

SB0135S02 compared with SB0135S01

~~text~~ shows text that was in SB0135S01 but was deleted in SB0135S02.

text shows text that was not in SB0135S01 but was inserted into SB0135S02.

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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: _____

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~~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 ~~dentist~~dental professional may ~~and may not~~ provide using teledentistry;
- ▶ directs the Division of Occupational and Professional Licensing to make rules

SB0135S02 compared with SB0135S01

regarding teledentistry; and

- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

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

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

~~{ **58-69-801**, as last amended by Laws of Utah 2016, Chapter 348~~

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

ENACTS:

58-69-807, Utah Code Annotated 1953

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

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

58-69-102. Definitions.

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

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

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

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

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

[(-)] (5) "General supervision" means that the supervising dentist is available for

SB0135S02 compared with SB0135S01

consultation regarding work the supervising dentist has authorized, without regard as to whether the supervising dentist is located on the same premises as the person being supervised.

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

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

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

(i) perform preliminary clinical examination of human teeth and gums;

(ii) make preliminary instrumental examination of patients' teeth;

(iii) expose dental radiographs;

(iv) assess dental hygiene status and collaborate with the supervising dentist regarding a dental hygiene treatment plan for a patient;

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

(vi) remove toxins and debris from subgingival surfaces;

(vii) provide dental hygiene care in accordance with a dentist's treatment plan for a patient;

(viii) take impressions of teeth or jaws except for impressions or registrations to supply artificial teeth as substitutes for natural teeth; or

(ix) engage in other practices of dental hygiene as defined by division rule;

(b) under the indirect supervision of a dentist to administer in accordance with standards and ethics of the professions of dentistry and dental hygiene:

(i) local anesthesia; or

(ii) nitrous oxide analgesia;

(c) to represent oneself by any title, degree, or in any other way as being a dental hygienist; or

(d) to direct a dental assistant when the supervising dentist is not on the premises.

~~[(7)]~~ (8) "Practice of dentistry" means the following, regarding humans:

(a) to offer, undertake, or represent that a person will undertake by any means or method, including teledentistry, to:

SB0135S02 compared with SB0135S01

(i) examine, evaluate, diagnose, treat, operate, or prescribe therapy for any disease, pain, injury, deficiency, deformity, or any other condition of the human teeth, alveolar process, gums, jaws, or adjacent hard and soft tissues and structures in the maxillofacial region;

(ii) take an appropriate history and physical consistent with the level of professional service to be provided and the available resources in the facility in which the service is to be provided;

(iii) take impressions or registrations;

(iv) supply artificial teeth as substitutes for natural teeth;

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

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

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

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

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

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

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

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

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

(c) a nursing home;

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

(e) a community health center;

(f) a federally-qualified health center; or

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

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

(11) "Synchronous technology" means two-way audiovisual technology that allows a

SB0135S02 compared with SB0135S01

licensed dental professional to see and communicate in real time with a patient who is located in a different physical location.

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

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

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

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

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

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

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

(a) dentist; or

(b) dental hygienist.

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

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

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

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

Section 3. Section ~~{58-69-801}~~; 58-69-802 is amended to read:

~~{~~ ~~58-69-801. Dental hygienist -- Limitations on practice.~~

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

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

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

~~_____ [(3)] (c) under the supervision of a dentist, for an employee leasing company or temporary personnel service company providing employees to a dentist or other person~~

SB0135S02 compared with SB0135S01

lawfully providing dental services:

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

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

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

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

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

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

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

~~——— [(v)] (A) (E) the dental hygienist's work is performed on a patient who is homebound or within a hospital, nursing home, or public health agency or institution[; and (B)]₂ the patient is the supervising dentist's patient of record, and the dentist has examined the patient within six months prior to the patient's receiving treatment from a dental hygienist under this Subsection [(3)] (1)(c); or~~

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

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

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

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

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

~~——— (2) A dentist's use of teledentistry is not an expansion of the scope of practice for~~

SB0135S02 compared with SB0135S01

dental hygienists:

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

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

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

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

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

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

(b) (i) A treating dentist may use teledentistry to delegate duties to a dental hygienist or dental auxiliaries within the relevant applicable scopes of practice and under the appropriate level of dentist supervision, in accordance with existing supervision laws.

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

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

Section ~~{5}~~4. Section 58-69-807 is enacted to read:

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

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

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

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

(ii) perform preventive dental procedures;

(iii) provide oral health education; and

SB0135S02 compared with SB0135S01

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

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

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

~~— (a) an endodontic treatment plan;~~

~~— (b) a fixed or removable prosthodontics treatment plan;~~

~~— (c) a surgical treatment plan; or~~

~~— (d) an orthodontic treatment plan.~~

~~†~~ ~~{3}2~~ (2) A licensed dental professional or any entity employing a licensed dental professional may not require a patient to sign an agreement that limits the patient's ability to file a complaint with the division.

~~{4}3~~ (3) When a licensed dental professional uses teledentistry, the licensed dental professional shall ensure informed consent covers the following additional information:

(a) a description of the types of dental care services provided through teledentistry, including limitations on services;

(b) the name, contact information, licensure, credentials, and qualifications of all dentists and dental hygienists involved in the patient's dental care; and

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

~~{5}4~~ (4) The division shall make rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish requirements and parameters regarding teledentistry to ensure the safe use of teledentistry, including additional provisions for:

(a) transparency, disclosure, and informed consent;

(b) standard of care;

(c) proper documentation;

(d) supervision and scope of practice;

(e) patient complaints; and

(f) protocols for referrals.