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DENTAL PRACTICE ACT AMENDMENTS

2020 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Allen M. Christensen

House Sponsor: _____

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 dentists 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 dentist may and may not 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:

AMENDS:



28 58-69-102, as last amended by Laws of Utah 2015, Chapter 343

29 58-69-301, as last amended by Laws of Utah 2015, Chapter 320

30 58-69-801, as last amended by Laws of Utah 2016, Chapter 348

31 58-69-802, as enacted by Laws of Utah 1996, Chapter 116

32 ENACTS:

33 58-69-807, Utah Code Annotated 1953



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

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

37 **58-69-102. Definitions.**

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

39 (1) "Asynchronous technology" means store-and-forward technology that allows a
40 dentist or a dental hygienist to transmit a patient's health information to a dentist for viewing at
41 a later time.

42 [~~(1)~~] (2) "Board" means the Dentist and Dental Hygienist Licensing Board created in
43 Section 58-69-201.

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

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

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

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

56 [~~(6)~~] (7) "Practice of dental hygiene" means, regarding humans:

57 (a) under the general supervision of a dentist, or under a written agreement with a
58 dentist licensed under this chapter, as provided in Section 58-69-801, to:

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

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

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

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

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

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

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

100 ~~[(8)]~~ (9) "Public health setting" means:

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

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

103 (c) a nursing home;

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

105 (e) a community health center;

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

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

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

112 (11) "Synchronous technology" means two-way audiovisual technology that allows a
113 dentist to see and communicate in real time with a patient who is located in a different physical
114 location.

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

117 ~~[(10)]~~ (13) "Unlawful conduct" means the same as that term is defined in Sections
118 58-1-501 and 58-69-501.

119 ~~[(11)]~~ (14) "Unprofessional conduct" means the same as that term is defined in
120 Sections 58-1-501 and 58-69-502 and as may be further defined by rule.

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

122 **58-69-301. License required -- License classifications -- Anesthesia and analgesia**
123 **permits.**

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

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

- 128 (a) dentist; or
- 129 (b) dental hygienist.

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

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

- 133 (a) the classifications of anesthesia and analgesia permits and the scope of practice
- 134 permitted under each permit; and
- 135 (b) the qualifications for each classification of anesthesia and analgesia permit.

136 Section 3. Section **58-69-801** is amended to read:

137 **58-69-801. Dental hygienist -- Limitations on practice.**

138 (1) A dental hygienist licensed under this chapter may only practice dental hygiene:

139 ~~[(1)]~~ (a) in an accredited dental or dental hygienist school to teach and demonstrate the
140 practice of dental hygiene;

141 ~~[(2)]~~ (b) for a public health agency;

142 ~~[(3)]~~ (c) under the supervision of a dentist, for an employee leasing company or
143 temporary personnel service company providing employees to a dentist or other person
144 lawfully providing dental services:

145 ~~[(a)]~~ (i) under the indirect supervision of a dentist licensed under this chapter at any
146 time the dental hygienist is administering an anesthetic or analgesia as permitted under this
147 chapter or division rules made under this chapter;

148 ~~[(b)]~~ (ii) under the general supervision of a dentist licensed under this chapter within
149 the office of the supervising dentist and upon patients of record of the supervising dentist; and

150 ~~[(c)]~~ (iii) under the general supervision of a dentist licensed under this chapter, and the
151 practice is conducted outside of the office of the supervising dentist, if:

152 [(i)] (A) the dental hygiene work performed is authorized by the supervising dentist as
 153 a part of and in accordance with the supervising dentist's current treatment plan for the patient;

154 [(ii)] (B) no anesthetic or analgesia is used;

155 [(iii)] (C) the supervising dentist has determined the patient's general health and oral
 156 health are so that the dental hygiene work can be performed under general supervision and with
 157 an acceptable level of risk or injury as determined by the supervising dentist;

158 [(iv)] (D) the supervising dentist accepts responsibility for the dental hygiene work
 159 performed under general supervision; and

160 [(v)] (A) (E) the dental hygienist's work is performed on a patient who is homebound
 161 or within a hospital, nursing home, or public health agency or institution[; and (B)], the patient
 162 is the supervising dentist's patient of record, and the dentist has examined the patient within six
 163 months prior to the patient's receiving treatment from a dental hygienist under this Subsection

164 [(3)] (1)(c); or

165 [(4)] (d) under a written agreement with a dentist who is licensed under this chapter
 166 and who is a Utah resident if:

167 [(a)] (i) the dental hygienist practices in a public health setting;

168 [(b)] (ii) the dentist is available in person, by phone, or by electronic communication;

169 [(c)] (iii) the agreement provides that the dental hygienist shall refer a patient with a
 170 dental need beyond the dental hygienist's scope of practice to a licensed dentist; and

171 [(d)] (iv) the dental hygienist obtains from each patient an informed consent form that
 172 provides that treatment by a dental hygienist is not a substitute for a dental examination by a
 173 dentist.

174 (2) A dentist's use of teledentistry is not an expansion of the scope of practice for
 175 dental hygienists.

176 Section 4. Section **58-69-802** is amended to read:

177 **58-69-802. Practice within limits of law, education, training, experience, and**
 178 **competency -- Standard of care.**

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

181 [(1)] (a) permitted by law; and

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

183 (2) (a) The standard of dental care a dentist provides through teledentistry is the same
184 as the standard of dental care a dentist provides in a traditional physical setting.

185 (b) A dentist who provides dental care through teledentistry shall use evidence-based
186 teledentistry standards of practice and practice guidelines, to the degree available, to ensure
187 patient safety, quality of care, and positive outcomes.

188 (c) A dentist may:

189 (i) use teledentistry to conduct an examination for a new patient or for a new diagnosis
190 if the examination is conducted in accordance with evidence-based standards of practice to
191 sufficiently establish an informed diagnosis; and

192 (ii) after conducting an examination in accordance with Subsection (2)(c)(i), delegate
193 the needed dental services.

194 (d) A dentist may not conduct a dental examination using teledentistry if the standard
195 of care necessitates a traditional physical dental examination.

196 Section 5. Section **58-69-807** is enacted to read:

197 **58-69-807. Use of teledentistry -- Informed consent -- Rulemaking.**

198 (1) A dentist may provide the following dental services using teledentistry:

199 (a) supervising a dental hygienist in the completion of the following at a public health
200 setting, generally with a written collaborative agreement, directly, or indirectly, in accordance
201 with this chapter:

202 (i) gathering diagnostic information to be used by the dentist at a remote location to
203 form a tentative basic treatment plan and provide appropriate preventive or urgent
204 prescriptions;

205 (ii) perform preventive dental procedures;

206 (iii) provide oral health education; and

207 (iv) perform any palliative or interim treatment or caries arresting treatment outlined in
208 the dentist's treatment plan and authorized by the dentist, in accordance with this chapter and
209 rules made in accordance with this chapter; and

210 (b) at a remote location, using records and diagnostic information that a dental
211 hygienist provides to form a tentative treatment plan for basic dental procedures.

212 (2) A dentist may not, using teledentistry at a remote location, form an advanced final
213 treatment plan, including any of the following:

- 214 (a) an endodontic treatment plan;
- 215 (b) a fixed or removable prosthodontics treatment plan;
- 216 (c) a surgical treatment plan; or
- 217 (d) an orthodontic treatment plan.
- 218 (3) A dentist or any entity employing a dentist may not require a patient to sign an
- 219 agreement that limits the patient's ability to file a complaint with the division.
- 220 (4) When a dentist uses teledentistry, the dentist shall ensure informed consent covers
- 221 the following additional information:
- 222 (a) a description of the types of dental care services provided through teledentistry,
- 223 including limitations on services;
- 224 (b) the name, contact information, licensure, credentials, and qualifications of all
- 225 dentists and dental hygienists involved in the patient's dental care; and
- 226 (c) precautions and protocols for technological failures or emergency situations.
- 227 (5) The division shall make rules, in accordance with Title 63G, Chapter 3, Utah
- 228 Administrative Rulemaking Act, to establish requirements and parameters regarding
- 229 teledentistry to ensure the safe use of teledentistry, including additional provisions for:
- 230 (a) transparency, disclosure, and informed consent;
- 231 (b) standard of care;
- 232 (c) proper documentation;
- 233 (d) supervision and scope of practice;
- 234 (e) patient complaints; and
- 235 (f) protocols for referrals.