

1 **DENTAL HYGIENIST AMENDMENTS**

2 2023 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: Michael K. McKell**

5 House Sponsor: Jon Hawkins

7 **LONG TITLE**

8 **General Description:**

9 This bill amends provisions related to the practice of dental hygiene.

10 **Highlighted Provisions:**

11 This bill:

- 12 ▶ amends definitions;
- 13 ▶ amends provisions related to the practice of dental hygiene outside a dentist's office,
14 including in a public health setting;
- 15 ▶ amends telehealth services provisions; and
- 16 ▶ makes technical changes.

17 **Money Appropriated in this Bill:**

18 None

19 **Other Special Clauses:**

20 None

21 **Utah Code Sections Affected:**

22 AMENDS:

23 **58-69-102**, as last amended by Laws of Utah 2020, Chapter 273

24 **58-69-301**, as last amended by Laws of Utah 2020, Chapter 273

25 **58-69-501**, as last amended by Laws of Utah 2015, Chapter 343

26 **58-69-801**, as last amended by Laws of Utah 2016, Chapter 348

27 **58-69-802**, as last amended by Laws of Utah 2020, Chapter 273



28 **58-69-803**, as enacted by Laws of Utah 1996, Chapter 116

29 **58-69-807**, as enacted by Laws of Utah 2020, Chapter 273



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

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

33 **58-69-102. Definitions.**

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

35 [~~(1) "Asynchronous technology" means store-and-forward technology that allows a~~
36 ~~licensed dental professional to transmit a patient's health information to a dentist for viewing at~~
37 ~~a later time.]~~

38 [(2)] (1) "Board" means the Dentist and Dental Hygienist Licensing Board created in
39 Section **58-69-201**.

40 [(3)] (2) "Dental assistant" means an [~~unlicensed~~] individual who [~~engages in, directly~~
41 ~~or indirectly, supervised acts and duties as defined by division rule~~] is not licensed under this
42 chapter and acts:

43 (a) under at least general supervision of a supervising dentist; and

44 (b) in accordance with rules made by the division in collaboration with the board.

45 [(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 [(5)] (3) "General supervision" means [~~that the~~] supervision by a supervising dentist
49 who is available [for consultation] to communicate with the individual being supervised
50 regarding work the supervising dentist has authorized the individual to perform, [without
51 regard as to whether] regardless of where the supervising dentist is located [on the same
52 premises as the person being supervised].

53 [(6)] (4) "Indirect supervision" means [~~that the~~] supervision by a supervising dentist
54 who is:

55 (a) physically present within the same facility [in which the person] as the individual
56 being supervised [is providing services and is]; and

57 (b) immediately available to [provide immediate] to communicate face-to-face
58 [communication] and in person with the [person] individual being supervised.

59 (5) "Local health department" means the same as that term is defined in Section
60 26A-1-102.

61 ~~[(7)]~~ (6) "Practice of dental hygiene" means, ~~[regarding]~~ with respect to humans and
62 subject to Section 58-69-801:

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

65 ~~[(i)]~~ (a) ~~[perform]~~ performing a preliminary clinical examination of [human] teeth and
66 gums;

67 ~~[(ii)]~~ (b) ~~[make]~~ making preliminary instrumental examination of [patients'] a patient's
68 teeth;

69 ~~[(iii)]~~ (c) ~~[expose]~~ exposing dental radiographs;

70 ~~[(iv)]~~ (d) ~~[assess]~~ assessing dental hygiene status [and collaborate];

71 ~~[(v)]~~ (e) ~~[collaborate]~~ collaborating with [the] a supervising dentist regarding a dental hygiene treatment
72 plan for a patient;

73 ~~[(vi)]~~ (f) ~~[remove]~~ removing deposits, accumulations, calculus, and concretions from
74 the surfaces of [human] teeth;

75 ~~[(vii)]~~ (g) ~~[remove]~~ removing toxins and debris from subgingival surfaces;

76 ~~[(viii)]~~ (h) ~~[provide]~~ providing dental hygiene care in accordance with a dentist's
77 treatment plan for a patient;

78 ~~[(ix)]~~ (i) ~~[take]~~ taking impressions of teeth or jaws except for impressions or
79 registrations to supply artificial teeth as substitutes for natural teeth; [or]

80 ~~[(x)] engage in other practices of dental hygiene as defined by division rule;]~~

81 (j) gathering diagnostic information from a patient in person for use by a dentist at a
82 remote location who is engaging in teledentistry with the patient, including information the
83 dentist may use:

84 (i) to form a tentative basic treatment plan for the patient; and

85 (ii) as the basis for issuing a prescription for appropriate preventive or urgent care;

86 (k) providing oral health education;

87 (l) performing any of the following, as defined by division rule:

88 (i) palliative dental care;

89 (ii) interim dental care; and

90 (iii) dental care to arrest dental caries, including:
91 (A) application of silver diamond fluoride; and
92 (B) use of glass ionomer cement in conjunction with silver diamond fluoride when
93 performing the Silver Modified Atraumatic Restorative Technique;
94 ~~[(b)]~~ (m) [under the indirect supervision of a dentist to administer] administering in
95 accordance with standards and ethics of the professions of dentistry and dental hygiene:
96 (i) a local [anesthesia] anesthetic; or
97 (ii) nitrous oxide ~~[analgesia]~~;
98 ~~[(c)]~~ (n) [to represent] representing oneself by any title, degree, or in any other way as
99 being a dental hygienist; ~~[or]~~
100 ~~[(d)]~~ (o) [to direct] directing a dental assistant when the supervising dentist is not on
101 the premises; or
102 (p) engaging in other practices of dental hygiene as defined by division rule.
103 ~~[(8)]~~ (7) "Practice of dentistry" means the following, regarding humans:
104 (a) to offer, undertake, or represent that a person will undertake by any means or
105 method~~[-including teledentistry,]~~ to:
106 (i) examine, evaluate, diagnose, treat, operate, or prescribe therapy for any disease,
107 pain, injury, deficiency, deformity, or any other condition of the human teeth, alveolar process,
108 gums, jaws, or adjacent hard and soft tissues and structures in the maxillofacial region;
109 (ii) take an appropriate history and physical consistent with the level of professional
110 service to be provided and the available resources in the facility in which the service is to be
111 provided;
112 (iii) take impressions or registrations;
113 (iv) supply artificial teeth as substitutes for natural teeth;
114 (v) remove deposits, accumulations, calculus, and concretions from the surfaces of
115 teeth; and
116 (vi) correct or attempt to correct malposition of teeth;
117 (b) to administer anesthetics necessary or proper in the practice of dentistry only as
118 allowed by an ~~[anesthesia]~~ anesthetics permit obtained from the division;
119 (c) to administer and prescribe drugs related to and appropriate in the practice of
120 dentistry;

121 (d) to supervise the practice of a;
 122 (i) dental hygienist in accordance with Subsection 58-69-801(1)(b); or
 123 (ii) dental assistant as established by division rule made in collaboration with the
 124 board; or

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

126 ~~[(9)]~~ (8) "Public health setting" means:

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

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

129 (c) a nursing home;

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

131 (e) a community health center;

132 (f) a federally-qualified health center; ~~[or]~~

133 (g) a health care facility operated by a local health department or the Department of
 134 Health and Human Services; or

135 ~~[(g)]~~ (h) a mobile dental health program that employs a dentist who is licensed under
 136 this chapter.

137 ~~[(10)]~~ (9) "Supervising dentist" means a licensed dentist who has agreed to provide
 138 general or indirect supervision of a dental hygienist or ~~[unlicensed individual in accordance~~
 139 ~~with the provisions of this chapter]~~ dental assistant.

140 ~~[(11)]~~ "Synchronous technology" means ~~two-way audiovisual technology that allows a~~
 141 ~~licensed dental professional to see and communicate in real time with a patient who is located~~
 142 ~~in a different physical location.]~~

143 ~~[(12)]~~ "Teledentistry" means the practice of dentistry using synchronous or
 144 asynchronous technology.]

145 ~~[(13)]~~ (10) "Unlawful conduct" means the same as that term is defined in Sections
 146 58-1-501 and 58-69-501.

147 ~~[(14)]~~ (11) "Unprofessional conduct" means the same as that term is defined in
 148 Sections 58-1-501 and 58-69-502 and as may be further defined by rule.

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

150 **58-69-301. License required -- License classifications -- Anesthetic and analgesic**
 151 **permits.**

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

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

- 156 (a) dentist; or
- 157 (b) dental hygienist.

158 (3) A permit is required to engage in administration of ~~[anesthesia or analgesia]~~ an
159 anesthetic or analgesic in the practice of dentistry or dental hygiene.

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

- 161 (a) the classifications of ~~[anesthesia and analgesia]~~ anesthetic and analgesic permits
162 and the scope of practice permitted under each permit; and
- 163 (b) the qualifications for each classification of ~~[anesthesia and analgesia]~~ anesthetic
164 and analgesic permit.

165 Section 3. Section 58-69-501 is amended to read:

166 **58-69-501. Unlawful conduct.**

167 "Unlawful conduct" includes, in addition to the definition in Section 58-1-501:

168 (1) administering ~~[anesthesia or analgesia]~~ an anesthetic or analgesic in the practice of
169 dentistry or dental hygiene if the individual does not hold a current permit issued by the
170 division authorizing that individual to administer the type of ~~[anesthesia or analgesia]~~
171 anesthetic or analgesic used;

172 (2) practice of dental hygiene by a licensed dental hygienist when not under the general
173 or indirect supervision of a dentist, ~~[or under a written agreement with a dentist who is licensed~~
174 ~~under this chapter and who is a Utah resident, in accordance with the provisions of this~~
175 ~~chapter]~~ in accordance with Section 58-69-801; or

176 (3) directing or interfering with a licensed dentist's judgment and competent practice of
177 dentistry.

178 Section 4. Section 58-69-801 is amended to read:

179 **58-69-801. Dental hygienist -- Practice settings -- Supervision -- Practice**
180 **restrictions -- Collaborative practice agreement not required.**

181 (1) ~~[A dental hygienist]~~ An individual licensed under this chapter as a dental hygienist
182 may ~~[only]~~ engage in the practice of dental hygiene only:

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

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

186 ~~[(3) under the supervision of a dentist, for an employee leasing company or temporary~~
187 ~~personnel service company providing employees to a dentist or other person lawfully providing~~
188 ~~dental services;]~~

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

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

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

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

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

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

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

204 ~~[(v) (A) the dental hygienist's work is performed on a patient who is homebound or~~
205 ~~within a hospital, nursing home, or public health agency or institution; and]~~

206 ~~[(B) the patient is the supervising dentist's patient of record and the dentist has~~
207 ~~examined the patient within six months prior to the patient's receiving treatment from a dental~~
208 ~~hygienist under this Subsection (3); or]~~

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

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

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

213 ~~[(c) the agreement provides that the dental hygienist shall refer a patient with a dental~~

214 ~~need beyond the dental hygienist's scope of practice to a licensed dentist; and]~~
215 ~~[(d) the dental hygienist obtains from each patient an informed consent form that~~
216 ~~provides that treatment by a dental hygienist is not a substitute for a dental examination by a~~
217 ~~dentist.]~~

218 (a) (i) in the following settings:
219 (A) in the office of a dentist;
220 (B) in a public health setting;
221 (C) in a hospital; or
222 (D) in an accredited dental or dental hygienist school, but only to teach and
223 demonstrate the practice of dental hygiene;

224 (b) subject to the following supervision requirements:
225 (i) if in the office of a dentist, under the dentist's general supervision;
226 (ii) if in a public health setting, under general supervision only if the individual so
227 elects;
228 (iii) if in a hospital, under general supervision;
229 (iv) if in an accredited dental or dental hygienist school, under general supervision; and
230 (v) if administering an anesthetic or analgesic, under indirect supervision; and

231 (c) subject to the following restrictions:
232 (i) if in the office of a dentist, only with the dentist's patients of record;
233 (ii) if in a public health setting, the individual obtains from the patient written
234 confirmation that the individual has informed the patient that treatment by a dental hygienist is
235 not a substitute for a dental examination by a dentist;
236 (iii) if in a hospital, only if:
237 (A) the patient is a patient of record of the supervising dentist;
238 (B) the supervising dentist has examined the patient within the past six months;
239 (C) the supervising dentist determines that the patient's general health and oral health
240 are such that the dental hygiene work can be performed with an acceptable level of risk of
241 injury to the patient, as determined by the supervising dentist;
242 (D) as a part of and in accordance with the supervising dentist's current treatment plan
243 for the patient; and
244 (E) authorized by the supervising dentist; and

245 (iv) if administering an anesthetic or analgesic, only in the office of the dentist
246 providing indirect supervision.

247 (2) An individual licensed under this chapter as a dental hygienist is not required to
248 enter into a collaborative practice agreement with a dentist to engage in the practice of dental
249 hygiene.

250 Section 5. Section **58-69-802** is amended to read:

251 **58-69-802. Practice within limits of law and competency.**

252 [~~(1) Each individual~~] A dentist or dental hygienist licensed under this chapter shall
253 confine [his] the dentist's or dental hygienist's practice to those acts [or practices]:

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

255 [~~(b)~~] (2) in which the [individual] dentist or dental hygienist is competent by education,
256 training, and experience.

257 [~~(2) (a) The standard of dental care a licensed dental professional provides through~~
258 ~~teledentistry is the same as the standard of dental care a licensed dental professional provides in~~
259 ~~a traditional physical setting.]~~

260 [~~(b) (i) A treating dentist may use teledentistry to collaborate with a dental hygienist~~
261 ~~within the relevant applicable scopes of practice and under the appropriate level of dentist~~
262 ~~supervision, in accordance with existing supervision laws.]~~

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

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

268 Section 6. Section **58-69-803** is amended to read:

269 **58-69-803. Use of dental assistants.**

270 [~~The standards~~] Standards regulating the use of [~~unlicensed individuals as~~] dental
271 assistants shall be established by division rule made in collaboration with the board.

272 Section 7. Section **58-69-807** is amended to read:

273 **58-69-807. Complaints -- Rulemaking for telehealth services.**

274 [~~(1) A dentist may provide dental services using teledentistry, including the following:]~~

275 [~~(a) collaborating with a licensed dental professional in the completion of the following~~

276 at a public health setting, generally with a written collaborative agreement, directly, or
277 indirectly, in accordance with this chapter:]

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

281 ~~[(ii) perform preventive dental procedures;]~~

282 ~~[(iii) provide oral health education; and]~~

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

286 ~~[(b) at a remote location, using records and diagnostic information that a dental~~
287 ~~hygienist provides to form a tentative treatment plan for basic dental procedures:]~~

288 ~~[(2)]~~ (1) A ~~[licensed dental professional]~~ dentist or dental hygienist, or ~~[any]~~ an entity
289 employing a ~~[licensed dental professional]~~ dentist or dental hygienist, may not require a patient
290 to sign an agreement that limits the patient's ability to file a complaint with the division.

291 ~~[(3) When a licensed dental professional uses teledentistry, the licensed dental~~
292 ~~professional shall ensure informed consent covers the following additional information:]~~

293 ~~[(a) a description of the types of dental care services provided through teledentistry,~~
294 ~~including limitations on services;]~~

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

297 ~~[(c) precautions and protocols for technological failures or emergency situations:]~~

298 ~~[(4)]~~ (2) ~~[The]~~ Subject to Title 26, Chapter 60, Telehealth Act, the division, in
299 collaboration with the board, shall make rules, in accordance with Title 63G, Chapter 3, Utah
300 Administrative Rulemaking Act, ~~[to establish requirements and parameters regarding~~
301 ~~teledentistry to ensure the safe use of teledentistry, including additional provisions for]~~
302 governing the use of telehealth services by a dentist or dental hygienist, including rules
303 addressing:

304 (a) ~~[transparency, disclosure, and informed consent;]~~ informed consent, which shall
305 include disclosure to the patient of:

306 (i) the types of telehealth services the dentist or dental hygienist will provide and any

- 307 limitations of those services;
308 (ii) the names, contact information, licensure, credentials, and qualifications of those
309 providing the services;
310 (iii) protocols and precautions taken to address potential technology failures or
311 emergency situations;
312 (b) [~~standard~~] standards of care;
313 (c) proper documentation of services;
314 [~~(d) supervision and scope of practice;~~]
315 [~~(e)~~] (d) patient complaints; and
316 [~~(f)~~] (e) protocols for referrals.