dental services.

21 SECTION 9. Section 111.007, Occupations Code, is amended to
22 read as follows:

1 that would apply to the provision of the same health care service or
2 procedure in an in-person setting.

3 (b) An agency with regulatory authority over a health
4 professional may not adopt rules pertaining to telemedicine medical
5 services, teledentistry dental services, or telehealth services
6 that would impose a higher standard of care than the standard
7 described in Subsection (a).

8 SECTION 10. Chapter [111](#), Occupations Code, is amended by
9 adding Section 111.009 to read as follows:

10 Sec. 111.009. CERTAIN PRESCRIPTIONS PROHIBITED. (a) In
11 this section, "controlled substance" and "prescribe" have the
12 meanings assigned by Section [481.002](#), Health and Safety Code.

13 (b) A dentist may not prescribe a controlled substance to a
14 patient as a teledentistry dental service.

15 SECTION 11. Section [251.003](#), Occupations Code, is amended
16 by adding Subsection (d) to read as follows:

17 (d) For purposes of this subtitle, a person located in
18 another state practices dentistry in this state if the person
19 through the use of any medium, including an electronic medium,
20 performs an act that constitutes the practice of dentistry on a
21 patient in this state.

22 SECTION 12. Chapter [254](#), Occupations Code, is amended by

1 to read as follows:

2 Sec. 258.001. IMPERMISSIBLE DELEGATIONS. A dentist may not
3 delegate:

4 (1) an act to an individual who, by board order, is
5 prohibited from performing the act;

6 (2) any of the following acts to a person not licensed
7 as a dentist or dental hygienist:

8 (A) the removal of calculus, deposits, or
9 accretions from the natural and restored surfaces of exposed human
10 teeth and restorations in the human mouth;

11 (B) root planing or the smoothing and polishing
12 of roughened root surfaces or exposed human teeth; or

13 (C) any other act the delegation of which is
14 prohibited by board rule;

15 (3) any of the following acts to a person not licensed
16 as a dentist:

17 (A) comprehensive examination or diagnosis and
18 treatment planning;

19 (B) a surgical or cutting procedure on hard or
20 soft tissue;

21 (C) the prescription of a drug, medication, or
22 work authorization;

1 endodontic procedure;

2 (G) the final placement and intraoral adjustment
3 of a fixed or removable appliance; or

4 (H) the placement of any final restoration; or

5 (4) the authority to an individual to administer a
6 local anesthetic agent, inhalation sedative agent, parenteral
7 sedative agent, or general anesthetic agent, including the
8 authority to administer an anesthetic or sedative agent as a
9 teledentistry dental service as that term is defined by Section

10 111.001, if the individual is not licensed as:

11 (A) a dentist with a permit issued by the board
12 for the procedure being performed, if a permit is required;

13 (B) a certified registered nurse anesthetist
14 licensed by the Texas Board of Nursing, only if the delegating
15 dentist holds a permit issued by the board for the procedure being
16 performed, if a permit is required; or

17 (C) a physician anesthesiologist licensed by the
18 Texas Medical Board.

19 SECTION 14. Subchapter A, Chapter 258, Occupations Code, is
20 amended by adding Section 258.004 to read as follows:

21 Sec. 258.004. COLLABORATIVE PRACTICE WITH DENTAL
22 HYGIENIST. (a) In this section, "collaborative practice

least one year with a minimum of 2,000 practice hours.

(c) A dental hygienist may enter into a collaborative practice agreement to practice dental hygiene in any setting authorized by law for the practice of dental hygiene.

(d) A collaborative practice agreement must include protocols:

(1) describing the practice of dental hygiene for:

(A) medically compromised patients;

(B) specific medical conditions;

(C) patients with needs related to age; and

(D) patients with complex medical histories;

(2) prescribing standards for specific dental hygiene procedures, including intervals for the performance of those procedures;

(3) prescribing intervals at which a supervising dentist must examine a patient;

(4) describing the services that the dental hygienist may provide, the procedures that the dental hygienist may perform, the practice settings in which the services may be provided and the procedures may be performed, and any limitations on the services and procedures;

(5) describing case selection criteria, assessment

1 (7) establishing a plan for the dentist to review
2 patient records created and maintained by the dental hygienist;

3 (8) establishing a plan for the management of medical
4 emergencies in each setting in which the dental hygienist
5 practices;

6 (9) establishing a quality assurance plan for the
7 dentist to monitor care provided by the dental hygienist, including
8 review of patient care, referrals, and charts;

9 (10) describing the medications that may be
10 administered and dispensed by the dental hygienist and the specific
11 circumstances under which the medications may be administered and
12 dispensed;

13 (11) describing any requirements for consultation
14 with the dentist before providing care to patients with specific
15 medical conditions or complex medical histories; and

16 (12) establishing a plan, which includes clinical
17 resources and referrals, for situations in which a patient requires
18 treatment that exceeds the capabilities or scope of practice of the
19 dental hygienist.

20 (e) A collaborative practice agreement may include
21 provisions to allow the practice of dental hygiene without:

22 (1) prior examination of the patient by a dentist; and

(2) reviewed annually by the dentist and the dental hygienist who are parties to the collaborative practice agreement;

and

(3) made available to the board and other interested
parties on request.

(g) Not more than two collaborative practice agreements
between a dentist and a dental hygienist may be in effect at a time.

(h) Notwithstanding any rule adopted under Section 111.004(b) (4), a dentist may have a collaborative practice agreement with not more than six dental hygienists at the same time.

The board may grant an exception to the requirements of this subsection for the practice of dental hygiene in a public health setting.

(i) Before providing any service authorized by a collaborative practice agreement, the dental hygienist must provide the patient with a written statement advising the patient that the dental hygiene services performed are not a substitute for examination by a dentist.

(j) If a dental hygienist operating under a collaborative practice agreement makes a referral for further dental procedures,
the dental hygienist must complete a referral form approved by the
board and provide a copy of the form to the dentist who is a party to

SECTION 16. Section 262.151(a), Occupations Code, is amended to read as follows:

(a) A licensed dentist may delegate orally or in writing a service, task, or procedure to a dental hygienist who is under the supervision and responsibility of the dentist, if:

(1) the dental hygienist is licensed to perform the service, task, or procedure;

(2) the supervising dentist: —

(A) examines the patient, including an examination performed as a teledentistry dental service:

(i) [~~(A)~~] at the time the service, task, or procedure is performed by the dental hygienist; or

(ii) [~~(B)~~] during the 12 calendar months preceding the date of performance of the service, task, or procedure by the dental hygienist; or —

(B) enters into a collaborative practice agreement with the dental hygienist, as described by Section 258.004, that includes a provision allowing the dental hygienist to practice dental hygiene without prior examination of the patient by the dentist; and

(3) the dental hygienist does not:

(A) diagnose a dental disease or ailment;

258.004, administer or dispense medication; or

_____ (E) perform any procedure that is irreversible or involves the intentional cutting of soft or hard tissue by any means.

SECTION 17. Sections [262.1515](#)(a), (b), and (c), Occupations Code, are amended to read as follows:

(a) A licensed dentist may delegate a service, task, or procedure, pursuant to this section, to a dental hygienist, without complying with Section [262.151](#)(a)(2) if:

(1) the dental hygienist has at least two years' experience in the practice of dental hygiene; and

(2) the service, task, or procedure is performed in one of the following locations:

(A) a medical facility, including: _____

_____ (i) a public health clinic conducted by a local health unit, health department, or public health district organized and recognized under Chapter [121](#), Health and Safety Code;

(ii) a general hospital or special hospital, as those terms are defined by Section [241.003](#), Health and Safety Code, including a hospital maintained or operated by this state;

_____ (iii) a nursing facility as defined in

1 months unless:

2 (1) the patient has been examined by a dentist in
3 compliance with Section [262.151](#) (a) (2) (A);

4 (2) a dentist reviews the patient's dental records,
5 including a review performed as a teledentistry dental service, and
6 determines that the dental hygienist may continue to provide
7 services to the patient; or

8 (3) a dentist otherwise provides teledentistry dental
9 services to the patient and determines that the dental hygienist
10 may continue to provide services to the patient ~~[262.151(a)(2)]~~.

11 SECTION 18. Section [562.056](#) (c), [Occupations Code](#), is
12 amended to read as follows:

13 (c) For purposes of this section and Section [562.112](#), a
14 valid practitioner-patient relationship is present between a
15 practitioner providing telemedicine medical services or
16 teledentistry dental services and the patient receiving the
17 ~~[telemedicine medical]~~ services if the practitioner has complied
18 with the requirements for establishing such a relationship in
19 accordance with Section [111.005](#).

20 SECTION 19. Section [531.001](#), Government Code, is amended by
21 adding Subdivision (6-a) to read as follows:

22 (6-a) "Teledentistry dental service" has the meaning

1
SERVI
CE
PROVI
AND
TELEH
EALTH
SERVI
CE
PROVI
UNDER

DERS,

DERS

2 MEDICAID.

3 SECTION 21. Sections 531.0216(a), (b), (c), (d), (e), and
4 (f), Government Code, are amended to read as follows:

5 (a) The executive commissioner by rule shall develop and
6 implement a system to reimburse providers of services under
7 Medicaid for services performed using telemedicine medical
8 services, teledentistry dental services, or telehealth services.

9 (b) In developing the system, the executive commissioner by
10 rule shall:

11 (1) review programs and pilot projects in other states
12 to determine the most effective method for reimbursement;

13 (2) establish billing codes and a fee schedule for
14 services;

15 (3) consult with the Department of State Health
16 Services to establish procedures to:

17 (A) identify clinical evidence supporting

services providers, telehealth services providers, and home
27 telemonitoring services providers; and

(5) establish a separate modifier for telemedicine medical services, teledentistry dental services, telehealth services, and home telemonitoring services eligible for reimbursement.

(c) The commission shall encourage health care providers and health care facilities to participate as telemedicine medical service providers, teledentistry dental service providers, or telehealth service providers in the health care delivery system.

The commission may not require that a service be provided to a patient through telemedicine medical services, teledentistry dental services, or telehealth services when the service can reasonably be provided by a physician or a dentist, if appropriate, through a face-to-face consultation with the patient in the community in which the patient resides or works. This subsection does not prohibit the authorization of the provision of any service to a patient through telemedicine medical services, teledentistry dental services, or telehealth services at the patient's request.

(d) Subject to Sections 111.004 and ~~[Section]~~ 153.004, Occupations Code, the executive commissioner may adopt rules as necessary to implement this section. In the rules adopted under this section, the executive commissioner shall:

(1) refer to the site where the patient is physically

(e) The commission may not reimburse a health care facility for telemedicine medical services, teledentistry dental services, or telehealth services provided to a Medicaid recipient unless the facility complies with the minimum standards adopted under Section 531.02161.

(f) Not later than December 1 of each even-numbered year, the commission shall report to the speaker of the house of representatives and the lieutenant governor on the effects of telemedicine medical services, teledentistry dental services,

telehealth services, and home telemonitoring services on Medicaid

in the state, including the number of physicians, dentists, health

professionals, and licensed health care facilities using

telemedicine medical services, teledentistry dental services,

telehealth services, or home telemonitoring services, the

geographic and demographic disposition of the physicians,

dentists, and health professionals, the number of patients

receiving telemedicine medical services, teledentistry dental

services, telehealth services, and home telemonitoring services,

the types of services being provided, and the cost of utilization of

telemedicine medical services, teledentistry dental services,

telehealth services, and home telemonitoring services to Medicaid.

(b) The executive commissioner by rule shall establish and adopt minimum standards for an operating system used in the provision of telemedicine medical services, teledentistry dental services, telehealth services, or home telemonitoring services by a health care facility participating in Medicaid, including standards for electronic transmission, software, and hardware.

SECTION 24. The heading to Section 531.02162, Government Code, is amended to read as follows:

Sec. 531.02162. MEDICAID SERVICES PROVIDED THROUGH TELEMEDICINE MEDICAL SERVICES, TELEDENTISTRY DENTAL SERVICES, AND TELEHEALTH SERVICES TO CHILDREN WITH SPECIAL HEALTH CARE NEEDS.

SECTION 25. Sections 531.02162(b) and (c), Government Code, are amended to read as follows:

(b) The executive commissioner by rule shall establish policies that permit reimbursement under Medicaid and the child health plan program for services provided through telemedicine medical services, teledentistry dental services, and telehealth services to children with special health care needs.

(c) The policies required under this section must:

(1) be designed to:

(A) prevent unnecessary travel and encourage efficient use of telemedicine medical services, teledentistry

1 teledentistry dental services, and telehealth services that are
2 comparable to the same types of services available to that child
3 without the use of telemedicine medical services, teledentistry
4 dental services, and telehealth services; and

5 (2) provide for reimbursement of multiple providers of
6 different services who participate in a single session of
7 telemedicine medical services, teledentistry dental services,
8 ~~[and]~~ telehealth services, or any combination of those services,

9 ~~[session]~~ for a child with special health care needs, if the
10 commission determines that reimbursing each provider for the
11 session is cost-effective in comparison to the costs that would be
12 involved in obtaining the services from providers without the use
13 of telemedicine medical services, teledentistry dental services,
14 and telehealth services, including the costs of transportation and
15 lodging and other direct costs.

16 SECTION 26. Subchapter B, Chapter 531, Government Code, is
17 amended by adding Section 531.02172 to read as follows:

18 Sec. 531.02172. REIMBURSEMENT FOR TELEDENTISTRY DENTAL
19 SERVICES. The commission by rule shall require each health and
20 human services agency that administers a part of the Medicaid
21 program to provide Medicaid reimbursement for teledentistry dental
22 services provided by a dentist licensed to practice dentistry in

1 in-person dental service between a dentist and a patient did not
2 occur.

3 SECTION 27. The heading to Section 62.157, Health and
4 Safety Code, is amended to read as follows:

5 Sec. 62.157. TELEMEDICINE MEDICAL SERVICES, TELEDENTISTRY
6 DENTAL SERVICES, AND TELEHEALTH SERVICES FOR CHILDREN WITH SPECIAL
7 HEALTH CARE NEEDS.

8 SECTION 28. Sections 62.157(a) and (b), Health and Safety
9 Code, are amended to read as follows:

10 (a) In providing covered benefits to a child with special
11 health care needs, a health plan provider must permit benefits to be
12 provided through telemedicine medical services, teledentistry
13 dental services, and telehealth services in accordance with
14 policies developed by the commission.

15 (b) The policies must provide for:

16 (1) the availability of covered benefits
17 appropriately provided through telemedicine medical services,
18 teledentistry dental services, and telehealth services that are
19 comparable to the same types of covered benefits provided without
20 the use of telemedicine medical services, teledentistry dental
21 services, and telehealth services; and

22 (2) the availability of covered benefits for different

1 the covered benefits in that manner is cost-effective in comparison
2 to the costs that would be involved in obtaining the services from
3 providers without the use of telemedicine medical services,
4 teledentistry dental services, and telehealth services, including
5 the costs of transportation and lodging and other direct costs.

6 SECTION 29. Section 62.1571, Health and Safety Code, is
7 amended to read as follows:

8 Sec. 62.1571. TELEMEDICINE MEDICAL SERVICES AND
9 TELEDENTISTRY DENTAL SERVICES. (a) In providing covered benefits
10 to a child, a health plan provider must permit benefits to be
11 provided through telemedicine medical services and teledentistry
12 dental services in accordance with policies developed by the
13 commission.

14 (b) The policies must provide for:

15 (1) the availability of covered benefits
16 appropriately provided through telemedicine medical services and
17 teledentistry dental services that are comparable to the same types
18 of covered benefits provided without the use of telemedicine
19 medical services and teledentistry dental services; and

20 (2) the availability of covered benefits for different
21 services performed by multiple health care providers during a
22 single session of telemedicine medical services, teledentistry

1 including the costs of transportation and lodging and other direct
2 costs.

3 (c) ~~[(d)]~~ In this section, "teledentistry dental service"
4 and "telemedicine medical service" have ~~[has]~~ the meanings
5 ~~[meaning]~~ assigned by Section 531.001, Government Code.

6 SECTION 30. Section 32.024, Human Resources Code, is
7 amended by adding Subsection (11) to read as follows:

8 (11) The executive commissioner shall establish a separate
9 provider type for dental hygienists for purposes of enrollment as a
10 provider of and reimbursement under the medical assistance program.

11 SECTION 31. Section 843.002(24), Insurance Code, is amended
12 to read as follows:

13 (24) "Provider" means:

14 (A) a person, other than a physician, who is
15 licensed or otherwise authorized to provide a health care service
16 in this state, including:

17 (i) a chiropractor, registered nurse,
18 pharmacist, optometrist, ~~[or]~~ acupuncturist, or dental hygienist;
19 or

20 (ii) a pharmacy, hospital, or other
21 institution or organization;

22 (B) a person who is wholly owned or controlled by

SECTION 32. Section 1301.001(1-a), Insurance Code, is amended to read as follows:

(1-a) "Health care provider" means a practitioner, institutional provider, or other person or organization that furnishes health care services and that is licensed or otherwise authorized to practice in this state. [~~The term includes a pharmacist and a pharmacy.~~] The term does not include a physician.

The term includes:

(A) a pharmacist;

(B) a pharmacy; and

(C) a dental hygienist.

SECTION 33. Section 1451.101, Insurance Code, is amended by amending Subdivision (1) and adding Subdivision (1-a) to read as follows:

(1) "Dental hygienist" has the meaning assigned by Section 256.051, Occupations Code.

(1-a) "Health insurance policy" means a policy, contract, or agreement described by Section 1451.102.

SECTION 34. Subchapter C, Chapter 1451, Insurance Code, is amended by adding Section 1451.128 to read as follows:

Sec. 1451.128. SELECTION OF DENTAL HYGIENIST. An insured may select a dental hygienist to provide the services scheduled in

SECTION 36. Section 1455.001, Insurance Code, is amended by amending Subdivisions (1) and (3) and adding Subdivision (1-a) to read as follows:

(1) "Dentist" means a person licensed to practice dentistry in this state under Subtitle D, Title 3, Occupations Code.

(1-a) "Health professional" means:

(A) a physician;

(B) an individual who is:

(i) licensed or certified in this state to perform health care services; and

(ii) authorized to assist: —

(a) a physician in providing telemedicine medical services that are delegated and supervised by the physician; or

(b) a dentist in providing teledentistry dental services that are delegated and supervised by the dentist;

(C) a licensed or certified health professional acting within the scope of the license or certification who does not perform a telemedicine medical service; or

(D) a dentist.

Sec. 1455.004. COVERAGE FOR TELEMEDICINE MEDICAL SERVICES,
TELEDENTISTRY DENTAL SERVICES, AND TELEHEALTH SERVICES.

(a) A

health benefit plan may not exclude from coverage a covered health care service or procedure delivered by a preferred or contracted health professional to a covered patient as a telemedicine medical service, a teledentistry dental service, or a telehealth service solely because the covered health care service or procedure is not provided through an in-person consultation.

(b) A health benefit plan may require a deductible, a copayment, or coinsurance for a covered health care service or procedure delivered by a preferred or contracted health professional to a covered patient as a telemedicine medical service, a teledentistry dental service, or a telehealth service.

The amount of the deductible, copayment, or coinsurance may not exceed the amount of the deductible, copayment, or coinsurance required for the covered health care service or procedure provided through an in-person consultation.

(c) Notwithstanding Subsection (a), a health benefit plan is not required to provide coverage for a telemedicine medical service, a teledentistry dental service, or a telehealth service provided by only synchronous or asynchronous audio interaction, including:

Sec. 1455.006. TELEMEDICINE MEDICAL SERVICES,
TELEDENTISTRY DENTAL SERVICES, AND TELEHEALTH SERVICES STATEMENT.

(a) Each issuer of a health benefit plan shall adopt and display in a conspicuous manner on the health benefit plan issuer's Internet website the issuer's policies and payment practices for telemedicine medical services, teledentistry dental services, and telehealth services.

(b) This section does not require an issuer of a health benefit plan to display negotiated contract payment rates for health professionals who contract with the issuer to provide telemedicine medical services, teledentistry dental services, or telehealth services.

SECTION 39. (a) Not later than March 1, 2020, the State Board of Dental Examiners and the Texas State Board of Pharmacy shall jointly adopt rules as required by Section [111.006\(c\)](#), Occupations Code, as added by this Act.

(b) Not later than March 1, 2020, the State Board of Dental Examiners shall adopt:

(1) rules necessary to implement Chapter [111](#), Occupations Code, as amended by this Act;

(2) rules as required by Section 254.0035, Occupations Code, as added by this Act; and

1 hygienists as required by Section 32.024(11), Human Resources Code,
2 as added by this Act.

3 SECTION 41. If before implementing any provision of this
4 Act a state agency determines that a waiver or authorization from a
5 federal agency is necessary for implementation of that provision,
6 the agency affected by the provision shall request the waiver or
7 authorization and may delay implementing that provision until the
8 waiver or authorization is granted.

9 SECTION 42. (a) Except as provided by Subsection (b) of
10 this section, this Act takes effect September 1, 2019.

11 (b) Sections 1455.004 and 1455.006, Insurance Code, as
12 amended by this Act, take effect January 1, 2020.

Guideline – ALL-ON-4 Dental Implants

<i>Title:</i>	Appropriate Use of Teledentistry
<i>References:</i>	Chapter 18.32, 18.130, and 70.02 RCW, RCW 48.43.735, 41.05.700 Chapter 246-817 and 246-16 WAC, and American Dental Association
<i>Contact:</i>	Jennifer Santiago, Program Manager
<i>Phone:</i>	360-236-4893
<i>Email:</i>	Jennifer.santiago@doh.wa.gov
<i>Effective Date:</i>	October 27, 2017
<i>Supercedes:</i>	
<i>Approved By:</i>	“signature on file” John Carbery, D.D.S. Chairperson Dental Quality Assurance Commission

Advances in technology, communication and data management have resulted in new approaches to delivery of oral health care services, including those in which dentist and patient are not in the same physical location, but interact using enabling technology. These new approaches, referred to as teledentistry, are useful tools that, if employed appropriately, can provide important benefits to patients, including increased access to oral health care, access to oral health care professionals that are not available in the patient’s home community, rapid availability of patient records, and a potential reduction in the cost of oral health care delivery. Realizing that these new practice forms will require oversight and regulation, the Dental Quality Assurance Commission (Commission) developed this guideline to describe how teledentistry is to be defined, supervised, regulated and disciplined by the Commission consistent with existing statutes governing the practice of dentistry within the state of Washington. The Commission recognizes that technology changes occur rapidly, so this guideline provides general principles that are technologically neutral rather than focusing on the use of any specific current technologies.

Definitions

“Dentist-Patient Relationship” is the relationship between a dentist and a receiver of oral health care services (patient) based on mutual understanding of their shared responsibility for the patient’s oral health care. The relationship is clearly established when the dentist agrees to undertake diagnosis and/or treatment of the patient and the patient agrees that the dentist will diagnose and/or treat, whether or not there has been or is an in-person encounter between the parties. The parameters of the dentist-patient

relationship for teledentistry should mirror those that would be expected for similar in-person dental encounters.

“Enabling Technology” means the use of electronic technology or media, including interactive audio or video, for the purpose of diagnosing or treating a patient or consulting with other health care providers regarding a patient’s diagnosis or treatment.

“Health care provider” means a licensed dentist, dental hygienist, expanded function dental auxiliary, allopathic physician and surgeon, osteopathic physician and surgeon, advanced registered nurse practitioner, registered nurse, or licensed practical nurse authorized to perform tasks within their specific scope of practice.

“In-person” means interaction(s) between the dentist and the patient that occur in the same physical space, and does not include interactions that occur through the use of enabling technology.

“Practice of dentistry” has the same meaning as RCW 18.32.020. Teledentistry is included within the practice of dentistry and is not a separate discipline.

“Teledentistry” is the practice of dentistry using enabling technology between a dentist in one location and a patient in another location with or without an intervening practitioner. It is a tool in dentistry practice, not a separate form of dentistry.

Guidelines for Appropriate use of Teledentistry

- A. Licensure: A dentist using teledentistry to practice dentistry on patients in Washington must be licensed to practice dentistry in Washington.
 - 1. This includes dentists who treat or prescribe to Washington patients through online service sites.
 - 2. A dentist may delegate allowable tasks to Washington licensed dental hygienists, and licensed expanded function dental auxiliaries through teledentistry. Delegation of tasks through teledentistry must be under the general supervision provided in WAC 246-817-525 and 550. Teledentistry does not meet the definition of close supervision as the dentist is not physically present.
- B. Standard of Care: Dentists using teledentistry will be held to the same standard of care as practitioners engaging in more traditional in-person care delivery, including the requirement to meet all technical, clinical, confidentiality and ethical standards required by law. Failure to conform to the standard of care, whether rendered in person or via teledentistry, may subject the practitioner to potential discipline by the Commission. Some elements of the standard of care as applied to teledentistry include:
 - 1. Dentist-Patient Relationship: When practicing teledentistry, a dentist must establish a practitioner-patient relationship with the patient. The absence of in-person contact does not eliminate this requirement. Patient completion of a questionnaire does not, by itself, establish a practitioner-patient relationship, and therefore treatment, including prescriptions, based solely on a questionnaire does not constitute an acceptable standard of care.
 - a. The dentist must provide proof of identity, jurisdiction, and licensure status to the patient.

- b. The dentist must make appropriate effort to confirm the patient's identity. If patient is a minor, the dentist must make appropriate effort to confirm the parent or legal guardian is present when required.
 - c. The dentist must confirm and document the patient is physically located in a jurisdiction in which the dentist is licensed.
- 2. Informed Consent: As with oral health care involving in-person contact, a dentist should obtain and document appropriate informed consent for teledentistry encounters. Because of the unique characteristics of teledentistry, it is best practice for the informed consent to include:
 - a. The manner in which the dentist and patient will use particular enabling technologies, the boundaries that will be established and observed, and procedures for responding to electronic communications from patients;
 - b. Issues and potential risks surrounding confidentiality and security of patient information when particular enabling technologies are used (e.g., potential for decreased expectation of confidentiality if certain technologies are used);
 - c. Limitations on the availability and/or appropriateness of specific teledentistry services that may be hindered as a result of the services being offered through teledentistry.
- 3. Patient Evaluation: An appropriate history and evaluation of the patient must precede the rendering of any care, including provision of prescriptions. Not all patient situations will be appropriate for teledentistry. Evaluating the adequacy and significance of any examination remains the responsibility of the teledentistry dentist. Since, by definition, teledentistry does not involve in-person contact between dentist and patient, if circumstances require in-person contact, a credentialed health care provider may provide in person observations.
 - a. The credentialed health care provider is authorized to perform tasks within their specific scope of practice.
 - b. The credentialed health care provider is acceptable to the teledentistry dentist and the patient.
 - c. If a credentialed health care provider is unable to perform a specific task, the teledentistry dentist should advise the patient to be seen by a dentist in-person.
- 4. Allowable Treatment Parameters: The teledentistry dentist may provide any treatment deemed appropriate for the patient, including prescriptions, if the evaluation performed is adequate to justify the action taken. The dentist is responsible for knowing the limitations of the care he or she can provide, no matter how the care is delivered. Just as in a traditional setting, teledentistry dentists should recognize situations that are beyond their expertise, their ability, or the limits of available technology to adequately evaluate or manage in the existing circumstances, and refer such patients for appropriate care.
- 5. Patient Records: Dentists providing teledentistry services must document the encounter appropriately and completely so that the record clearly, concisely and accurately reflects what occurred during the encounter. Such records should be permanent and easily available to or on behalf of the patient and other practitioners in accordance with patient consent, direction and applicable standards. Dentists should maintain security and confidentiality of the patient record in compliance with applicable laws and regulations related to the maintenance and transmission of such records. Dentists must comply with dental patient record requirements in WAC 246-817-304, 305, and 310.
- 6. Prescriptions: Prescribing medications, whether in person or via teledentistry, is at the professional discretion of the dentist. The dentist, in accordance with current standards of practice, must evaluate the indications, appropriateness, and safety considerations for each

teledentistry prescription. Teledentistry prescriptions entail the same professional accountability as prescriptions incident to an in-person contact. Where appropriate clinical procedures and considerations are applied and documented, dentists may exercise their judgment and prescribe medications as part of teledentistry. Especially careful consideration should apply before prescribing controlled substances, and compliance with all laws and regulations pertaining to such prescriptions is expected. Measures to assure informed, accurate and error-free prescribing practices (e.g. integration with e-Prescription services) are encouraged.