

**Senator Allen M. Christensen** proposes the following substitute bill:

**DENTAL PRACTICE ACT AMENDMENTS**

2020 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Allen M. Christensen**

House Sponsor: Steve Eliason

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**LONG TITLE**

**General Description:**

This bill addresses the use of teledentistry to provide dental care.

**Highlighted Provisions:**

This bill:

- ▶ defines terms;
- ▶ provides for the use of teledentistry within the state by dental professionals licensed within the state;
- ▶ provides that the standard of dental care for teledentistry is the same for in-person dental care;
- ▶ establishes the dental services a dental professional may provide using teledentistry;
- ▶ directs the Division of Occupational and Professional Licensing to make rules regarding teledentistry; and
- ▶ makes technical and conforming changes.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**



26 AMENDS:

27 **58-69-102**, as last amended by Laws of Utah 2015, Chapter 343

28 **58-69-301**, as last amended by Laws of Utah 2015, Chapter 320

29 **58-69-802**, as enacted by Laws of Utah 1996, Chapter 116

30 ENACTS:

31 **58-69-807**, Utah Code Annotated 1953



33 *Be it enacted by the Legislature of the state of Utah:*

34 Section 1. Section **58-69-102** is amended to read:

35 **58-69-102. Definitions.**

36 In addition to the definitions in Section **58-1-102**, as used in this chapter:

37 (1) "Asynchronous technology" means store-and-forward technology that allows a  
38 licenced dental professional ~~to~~ **to** ~~transmit a patient's health information~~  
38a to a  
39 dentist for viewing at a later time.

40 [~~1~~] (2) "Board" means the Dentist and Dental Hygienist Licensing Board created in  
41 Section **58-69-201**.

42 [~~2~~] (3) "Dental assistant" means an unlicensed individual who engages in, directly or  
43 indirectly, supervised acts and duties as defined by division rule made in collaboration with the  
44 board.

45 [~~3~~] (4) "Direct supervision" means the supervising dentist is present and available for  
46 face-to-face communication with the person being supervised when and where professional  
47 services are being provided.

48 [~~4~~] (5) "General supervision" means that the supervising dentist is available for  
49 consultation regarding work the supervising dentist has authorized, without regard as to  
50 whether the supervising dentist is located on the same premises as the person being supervised.

51 [~~5~~] (6) "Indirect supervision" means that the supervising dentist is present within the  
52 facility in which the person being supervised is providing services and is available to provide  
53 immediate face-to-face communication with the person being supervised.

54 [~~6~~] (7) "Practice of dental hygiene" means, regarding humans:  
55 (a) under the general supervision of a dentist, or under a written agreement with a  
56 dentist licensed under this chapter, as provided in Section **58-69-801**, to:

- 57 (i) perform preliminary clinical examination of human teeth and gums;
- 58 (ii) make preliminary instrumental examination of patients' teeth;
- 59 (iii) expose dental radiographs;
- 60 (iv) assess dental hygiene status and collaborate with the supervising dentist regarding
- 61 a dental hygiene treatment plan for a patient;
- 62 (v) remove deposits, accumulations, calculus, and concretions from the surfaces of
- 63 human teeth;
- 64 (vi) remove toxins and debris from subgingival surfaces;
- 65 (vii) provide dental hygiene care in accordance with a dentist's treatment plan for a
- 66 patient;
- 67 (viii) take impressions of teeth or jaws except for impressions or registrations to supply
- 68 artificial teeth as substitutes for natural teeth; or
- 69 (ix) engage in other practices of dental hygiene as defined by division rule;
- 70 (b) under the indirect supervision of a dentist to administer in accordance with
- 71 standards and ethics of the professions of dentistry and dental hygiene:
- 72 (i) local anesthesia; or
- 73 (ii) nitrous oxide analgesia;
- 74 (c) to represent oneself by any title, degree, or in any other way as being a dental
- 75 hygienist; or
- 76 (d) to direct a dental assistant when the supervising dentist is not on the premises.
- 77 [(7)] (8) "Practice of dentistry" means the following, regarding humans:
- 78 (a) to offer, undertake, or represent that a person will undertake by any means or
- 79 method, including teledentistry, to:
- 80 (i) examine, evaluate, diagnose, treat, operate, or prescribe therapy for any disease,
- 81 pain, injury, deficiency, deformity, or any other condition of the human teeth, alveolar process,
- 82 gums, jaws, or adjacent hard and soft tissues and structures in the maxillofacial region;
- 83 (ii) take an appropriate history and physical consistent with the level of professional
- 84 service to be provided and the available resources in the facility in which the service is to be
- 85 provided;
- 86 (iii) take impressions or registrations;
- 87 (iv) supply artificial teeth as substitutes for natural teeth;

88 (v) remove deposits, accumulations, calculus, and concretions from the surfaces of  
89 teeth; and

90 (vi) correct or attempt to correct malposition of teeth;

91 (b) to administer anesthetics necessary or proper in the practice of dentistry only as  
92 allowed by an anesthesia permit obtained from the division;

93 (c) to administer and prescribe drugs related to and appropriate in the practice of  
94 dentistry;

95 (d) to supervise the practice of a dental hygienist or dental assistant as established by  
96 division rule made in collaboration with the board; or

97 (e) to represent oneself by any title, degree, or in any other way that one is a dentist.

98 [~~8~~] (9) "Public health setting" means:

99 (a) an individual's residence, if the individual is unable to leave the residence;

100 (b) a school, as part of a school-based program;

101 (c) a nursing home;

102 (d) an assisted living or long-term care facility;

103 (e) a community health center;

104 (f) a federally-qualified health center; or

105 (g) a mobile dental health program that employs a dentist who is licensed under this  
106 chapter.

107 [~~9~~] (10) "Supervising dentist" means a licensed dentist who has agreed to provide  
108 supervision of a dental hygienist or unlicensed individual in accordance with the provisions of  
109 this chapter.

110 (11) "Synchronous technology" means two-way audiovisual technology that allows a  
111 licensed dental professional to see and communicate in real time with a patient who is located  
112 in a different physical location.

113 (12) "Teledentistry" means the practice of dentistry using synchronous or asynchronous  
114 technology.

115 [~~10~~] (13) "Unlawful conduct" means the same as that term is defined in Sections  
116 58-1-501 and 58-69-501.

117 [~~11~~] (14) "Unprofessional conduct" means the same as that term is defined in  
118 Sections 58-1-501 and 58-69-502 and as may be further defined by rule.

119 Section 2. Section 58-69-301 is amended to read:

120 **58-69-301. License required -- License classifications -- Anesthesia and analgesia**  
121 **permits.**

122 (1) A license is required to engage in the practice of dentistry, including teledentistry,  
123 or dental hygiene except as specifically provided in Section 58-69-306 or 58-1-307.

124 (2) The division shall issue to individuals qualified under the provisions of this chapter  
125 a license in the classification:

126 (a) dentist; or

127 (b) dental hygienist.

128 (3) A permit is required to engage in administration of anesthesia or analgesia in the  
129 practice of dentistry or dental hygiene.

130 (4) The division in collaboration with the board shall establish by rule:

131 (a) the classifications of anesthesia and analgesia permits and the scope of practice  
132 permitted under each permit; and

133 (b) the qualifications for each classification of anesthesia and analgesia permit.

134 Section 3. Section 58-69-802 is amended to read:

135 **58-69-802. Practice within limits of law, education, training, experience, and**  
136 **competency -- Standard of care.**

137 (1) Each individual licensed under this chapter shall confine his practice to those acts  
138 or practices:

139 ~~[(1)]~~ (a) permitted by law; and

140 ~~[(2)]~~ (b) in which the individual is competent by education, training, and experience.

141 (2) (a) The standard of dental care a licensed dental professional provides through  
142 teledentistry is the same as the standard of dental care a licensed dental professional provides in  
143 a traditional physical setting.

144 (b) (i) A treating dentist may use teledentistry to ~~â†’~~ **[delegate duties to]**

144a **collaborate with** ~~â†’~~ a dental hygienist ~~â†’~~ **[or**

145 **dental auxiliaries]** ~~â†’~~ within the relevant applicable scopes of practice and under the appropriate  
146 level of dentist supervision, in accordance with existing supervision laws.

147 (ii) A dental hygienist, other dental auxiliary, or any other teledentistry provider may  
148 not carry out any duties through teledentistry that require the in-person supervision of a dentist  
149 licensed under this chapter.

150 (c) A dentist may not conduct a dental examination using teledentistry if the standard  
151 of care necessitates a traditional physical dental examination.

152 Section 4. Section **58-69-807** is enacted to read:

153 **58-69-807. Use of teledentistry -- Informed consent -- Rulemaking.**

154 (1) A dentist may provide dental services using teledentistry, including the following:

155 (a) ~~H~~→ ~~[supervising]~~ collaborating with ←~~H~~ a licensed dental professional in the

155a completion of the following at a

156 public health setting, generally with a written collaborative agreement, directly, or indirectly, in

157 accordance with this chapter:

158 (i) gathering diagnostic information to be used by the dentist at a remote location to

159 form a tentative basic treatment plan and provide appropriate preventive or urgent

160 prescriptions;

161 (ii) perform preventive dental procedures;

162 (iii) provide oral health education; and

163 (iv) perform any palliative or interim treatment or caries arresting treatment outlined in

164 the dentist's treatment plan and authorized by the dentist, in accordance with this chapter and

165 rules made in accordance with this chapter; and

166 (b) at a remote location, using records and diagnostic information that a dental

167 hygienist provides to form a tentative treatment plan for basic dental procedures.

168 (2) A licensed dental professional or any entity employing a licensed dental

169 professional may not require a patient to sign an agreement that limits the patient's ability to

170 file a complaint with the division.

171 (3) When a licensed dental professional uses teledentistry, the licensed dental

172 professional shall ensure informed consent covers the following additional information:

173 (a) a description of the types of dental care services provided through teledentistry,

174 including limitations on services;

175 (b) the name, contact information, licensure, credentials, and qualifications of all

176 dentists and dental hygienists involved in the patient's dental care; and

177 (c) precautions and protocols for technological failures or emergency situations.

178 (4) The division shall make rules, in accordance with Title 63G, Chapter 3, Utah

179 Administrative Rulemaking Act, to establish requirements and parameters regarding

180 teledentistry to ensure the safe use of teledentistry, including additional provisions for:

- 181            (a) transparency, disclosure, and informed consent;
- 182            (b) standard of care;
- 183            (c) proper documentation;
- 184            (d) supervision and scope of practice;
- 185            (e) patient complaints; and
- 186            (f) protocols for referrals.