

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

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 or a dental hygienist to transmit a patient's health information 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 delegate duties to a dental hygienist or
145 dental auxiliaries 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) supervising a licensed dental professional in the 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.