

The House Committee on Health offers the following substitute to HB 441:

A BILL TO BE ENTITLED
AN ACT

1 To amend Chapter 11 of Title 43 of the Official Code of Georgia Annotated, relating to
2 dentists, dental hygienists, and dental assistants, so as to authorize and regulate teledentistry
3 by licensed dentists in this state; to provide for definitions; to provide for exemptions and
4 conditions; to provide for authorized practices; to provide for a referred dentist; to provide
5 for ownership of documents; to provide for a limited number of dental hygienists and
6 expanded duties dental assistants to perform teledentistry; to require health insurers to cover
7 dental care provided through teledentistry; to prohibit health insurers from requiring covered
8 persons to obtain dental care through teledentistry; to provide for enforcement by the
9 Commissioner of Insurance regarding insurance coverage of teledentistry; to provide for the
10 Georgia Board of Dentistry to promulgate rules and regulations; to provide for related
11 matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

12 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

13 **SECTION 1.**

14 Chapter 11 of Title 43 of the Official Code of Georgia Annotated, relating to dentists, dental
15 hygienists, and dental assistants, is amended in Article 2, relating to licenses for the practice
16 of dentistry, by adding a new Code section to read as follows:

H. B. 441 (SUB)

17 "43-11-54.

18 (a) As used in this Code section, the term:

19 (1) 'Authorizing dentist' means a licensed dentist in good standing and practicing in the
20 State of Georgia.

21 (2) 'Care management organization' shall have the same meaning as in Code
22 Section 33-24-59.24.

23 (3) 'Dental hygienist' means a licensed dental hygienist in good standing who meets the
24 requirements to perform the specific dental hygiene functions permitted under general
25 supervision under Code Section 43-11-74.

26 (4) 'Digital scan' means a computer generated replica of the hard and soft tissues of the
27 oral cavity created with digital technology and enhanced digital photography.

28 (5) 'Direct supervision' shall have the same meaning as in Code Section 43-11-74.

29 (6) 'Expanded duties dental assistant' means a dental assistant who has met the additional
30 education and training requirements established by the board pursuant to subsection (b)
31 of Code Section 43-11-80 to perform such other acts, practices, services, or procedures.

32 (7) 'General supervision' shall have the same meaning as in Code Section 43-11-74.

33 (8) 'Health insurance plan' shall have the same meaning as in Code Section 33-24-59.24.

34 (9) 'Health insurer' shall have the same meaning as in Code Section 33-24-59.24.

35 (10) 'Referred dentist' means a licensed dentist practicing in this state who has a written
36 agreement with an authorizing dentist to provide in-person dental treatment to patients
37 receiving dental care through a teledentistry interaction under this Code section.

38 (11) 'Store and forward technologies' means technologies that allow for the electronic
39 transmission of dental and health information, including images, photographs,
40 documents, and health histories, through a secure communication system.

41 (12) 'Synchronous, real-time communication' means a live, two-way interaction between
42 the authorizing dentist and a dental hygienist, expanded duties dental assistant, or patient
43 permitted under this Code section using audiovisual telecommunications technology but

44 shall not constitute direct supervision for the purposes of Code Section 43-11-74 and the
45 practice of dentistry in this state.

46 (13) 'Teledentistry' means the delivery of dental care through the use of synchronous,
47 real-time communication in conjunction with and supported by store and forward
48 technologies under the general supervision of the authorizing dentist when dental care is
49 provided to a patient physically located at a site in this state that is different from the site
50 where the authorizing dentist is physically located. Teledentistry shall not include when
51 a licensed dentist providing dental care to patients in a private dental office receives a
52 digital photograph or audio or video communication from the cellphone of a patient of
53 record for the purpose of evaluating a dental emergency or providing palliative care until
54 the patient can be treated by such dentist. Such dentist shall not charge the patient for
55 such emergency evaluation or palliative care. A teledentistry interaction shall not
56 constitute or be considered the equivalent of an in-person, clinical examination by a
57 licensed dentist.

58 (b) No licensed dentist in this state shall provide dental care through teledentistry except
59 under the conditions specified in this Code section.

60 (c) A licensed dentist who wishes to provide dental care through teledentistry pursuant to
61 this Code section shall so notify the board; provide written documentation evidencing that
62 such dentist has established a referral relationship with a referred dentist who practices
63 dentistry and treats patients in a physical and operational dental office located in this state
64 within 50 miles of the setting where the teledentistry interaction will occur, provided that
65 if no such office is available, then the closest dental office within the state; and provide any
66 other pertinent information as prescribed by the board.

67 (d) Subject to the conditions specified in subsection (e) of this Code section, an
68 authorizing dentist shall only be authorized to:

69 (1) Authorize a dental hygienist to perform the specific dental hygiene functions
70 permitted under general supervision in accordance with the requirements of Code

71 Section 43-11-74, except as otherwise provided in paragraph (1) of subsection (e) of this
72 Code section;

73 (2) Prescribe a medication that is not a controlled substance for a patient receiving dental
74 care through a teledentistry interaction;

75 (3) Authorize the performance of digital scans by a dentist or dental hygienist; and

76 (4) Authorize the use of store and forward technologies to transmit patient records,
77 images, digital scans, X-rays, and other relevant health information between the
78 authorizing dentist and a dental hygienist or expanded duties dental assistant for the
79 purposes of evaluating a patient's oral health condition and authorizing the performance
80 of dental care permitted under this Code section. The authorizing dentist shall be the
81 custodian of all patient records for the purposes of this Code section unless the patient is
82 treated by a referred dentist. In such instance, the referred dentist shall be the custodian
83 of the patient's records associated with the dental care the referred dentist provides to the
84 patient, and such referred dentist shall furnish copies of these records to the authorizing
85 dentist.

86 (e) An authorizing dentist shall be subject to the following conditions when providing
87 dental care through teledentistry as authorized in subsection (d) of this Code section:

88 (1) Teledentistry services shall be consistent with how dental treatment is provided in
89 person and shall adhere to the standards of appropriate patient care required in other
90 dental care settings, including, but not limited to, appropriate patient examination, the
91 taking and review of X-rays, and review of a patient's medical and dental history;

92 (2)(A) As part of the initial consultation with all new patients, the authorizing dentist
93 shall establish a bona fide dentist-patient relationship by reviewing the patient's medical
94 and dental history and verifying the patient's identity and physical location to ensure the
95 patient is physically located in this state when dental care is provided and shall obtain
96 the requisite consent from a parent or guardian if the patient is a minor.

97 (B) Prior to practicing and authorizing teledentistry pursuant to this Code section in
98 board approved dental facilities and offsite locations of the Department of Public
99 Health, county boards of health, or the Department of Corrections; Title I schools under
100 the federal Elementary and Secondary Education Act; schools in which at least
101 65 percent of the student population is eligible for free or reduced price lunch under
102 federal guidelines; Head Start programs; Georgia's Pre-K Program; hospitals; nursing
103 homes; long-term care facilities; rural health clinics; federally qualified health centers;
104 health facilities operated by federal, state, county, or local governments; hospices;
105 family violence shelters as defined in Code Section 19-13-20; and free health clinics
106 as defined in Code Section 51-1-29.4, the authorizing dentist shall perform the initial
107 consultation with the patient through an in-person, clinical examination of the patient
108 or through synchronous, real-time communication or asynchronous communication
109 involving the authorizing dentist, dental hygienist, expanded duties dental assistant, and
110 patient as permitted under this Code section.

111 (C) Prior to practicing and authorizing teledentistry in all other settings in this state
112 under this Code section, the authorizing dentist shall perform the initial consultation
113 with the patient in person, which shall include a clinical examination of the patient, and
114 such in-person clinical examination shall be performed at a minimum of every 12
115 months by the authorizing dentist;

116 (3) The authorizing dentist shall prepare a written authorization, which shall be given to
117 the patient and included in the patient's record, providing the name and license number
118 of the authorizing dentist and the name and license number of licensed dental hygienist
119 or expanded duties dental assistant treating the patient during the teledentistry interaction,
120 as well as any other information the authorizing dentist or board deems appropriate;

121 (4) Prior to each teledentistry interaction, informed consent shall be obtained from the
122 patient, or from the parent or guardian if the patient is a minor, explaining the alternatives
123 to and the capabilities and limitations of teledentistry, which shall include a written

124 statement advising that a teledentistry interaction is not equivalent to an in-person,
125 clinical examination, and that the authorizing dentist will not be physically present during
126 the delivery of dental care. Such informed consent shall also be documented and
127 included in the patient's record;

128 (5) The authorizing dentist shall provide dental services through teledentistry only if
129 such dental services are appropriate for the patient, as determined by such authorizing
130 dentist;

131 (6)(A) The authorizing dentist shall provide the name, license number, office mailing
132 address, and office phone number of the referred dentist to the patient after each
133 teledentistry interaction.

134 (B) The referred dentist shall accept a referral to treat all dental emergencies and
135 provide all necessary dental care, as determined by and in consultation with the
136 authorizing dentist.

137 (C) The authorizing dentist shall submit updated documentation to the board regarding
138 any changes to the referral relationship within 30 days of any such changes; provided,
139 however, that documentation of a referral relationship shall not be required if the
140 authorizing dentist will also be providing in-person dental care;

141 (7)(A) An authorizing dentist may only authorize up to four licensed dental hygienists
142 and up to four expanded duties dental assistants to perform the functions permitted in
143 subsection (d) of this Code section at any one time.

144 (B) Any dental hygienist performing the functions permitted in subsection (d) of this
145 Code section via teledentistry shall have at least two years of experience in the practice
146 of dental hygiene, shall be in compliance with continuing education requirements
147 pursuant to Code Section 43-11-73.1 and cardiopulmonary resuscitation certification
148 requirements contained in Code Section 43-11-73, and shall be licensed in good
149 standing.

150 (C) Any dental hygienist practicing under general supervision via teledentistry
151 pursuant to this Code section shall maintain professional liability insurance in
152 accordance with board rules and regulations; provided, however, that this subparagraph
153 shall not apply to an entity covered under sovereign immunity;

154 (8) No authorizing dentist, dental hygienist, or expanded duties dental assistant shall
155 attempt to waive liability for teledentistry services in advance of delivering such services,
156 and no authorizing dentist, dental hygienist, or expanded duties dental assistant shall
157 attempt to prevent a patient from filing any complaint with any governmental agency or
158 authority relating to the provision of dental care through teledentistry; and

159 (9) The authorizing dentist shall ensure that the use of teledentistry complies with the
160 privacy and security requirements of the federal Health Insurance Portability and
161 Accountability Act of 1996, as well as those of Chapter 33 of Title 31.

162 (f) Nothing in this Code section shall be construed to:

163 (1) Require a licensed dentist in this state to practice teledentistry;

164 (2) Require a licensed dentist to authorize a dental hygienist or expanded duties dental
165 assistant to perform the functions permitted in this Code section via teledentistry;

166 (3) Require a school or facility receiving dental hygiene services provided pursuant to
167 subsection (h) or (i) of Code Section 43-11-74 to purchase any equipment to provide
168 dental care through teledentistry; or

169 (4) Expand the scope of practice for dental hygienists or establish independent dental
170 hygiene practice.

171 (g)(1) Any health insurance plan issued, amended, or renewed on or after January 1,
172 2024, between a health insurer, contracted vendor thereof, or a care management
173 organization and a healthcare provider for the provision of healthcare services to a plan
174 enrollee shall provide coverage for the cost of dental care provided through teledentistry
175 as directed through regulations promulgated by the Department of Insurance.

176 (2) A health insurer, contracted vendor thereof, or care management organization shall
177 not:

178 (A) Exclude a service appropriately provided through teledentistry from coverage
179 solely because the service is provided through teledentistry and is not provided through
180 in-person consultation or contact between an authorizing dentist and a patient;

181 (B) Impose any annual or lifetime dollar maximum on coverage for teledentistry
182 services, other than an annual or lifetime dollar maximum that applies in the aggregate
183 to all items and services covered under the patient's policy, or impose upon any patient
184 receiving benefits pursuant to this Code section any copayment, coinsurance, or
185 deductible amounts, or any policy year, calendar year, lifetime, or other durational
186 benefit limitation or maximum for benefits or services, that is not equally imposed upon
187 all terms and services covered under the patient's health insurance policy; or

188 (C) Require its insureds to receive dental care through teledentistry in lieu of an
189 in-person, clinical examination.

190 (3) The Commissioner of Insurance shall have all powers of enforcement and sanction
191 with respect to violations of this subsection by any health insurer, contracted vendor
192 thereof, or care management organization as provided in Title 33.

193 (h) The board shall promulgate rules and regulations that are reasonably necessary to
194 implement the provisions of this Code section."

195 **SECTION 2.**

196 This Act shall become effective on January 1, 2025.

197 **SECTION 3.**

198 All laws and parts of laws in conflict with this Act are repealed.