

HB306 INTRODUCED



1 KZTV5U-1
2 By Representative Lee
3 RFD: Health
4 First Read: 13-Apr-23
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SYNOPSIS:

This bill would provide for the regulation of licensed dentists performing teledentistry orthodontia services in the state by the Board of Dental Examiners.

This bill would require patients to have in-person visits with a dentist before starting, and annually during teledentistry treatments.

This bill would require advertisements relating to teledentistry to contain certain disclaimers.

This bill would also require the board to adopt rules relating to teledentistry.

A BILL
TO BE ENTITLED
AN ACT

Relating to the practice of dentistry; to amend Sections 34-9-1, 34-9-3, 34-9-6, 34-9-13, 34-9-15.1, and 34-9-18, Code of Alabama 1975, and to add Sections 34-9-6.2 and 34-9-19.2 to the Code of Alabama 1975, to provide for the use of teledentistry orthodontia services in the state by licensed dentists; to provide certain requirements for advertisements featuring teledentistry; and to require the Board of Dental Examiners of Alabama to adopt rules relating



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29 to teledentistry.

30 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

31 Section 1. Sections 34-9-1, 34-9-3, 34-9-6, 34-9-13,
32 34-9-15.1, and 34-9-18 of the Code of Alabama 1975, are
33 amended to read as follows:

34 "§34-9-1

35 For the purposes of this chapter, the following terms
36 shall have the respective meanings ascribed by this section:

37 (1) ANNUAL REGISTRATION. The documentary evidence that
38 the board has renewed the authority of the licensee to
39 practice dentistry or dental hygiene in this state.

40 (2) ASYNCHRONOUS TECHNOLOGY. Store-and-forward
41 technology that allows a licensed dentist to transmit a
42 patient's health information to another licensed dentist for
43 viewing at a later time.

44 ~~(2)~~ (3) BOARD. The Board of Dental Examiners of Alabama.

45 ~~(3)~~ (4) COMMERCIAL DENTAL LABORATORY. A technician or
46 group of technicians available to any or all licensed dentists
47 for construction or repair of dental appliances.

48 ~~(4)~~ (5) GENERAL ANESTHESIA. A controlled state of
49 unconsciousness, accompanied by a partial or complete loss of
50 protective reflexes, including inability to independently
51 maintain an airway and respond purposefully to physical
52 stimulation or verbal command, produced by a pharmacologic
53 method.

54 ~~(5)~~ (6) INFILTRATION ANESTHESIA. A form of local
55 anesthesia wherein the terminal or peripheral sensory portion
56 of either the maxillary or mandibular branch of the trigeminal



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57 nerve endings are anesthetized by injecting a solution
58 submucosally into an intra-oral circumscribed area for the
59 relief or prevention of pain.

60 ~~(6)~~ (7) LICENSE. The grant of authority by the board to
61 ~~a person~~ an individual to engage in the practice of dentistry,
62 teledentistry, or dental hygiene.

63 ~~(7)~~ (8) LICENSE CERTIFICATE. The documentary evidence
64 under seal of the board that the board has granted authority
65 to the licensee to practice dentistry, teledentistry, or
66 dental hygiene in this state.

67 ~~(8)~~ (9) LICENSED DENTIST. A dentist who holds a current
68 license certificate from the board.

69 ~~(9)~~ (10) LICENSED HYGIENIST. A hygienist who holds a
70 current license certificate from the board.

71 ~~(10)~~ (11) LOCAL ANESTHESIA. The elimination of
72 sensations, especially pain in one part of the body, by
73 topical application or regional injection of a drug.

74 ~~(11)~~ (12) PATIENT ABANDONMENT. The termination of dental
75 treatment without giving the patient adequate notice of at
76 least 15 days before the termination of dental treatment.
77 Adequate notice includes informing the patient of the
78 availability of emergency treatment and providing the patient
79 with an opportunity to obtain the services of another dentist
80 during the notice period. Abandonment may also occur if the
81 dentist jeopardizes the health of the patient during the
82 termination process.

83 ~~(12)~~ (13) PRACTICE OF DENTISTRY ACROSS STATE LINES.

84 a. The practice of dentistry as defined in Section



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85 34-9-6 as it applies to the following:

86 1. The rendering of a written or otherwise documented
87 professional opinion concerning the diagnosis or treatment of
88 a patient located within this state by a dentist located
89 outside this state as a result of transmission of individual
90 patient data by electronic or other means from within this
91 state to the dentist or his or her agent.

92 2. The rendering of treatment to a patient located
93 within this state by a dentist located outside this state as a
94 result of transmission of individual patient data by
95 electronic or other means from this state to the dentist or
96 his or her agent.

97 3. The holding of himself or herself out as qualified
98 to practice dentistry, or use of any title, word, or
99 abbreviation to indicate or induce others to believe that he
100 or she is licensed to practice dentistry across state lines.

101 b. This definition is not intended to include an
102 informal consultation between a licensed dentist located in
103 this state and a dentist located outside this state, l provided
104 that the consultation is conducted without compensation or the
105 expectation of compensation to either dentist, and does not
106 result in the formal rendering of a written or otherwise
107 documented professional opinion concerning the diagnosis or
108 treatment of a patient by the dentist located outside the
109 state.

110 ~~(13)~~ (14) PRIVATE TECHNICIANS. A technician employed by
111 a dentist or group of dentists for a specified salary.

112 ~~(14)~~ (15) SEDATION. A depressed level of consciousness



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113 that retains the patient's ability to independently and
114 continuously maintain an airway and respond appropriately to
115 physical stimulation or verbal command, produced by a
116 pharmacologic method.

117 (16) SYNCHRONOUS TECHNOLOGY. Two-way audiovisual
118 technology that allows a licensed dentist to see and
119 communicate in real time with a patient who is located in a
120 different physical location.

121 (17) TELEDENTISTRY. a. The practice of dentistry or the
122 delivery of dental care services through asynchronous or
123 synchronous technology including any of the following:

124 1. The use of interactive audio and video technology,
125 permitting real-time communication between the patient at the
126 originating site and the provider to provide dental services,
127 within their scope of practice including, but not limited to,
128 assessment, diagnosis, consultation, treatment, and monitoring
129 of a patient; transfer of medical data; patient and
130 professional dental-related education; public dental services;
131 and dental administration.

132 2. Asynchronous, store-and-forward technology for the
133 transmission and acquisition of images, diagnostics, data, and
134 dental information.

135 b. The term does not include Internet questionnaires,
136 email messages, or facsimile transmissions."

137 "§34-9-3

138 It shall be unlawful for any ~~person~~ individual to
139 practice dentistry or teledentistry in the State of Alabama
140 except the following:



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141 (1) Those who are now duly licensed or permitted
142 dentists, pursuant to law.

143 (2) Those who may be hereafter duly licensed or
144 permitted and who are currently registered as dentists,
145 pursuant to this chapter.

146 (3) Those nonresident dentists who have been issued a
147 special purpose license to practice dentistry across state
148 lines in accordance with Section 34-9-10. This subdivision
149 shall not apply to those dentists who hold a full,
150 unrestricted, and current license or permit issued pursuant to
151 Section 34-9-8 or Section 34-9-10."

152 "§34-9-6

153 Any ~~person~~ individual shall be deemed to be practicing
154 dentistry, including teledentistry, who does any of the
155 following:

156 (1) Performs, or attempts or professes to perform, any
157 dental operation or dental service of any kind, gratuitously
158 or for a salary, fee, money, or other remuneration paid, or to
159 be paid, directly or indirectly, to himself or herself, or to
160 any ~~person~~ individual in his or her behalf, or to any agency
161 which is a proprietor of a place where dental operations or
162 dental services are performed.

163 (2) Directly or indirectly, by any means or method,
164 makes impression of the human tooth, teeth, jaws, or adjacent
165 tissue, or performs any phase of any operation incident to the
166 replacement of a tooth or any part thereof.

167 (3) Supplies artificial substitutes for the natural
168 teeth, and who furnishes, supplies, constructs, reproduces, or



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169 repairs any prosthesis (fixed or removable), appliance, or any
170 other structure to be worn in the human mouth.

171 (4) Places ~~such~~ an appliance or structure in the human
172 mouth, or adjusts, attempts, or professes to adjust the same,
173 or delivers the same to any ~~person~~ individual other than the
174 dentist upon whose prescription the work was performed.

175 (5) Professes to the public by any method to furnish,
176 supply, construct, reproduce, or repair any prosthesis (fixed
177 or removable), appliance, or other structure to be worn in the
178 human mouth, or who diagnoses, or professes to diagnose,
179 ~~prescribe~~ prescribes for, professes to prescribe for, treats
180 or professes to treat disease, pain, deformity, deficiency,
181 injury, or physical condition of the human teeth or jaws, or
182 adjacent structure, or who extracts or attempts to extract
183 human teeth, or removes tumors, abnormal growths, or other
184 lesions from the human gums, jaws, and adjacent structures, or
185 who operates for cleft lip or palate, or both; or who treats
186 surgically or mechanically fractures of the human jaw; or who
187 administers local or general anesthetics in the treatment of
188 any dental lesion.

189 (6) Repairs or fills cavities in the human teeth.

190 (7) Uses a roentgen, radiograph, or digital imaging
191 machine for the purpose of making dental roentgenograms,
192 radiographs, or digital images, or who gives, or professes to
193 give, interpretations or readings of dental roentgenograms,
194 radiographs, or digital images, or radiographic or roentgen
195 therapy.

196 (8) Administers an anesthetic of any nature in



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197 connection with a dental procedure.

198 (9) Uses the words "dentist," "dental surgeon," "oral
199 surgeon," or the letters "D.D.S.," "D.M.D." or any other
200 words, letters, title, or descriptive matter which in any way
201 represents him or her as being able to diagnose, treat,
202 prescribe, or operate for any disease, pain, deformity,
203 deficiency, injury, or physical condition of the teeth or
204 jaws, or adjacent structures.

205 (10) States, or professes, or permits to be stated or
206 professed by any means or method whatsoever that he or she can
207 perform or will attempt to perform dental procedures, or
208 render a diagnosis connected therewith.

209 (11) Performs any clinical operation included in the
210 curricula of recognized dental colleges; provided, that
211 members of the faculty, teachers, instructors, fellows,
212 interns, residents, dental students, and student dental
213 hygienists who are employed by or who are taking courses or
214 instructions at the University of Alabama School of Dentistry
215 or ~~such~~ other dental colleges, hospitals, or institutions in
216 Alabama, as may be approved by the board; and provided, that
217 the work of fellows, interns, residents, dental students, and
218 student dental hygienists is performed within the facilities
219 of ~~such~~ the dental colleges, hospitals, and institutions under
220 the supervision of an instructor and as an adjunct to his or
221 her course of study or training, shall not be required to take
222 examination or obtain a license certificate and renewal
223 license certificate when all of ~~such~~ the work, dental
224 procedures, and activities are confined to his or her work in



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225 the college, hospital, or other institution and the work is
226 done without remuneration other than the regular salary or
227 compensation paid by ~~such~~ the colleges, hospitals, or other
228 institutions.

229 (12) Professes to the public by any method to bleach
230 human teeth, performs bleaching of the human teeth alone or
231 within his or her business, or instructs the public within his
232 or her business, or through any agent or employee of his or
233 her business, in the use of any tooth bleaching product."

234 "§34-9-13

235 (a) Every practitioner of dentistry and dental hygiene
236 within the meaning of this chapter shall have in his or her
237 possession and posted in a visible location a license
238 certificate and an annual registration certificate in the
239 office wherein he or she practices. A licensed practitioner
240 who practices in more than one location may reproduce the
241 annual registration certificate as needed; however, the
242 practitioner may not reproduce the license certificate. Copies
243 of the license certificate may be requested by the
244 practitioner from the board as necessary.

245 (b) Every patient who is receiving dental services
246 shall be provided with the name, contact telephone number,
247 after hours contact information for emergencies and, upon the
248 patient's request, the license information for any licensed
249 dentist who is providing dental services to a patient."

250 "§34-9-15.1

251 (a) Upon the request of a patient or authorized agent
252 of a patient, a dentist shall promptly release to the patient



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253 or his or her authorized agent legible and accurate copies of
254 all records of the patient regardless of how they are
255 generated or maintained. The reasonable costs of reproducing
256 copies shall not be more than the amounts authorized by
257 statute and in the absence of any statutory authority no more
258 than the actual cost of the reproduction.

259 (b) The release of records under this section shall not
260 be made contingent upon the payment of any fee or charge owed
261 by the patient.

262 (c) The provisions of the section shall survive the
263 closing of a dental office or practice for any reason, ~~r~~
264 including, but not limited to, sale of practice, any
265 disciplinary action, retirement, disability, or death.

266 (d) (1) The dentist-patient relationship shall terminate
267 when either the dentist of record or the patient, or both,
268 provides express notice that he or she intends to terminate
269 the dentist-patient relationship. If no express notification
270 is provided, the relationship is considered terminated, and
271 the dentist of record is relieved of responsibility, when
272 there is no longer a reasonable expectation from either the
273 dentist or the patient of continuing treatment with that
274 dentist.

275 (2) For a patient being treated utilizing
276 teledentistry, the licensed dentist of record is primarily
277 responsible for all dental treatment on a patient regardless
278 of whether the treatment is rendered by the licensed dentist
279 of record or by another licensed dentist or dental hygienist
280 rendering treatment in conjunction with, at the direction or



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281 request of, or under the supervision of the licensed dentist
282 of record.

283 a. Any individual, partnership, corporation, or other
284 entity that provides dental services through teledentistry
285 shall make available the name, telephone number, practice
286 address, and state license number of any licensed dentist who
287 will be involved in providing services to a patient before the
288 rendering of services and when requested by the patient.

289 b. This section shall not be construed to assign any
290 responsibility to a licensed dentist of record for treatment
291 rendered pursuant to a proper referral to another licensed
292 dentist not in practice with the licensed dentist of record or
293 to prohibit a patient from voluntarily selecting a new
294 licensed dentist without permission of the licensed dentist of
295 record."

296 "§34-9-18

297 (a) The board may invoke disciplinary action as
298 outlined in subsection (b) whenever it shall be established to
299 the satisfaction of the board, after a hearing as hereinafter
300 provided, that any dentist or dental hygienist ~~has been guilty~~
301 ~~of~~ is, or has been, any of the following:

302 (1) ~~Fraud~~ Guilty of fraud, deceit, or misrepresentation
303 in obtaining any license, license certificate, annual
304 registration certificate, money, or other thing of value.

305 (2) ~~Gross~~ Guilty of gross immorality.

306 (3) ~~Is a~~ A menace to the public health or to patients
307 or others by reason of a disease.

308 (4) ~~Is an~~ An habitual user of intoxicants or drugs



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309 rendering him or her unfit for the practice of dentistry or
310 dental hygiene.

311 (5) ~~Has been convicted for violation of~~ Convicted of
312 violating federal or state narcotics or barbiturate laws.

313 (6) ~~Is guilty~~ Guilty of negligence or gross negligence.

314 a. For the purposes of this subdivision, negligence is
315 defined as the failure to do what a reasonably prudent dentist
316 or dental hygienist would have done under the same or similar
317 circumstances or the doing of that which a reasonably prudent
318 practitioner would not have done under the same or similar
319 circumstances.

320 b. For the purposes of this subdivision, gross
321 negligence is defined as willful or wanton conduct with
322 reckless, malicious, or conscious disregard for the rights or
323 safety of others, or conduct that is so deliberate,
324 outrageous, and callous as to display total indifference to
325 the health or safety of a patient, that could result in
326 serious bodily injury or death.

327 (7) ~~Is guilty~~ Guilty of employing, allowing, or
328 permitting any unlicensed ~~person or persons~~ individual to
329 perform any work in his or her office which, under this
330 chapter, can only be legally done by ~~a person or persons~~ an
331 individual holding a license to practice dentistry or dental
332 hygiene.

333 (8) ~~Willfully~~ Guilty of willfully or negligently
334 ~~violates~~ violating the rules of the ~~State~~ Alabama Department
335 of Public Health or of the board regarding sanitation.

336 (9) ~~Is guilty~~ Guilty of division of fees, or agreeing



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337 to split or divide the fee received for dental service with
338 any ~~person~~ individual for bringing or referring a patient
339 without the knowledge of the patient or his or her legal
340 representative, except the division of fees between dentists
341 practicing in a partnership and sharing professional fees, or
342 in case of one licensed dentist employing another.

343 (10) ~~Is guilty~~ Guilty of professional connection or
344 association with or lending his or her name to anyone who is
345 engaged in the illegal practice of dentistry or dental
346 hygiene.

347 (11) ~~Conviction~~ Convicted in any court of competent
348 jurisdiction of a felony or a misdemeanor involving moral
349 turpitude.

350 (12)a. A dental hygienist using or attempting to use in
351 any manner whatsoever any prophylactic list, call list,
352 records, reprints, or copies of same, or information gathered
353 therefrom, of the names of patients whom the dental hygienist
354 served in the office of a prior employer, unless the names
355 appear upon the bona fide call or prophylactic list of his or
356 her present employer and were caused to appear through the
357 legitimate practice of dentistry or dental hygiene as provided
358 for in this chapter.

359 b. A licensed dentist who aids or abets or encourages a
360 dental hygienist employed by him or her to make use of a
361 prophylactic list or the calling by telephone or by the use of
362 letters transmitted through the mails to solicit patronage
363 from patients formerly served in the office of any dentist
364 employing the hygienist.



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365 (13) Pertaining to licensed dentists only, ~~the~~ guilty
366 of prescribing, administering, or dispensing ~~of~~ any controlled
367 substances enumerated in Schedules I through V contained in
368 the Alabama Uniform Controlled Substances Act, Chapter 2 of
369 Title 20, or any amendment or successor thereto, or any drug
370 not prescribed for any dentally or facially related condition,
371 ~~and/or~~ or for any necessary medication during the course of
372 treatment rendered directly by the dentist, for any ~~person~~
373 individual not under his or her treatment in the regular
374 practice of his or her profession.

375 (14) ~~Irregularities~~ Guilty of irregularities in billing
376 an insurance company or other third party payer for services
377 rendered to a patient. For the purposes of this ~~section~~
378 subsection, irregularities in billing shall include any of the
379 following: Reporting charges for the purpose of obtaining a
380 total payment in excess of that usually received by the
381 dentist for the services rendered; falsely reporting treatment
382 dates for the purpose of obtaining payment; falsely reporting
383 charges for services not rendered; falsely reporting services
384 rendered for the purpose of obtaining payment; or failing to
385 advise any third party payer that the copayment provisions of
386 a contract have been abrogated by accepting the payment
387 received from the third party payer as full payment.

388 (15) Pertaining to licensed dentists only, guilty of
389 patient abandonment.

390 (16) ~~Violating~~ Guilty of violating any rule adopted by
391 the board.

392 (17) ~~Has had~~ Guilty of having his or her license or



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393 permit to practice dentistry or dental hygiene from another
394 state suspended or revoked based upon acts similar to those
395 described in this section. A certified copy of the record of
396 suspension or revocation of the state making the suspension or
397 revocation shall be conclusive evidence thereof.

398 (18) As the licensed dentist of record, and before the
399 initial diagnosis and correction of malpositions of human
400 teeth or initial use of orthodontic appliances, is guilty of
401 failing to perform an examination of the patient, which
402 includes a physical examination of the patient as well as a
403 review of the most recent diagnostic digital or conventional
404 radiographs of the patient, or other equivalent bone imaging
405 suitable for orthodontia.

406 ~~(18) Violating~~ (19) Is guilty of violating any provision
407 of this chapter.

408 (b) When the board finds any dentist or dental
409 hygienist guilty of any of the grounds set forth in subsection
410 (a), ~~it~~ the board may enter an order imposing one or more of
411 the following penalties:

412 (1) Refuse to issue the dentist or dental hygienist any
413 license or permit provided for in this chapter.

414 (2) With the exception of negligence, as defined in
415 paragraph (a) (6) a., revoke the license or permit of any
416 dentist or dental hygienist.

417 (3) Suspend the license or permit of any dentist or
418 dental hygienist.

419 (4) Enter a censure.

420 (5) Issue an order fixing a period and terms of



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421 probation best adapted to protect the public health and safety
422 and to rehabilitate the dentist or dental hygienist.

423 (6) Impose an administrative fine not to exceed five
424 thousand dollars (\$5,000) for each count or separate offense.

425 (7) Impose restrictions on the scope of practice.

426 (8) Impose peer review or professional education
427 requirements.

428 (9) Assess the costs of the disciplinary proceedings.

429 (c) Failure to comply with any order of the board,
430 including, but not limited to, an order of censure or
431 probation, is cause for suspension or revocation of a license.

432 (d) (1) No disciplinary action as outlined in subsection
433 (b) or (c) shall be invoked or entered except after a hearing
434 by the board as provided in this chapter, and ~~such~~ any order
435 is subject to judicial review as provided by this chapter.

436 (2) No order of suspension or revocation provided in
437 this section shall be made or entered except after a hearing
438 by the board as provided in this chapter, and the order shall
439 be subject to judicial review as provided by this chapter.

440 (e) (1) The board may temporarily suspend a special
441 purpose license to practice dentistry across state lines
442 without a hearing on either of the following grounds:

443 a. The failure of the licensee to appear or produce
444 records or materials as requested by the board.

445 b. The initiation of a disciplinary action against the
446 licensee by any state or territorial licensing jurisdiction in
447 which the licensee holds a license to practice dentistry.

448 (2) Notwithstanding any other provision of law,



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449 including the Alabama Administrative Procedure Act, the
450 temporary suspension provided ~~herein~~ by this subsection shall
451 remain in effect until either the licensee has complied with
452 the request of the board or the disciplinary action pending
453 against the licensee has been terminated in favor of the
454 licensee and the temporary suspension has been terminated by a
455 written order of the board. A special purpose license to
456 practice dentistry across state lines is subject to each of
457 the grounds for disciplinary action provided in this ~~section~~
458 subsection in accordance with the procedures of Section
459 34-9-24 and the Alabama Administrative Procedure Act.

460 (f) Members of the board, any agent, employee,
461 consultant, or attorney for the board, and the members of any
462 committee of dentists or dental hygienists impaneled by the
463 board, shall be immune from suits for any conduct in the
464 course of their official duties with respect to investigations
465 or hearings; provided, that the ~~persons~~ individuals act
466 without malice and in good faith that ~~such~~ any investigations
467 or hearings are warranted by the facts, known to them after
468 diligent effort to obtain the facts of the matter relative to
469 the investigations or hearings.

470 (g) Nothing in this chapter shall be interpreted to
471 limit or restrict the authority of the board to discipline any
472 dentist licensed to practice in this state who violates this
473 chapter while engaging in the practice of dentistry within
474 this or any other state.

475 (h) The board ~~shall have the authority to~~ may adopt
476 rules imposing a non-disciplinary administrative penalty for



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477 designated violations of this chapter."

478 Section 2. Sections 34-9-6.2 and 34-9-19.2 are added to
479 the Code of Alabama 1975, to read as follows:

480 §34-9-6.2

481 (a) The standard of dental care a licensed dentist
482 provides through teledentistry shall be the same as the
483 standard of dental care a licensed dentist provides in a
484 traditional physical setting.

485 (b) (1) A treating licensed dentist may use
486 teledentistry to collaborate with a licensed hygienist within
487 the relevant applicable scopes of practice and under the
488 appropriate level of dentist supervision, in accordance with
489 this chapter.

490 (2) A licensed hygienist or any other teledentistry
491 provider may not carry out any duties through teledentistry
492 that require the in-person supervision of a licensed dentist.

493 (c) A licensed dentist may not conduct a dental
494 examination using teledentistry if the standard of care
495 necessitates a traditional physical dental examination.

496 (d) A licensed dentist may provide dental services
497 using teledentistry, including any of the following:

498 (1) Collaborating with a licensed dentist in the
499 completion of any of the following at a public health setting,
500 generally with a written collaborative agreement, directly or
501 indirectly, in accordance with this chapter:

502 a. Gathering diagnostic information to be used by the
503 licensed dentist at a remote location to form a tentative
504 basic treatment plan and provide appropriate preventive or



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505 urgent prescriptions.

506 b. Perform preventive dental procedures.

507 c. Provide oral health education.

508 d. Perform any palliative or interim treatment or
509 caries arresting treatment outlined in the treatment plan and
510 authorized by the licensed dentist, in accordance with this
511 chapter and rules adopted pursuant to this chapter.

512 (2) At a remote location, using records and diagnostic
513 information that a licensed hygienist provides to form a
514 tentative treatment plan for basic dental procedures.

515 (e) (1) Prior to the diagnosis and correction of
516 malpositions of human teeth or initial use of orthodontic
517 appliances, a treating dentist shall do all of the following:

518 a. Perform a physical examination of the patient that
519 includes the review of the most recent diagnostic digital or
520 conventional radiographs of the patient, or other equivalent
521 bone imaging suitable for orthodontia and that meets the
522 standard of care. New radiographs or other equivalent bone
523 imaging shall be ordered if deemed appropriate by the treating
524 dentist.

525 b. Perform diagnosis and treatment planning in
526 consultation with the patient.

527 (2) A patient receiving orthodontia services through
528 teledentistry shall be provided with the name, direct
529 telephone number, emergency contact telephone number, physical
530 practice address, and state license number of the treating
531 dentist who will be involved in the teledentistry services.
532 The information shall be provided to the patient both before



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533 services are provided and during treatment.

534 (3) A dentist who provides orthodontia services to a
535 patient through teledentistry must provide the patient with a
536 timely opportunity to have follow-up care to address any
537 concerns regarding the services provided and describe to the
538 patient the protocols for emergencies or follow-up care where
539 the patient needs to be seen by the treating dentist in
540 person.

541 (f) A licensed dentist or any entity employing a
542 licensed dentist may not require a patient to sign an
543 agreement that limits the ability of the patient to file a
544 complaint with the board, subjects the patient to a
545 nondisclosure agreement concerning the outcome of his or her
546 treatment, forfeits his or her right to participate in a class
547 action lawsuit, limits the liability of a licensed dentist to
548 the patient, or waives his or her right to a trial by jury.

549 (g) When a licensed dentist uses teledentistry, the
550 licensed dentist shall ensure informed consent covers all of
551 the following additional information:

552 (1) A description of the types of dental care services
553 provided through teledentistry, including limitations on
554 services.

555 (2) The name, contact information, licensure,
556 credentials, and qualifications of all licensed dentists and
557 licensed hygienists involved in the dental care of the patient
558 and opportunities for the patient to directly communicate with
559 those individuals, whether in person, by telephone, or through
560 synchronous teledentistry technology, so that the patient may



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561 ask questions about the treatment to be provided.

562 (3) Precautions and protocols for technological
563 failures or emergency situations.

564 (h) To be eligible to participate in and receive
565 teledentistry services, a patient shall complete at least one
566 in-person visit with a licensed dentist annually.

567 (i) The board, by rule, shall establish additional
568 requirements and parameters regarding teledentistry to ensure
569 the safe use of teledentistry including, but not limited to,
570 all of the following:

571 (1) Transparency, disclosure, and informed consent.

572 (2) Standard of care.

573 (3) Proper documentation.

574 (4) Supervision and scope of practice.

575 (5) Patient complaints.

576 (6) Protocols for referrals.

577 §34-9-19.2

578 (a) For the purposes of this section, an advertisement
579 is information communicated in a manner designed to attract
580 public attention to the practice of a licensed dentist.

581 (b) In addition to complying with all applicable
582 advertising requirements provided in Sections 34-9-19 and
583 34-9-19.1, an advertisement for dental services provided
584 through teledentistry shall include the following conspicuous
585 disclaimer:

586 "An in-person examination with a licensed dentist is
587 recommended in order to prevent injury or harm before
588 beginning treatment for the following services:



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589 (1) The taking of an impression or digital scanning of
590 the human tooth, teeth, or jaws directly or indirectly and by
591 any means or method.

592 (2) Furnishing, supplying, constructing, reproducing,
593 or repairing any prosthetic denture, bridge, appliance, or any
594 structure designed to be worn in the human mouth.

595 (3) The placing of an appliance or structure in the
596 human mouth or the adjusting or attempting to adjust the same.

597 (4) Correcting or attempting to correct malformations
598 of teeth or of jaws."

599 Section 3. This act shall become effective on the first
600 day of the third month following its passage and approval by
601 the Governor, or its otherwise becoming law.